

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
57-37 (COR)	Chris Barnett Sabina Flores Perez Therese M. Terlaje	AN ACT TO ADD A NEW §5425.3 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING TEMPORARY EXPEDITED PROCUREMENT PROTEST PROCEDURES FOR ACQUISITIONS FUNDED WITH AMERICAN RESCUE PLAN ACT MONIES ALLOTTED TO THE GOVERNMENT OF GUAM.	2/27/23 10:07 a.m.	2/27/23	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning			Request: 2/27/23 3/7/23	



COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

March 7, 2023

To: **RennaeVanessa C. Meno**
Clerk of the Legislature

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 57-37 (COR)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 57-37 (COR).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 57-37 (COR)**

BILL NO. 57-37 (COR) IS "AN ACT TO ADD A NEW §5425.3 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING TEMPORARY EXPEDITED PROCUREMENT PROTEST PROCEDURES FOR ACQUISITIONS FUNDED WITH AMERICAN RESCUE PLAN ACT MONEYS ALLOTTED TO THE GOVERNMENT OF GUAM. "

Department/Agency Appropriation Information	
Dept./Agency Affected: Office of Public Accountability	Dept./Agency Head: Benjamin Cruz, Public Auditor
Department's General Fund (GF) appropriation(s) to date:	\$ 1,653,203.00
Department's Other Fund (GF) appropriation(s) to date:	\$ 371,602.00
Total Department/Agency Appropriation(s) to date:	\$2,024,805

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2022 Unreserved Fund Balance		\$0	\$0
FY 2023 Adopted Revenues	\$0	\$0	\$0
FY 2023 Appro. (P.L. 36-107)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 202023 (if applicable)	FY 2024	FY 2025	FY 2026	FY 2027
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? // Yes /X/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A // Yes / / No
If no, what is the additional amount required? \$ _____ /X/ N/A
- Does the Bill establish a new program/agency? // Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A // Yes / / No
Is there a federal mandate to establish the program/agency? // Yes /X/ No
- Will the enactment of this Bill require new physical facilities? // Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes / / No
/X/ Requested agency comments not received by due date // Other:

Analyst: <u>Katherine Parkinson-Borja</u>	Date: <u>3/3/23</u>	Director: <u>Lester L. Carlson, Jr.</u>	Date: <u>MAR 07 2023</u>
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Notes:
See Attachment

Bureau of Budget & Management Research
Comments on Bill No. 57-37 (COR)

The proposed legislation seeks to provide temporary expedited procurement protest procedure for acquisitions funded with American Rescue Plan Act (ARPA) monies as an exclusive means to resolve a protest of an award or solicitation by authorizing the Public Auditor to resolve a protest by either amending or canceling the solicitation; terminating the contract that was awarded; declaring the contract null and void from the time of its award; or affirming the contract award decision. Further, provisions in the proposed legislation would make the Public Auditor's decision be "final and conclusive with no right of appeal or judicial review". Lastly, despite a protest, the procurement process or award "shall not stay" unless ordered so by the Public Auditor; a request for reconsideration shall also not stay the award of contract funded with ARPA monies, whether in whole or in part, unless ordered by the Public Auditor. Lastly, the proposed legislation will be repealed on December 31, 2024, unless use of funds is extended by the federal government, in which case, the provisions of the proposed legislation will be repealed at the end of the extension.

The proposed legislation could provide an avenue for an expedited process in resolving procurement protests, thus eliminating potential barriers that may delay the procurement of goods and services that Government of Guam (Gov Guam) could avail prior to the expiration of ARPA funding. However, the Bureau notes that Gov Guam departments/agencies, inclusive of semi-autonomous and autonomous agencies, must ultimately adhere to the terms and conditions of the respective ARPA federal grant award. Provisions in the proposed legislation should not contradict the terms and conditions of the federal award(s). Gov Guam is in receipt of \$1,447,158,046.00 in ARPA funds with about \$714,555,697.00 available as of October 31, 2022.

The Bureau notes that the Office of Public Accountability did not respond to the Bureau's request for comment and/or testimony for Bill No. 57-37 (COR).