

MINA' TRENTA NA LIHESLATURAN GUAHAN
THIRTIETH GUAM LEGISLATURE
2010 (SECOND) Regular Session

Bill No. 309-30 (COR)

Introduced by:

FRANK B. AGUON, JR.



AN ACT RELATIVE TO REALIZING THE
TIMELY CONSTRUCTION OF THE NEW JOHN
F. KENNEDY HIGH SCHOOL CAMPUS
FACILITY THROUGH THE REALLOCATION OF
PORTIONS OF THE 2009 SOLID WASTE
MANAGEMENT SYSTEM BOND PROCEEDS
FOR THE IMMEDIATE FINANCING AND
COMPLETION OF THE SCHOOL FACILITY
PROJECT, INCLUDING THE OFFICE OF THE
ATTORNEY GENERAL IN THE LEGAL
OVERSIGHT OF THE ENTIRE SCHOOL
RECONSTRUCTION PROCUREMENT
PROCESS, AND ESTABLISHING DEFINITIVE
TIMELINES FOR THE FINAL COMPLETION OF
THE HIGH SCHOOL FACILITY.

2010 FEB 12 PM 4:51



1

2 BE IT ENACTED BY THE PEOPLE OF GUAM:

3 Section 1. Legislative Findings and Intent.

4 *I Liheslaturan Guahan* finds that the John F. Kennedy High
5 School facility was condemned several years ago due to numerous safety
6 hazards and the dilapidated physical condition of the school buildings,
7 which was deemed as unsafe for school personnel and students. This

1 closure of the school campus resulted in the relocation of the JFK students
2 to the George Washington High School, and then to an interim school
3 campus facility in Tiyan, Guam. After several years of being away from
4 their original school facility, the students and their families, faculty, and
5 staff are urging the government of Guam to expedite the construction
6 process of the new JFK High School.

7 In addition, the construction of the new John F. Kennedy High School
8 facility is significantly behind schedule due to ongoing challenges relative
9 to the Department of Public Works bid selection process, and the
10 subsequent actions to award the contract. I Liheslaturan Guahan further
11 finds that two of the companies which submitted a proposal, and which
12 were not selected, had formally filed protests on the selection process
13 through the Office of Public Accountability, resulting in further delays and
14 precluding the commencement of any construction work for the new JFK
15 school. Though both protests were considered in an administrative
16 hearing and deemed to not have sufficient merit, one of the companies has
17 subsequently proceeded to take their concerns to the Judiciary of Guam.
18 Coinciding with the filing of a formal writ of mandate to open the
19 procurement documents for their review, a representative stated their
20 intention to file a lawsuit against the government of Guam on the
21 procurement selection process - a process that could further the
22 unnecessarily delay the construction of the new John F. Kennedy High
23 School for many more months.

1 *I Liheslaturan Guahan* further finds that decisive steps need to be
2 immediately taken to expedite the demolition of the old John F. Kennedy
3 High School facility, and commence with the timely design and
4 construction of the new facility.

5 Therefore, it is crucial that the government of Guam work
6 expeditiously on addressing this issue, by re-initiating the procurement
7 process through an achievable timetable for final completion; requiring
8 that the Office of the Attorney General be actively involved in the legal
9 review and consideration of the process; and that proper government
10 finances be identified that will allow for the direct funding of the school
11 campus project, and not impose unnecessary financial burden on the
12 people of Guam by financing the project over thirty or more years. The
13 provisions contained herein would provide such mechanisms for the
14 timely completion of the John F. Kennedy High School campus facility for
15 the benefit of the students, management, teachers, faculty, and staff who
16 have been anxiously awaiting the new school.

17 Due to the U.S. Department of Agriculture \$88M loan and \$16M
18 grant for the construction the new Guam Sanitary Landfill, funding may
19 soon be available by way of reallocating a portion of the now surplus 2009
20 Solid Waste Management System Bond funds, thus alleviating the need to
21 enter into a Finance, Demolition, Design, Build, Maintain, and Leaseback
22 agreement, and incurring additional financial obligations.

1 It is the intent of *I Liheslaturan Guahan* to cancel the current
2 procurement award selection process, and subsequently expedite the
3 demolition of the old JFK High School facility, and the design and
4 construction of the new John F. Kennedy High School facility, by utilizing a
5 portion of the surplus funds now available from the 2009 Solid Waste
6 Management System Bond.

7 It is, further, the intent of *I Liheslaturan Guahan* to ensure compliance
8 relative to applicable laws, rules and regulations in the procurement
9 process by mandating the guidance and oversight of the Office of the
10 Attorney General in all phases of the construction of the new John F.
11 Kennedy High School facility.

12 **Section 2. Termination of the Process for the issuance of a Contract**
13 **Award relative to the Request for Proposal for Project No. 700-5-1020-L-**
14 **TAM.**

15 The request for proposal and award of contract process executed by
16 the Department of Public Works pursuant to the selection of the winning
17 offeror responding to the Request for Proposal for Project No. 700-5-1020-
18 L-TAM (Construction of the John F. Kennedy High School – Finance,
19 Demolition, Design, Build, Maintain, and Leaseback (FDDBML) Part I and
20 Part II), shall be immediately terminated.

1 **Section 3. Request for Proposals for the Conceptual Design,**
2 **Selection, and Award of Contract; and, Request for Bid for the**
3 **Demolition and Construction, of a new John F. Kennedy High School**
4 **Campus Facility.**

5 The Department of Public Works shall immediately proceed with the
6 procurement processes necessary to accomplish the construction of the new
7 John F. Kennedy High School facility, and towards this end, SHALL:

8 (a) within fifteen (15) days of the enactment of this Act, issue a
9 *Request for Proposals* (RFP) relative to the conceptual design of the
10 new John F. Kennedy High School facility.

11 i. Any proposal submitted by offeror(s) must be received by
12 the Department of Public Works by no later than fifteen
13 (15) calendar days after the announcement and
14 publication of the Request for Proposals, whereupon the
15 process must be closed.

16 ii. The review, selection and award of contract process shall
17 be completed within fifteen (15) calendar days.

18 iii. The *Conceptual Design* shall be completed within six (6)
19 months from date of issuance of the Notice to Proceed.

20 (b) within fifteen (15) days of receipt and approval of the conceptual
21 design, issue a *Request for Bid* for the construction of the new John F.

1 Kennedy High School – the project shall be a Demolition and Build
2 project.

3 i. Any bid submitted by offeror(s) must be received by the
4 Department of Public Works by no later than fifteen (15)
5 calendar days after the announcement and publication of
6 the Request for Bid, whereupon the process must be
7 closed.

8 ii. Upon the close of acceptance of bid(s), the Department of
9 Public Works shall make a selection and award the
10 contract no later than fifteen (15) work days after the close
11 of acceptance of bid(s).

12 **Section 4. Timelines for the Construction of the new John F.**
13 **Kennedy High School Campus Facility.**

14 Notwithstanding any other provision of law applicable to timelines
15 for the completion of the new JFK High School, the duration of the
16 construction phase of the high school campus facility shall not exceed more
17 than one (1) year, of which the proper disposition and removal of lead and
18 asbestos shall be included.

19 **Section 5.** A new Subsection (h) is added to §51821 of Article 8,
20 Division 2, Chapter 51, Title 10, Guam Code Annotated, to read:

1 “(h) Subject to the approval of the Government of Guam’s 2009
2 financing loan and grant application with the U.S. Department of
3 Agriculture (USDA), and the concurrence by the Chief Judge of the U. S.
4 District Court of Guam for the cross-utilization of such fund proceeds for
5 previously identified purposes for the construction of the new landfill, a
6 portion of the fund balance of the Solid Waste Management System Bond,
7 as identified herein, shall be appropriated and expended for the following
8 Capital Improvement Project (CIP):

9 (1) Construction of the New John F. Kennedy High School

10 – Design, Demolition, and Build –

11 The SUM of, but not to exceed, FORTY MILLION DOLLARS

12 (\$40,000,000).

13 i. Of which, the Sum of TWO MILLION, FIVE HUNDRED
14 THOUSAND DOLLARS (\$2,500,000) shall be reserved
15 from the \$40,000,000 authorized herein, and shall be
16 exclusively expended for the furnishings necessary for
17 the occupancy and full beneficial use of the facility.”

18 **Section 5. Participation of the Attorney General.**

19 So as to ensure proper compliance relative to all applicable laws,
20 rules and regulations, the Office of the Attorney General shall participate in
21 all phases of the procurement process, to include but not limited to,
22 development and issuance of the Request for Proposal, review proposal(s)
23 by offeror(s), selection, contract award and construction, of the new John F.

1 Kennedy High School facility. Proceeds of the funds identified in the
2 previous section may be utilized to compensate the Office of the Attorney
3 General for reasonable legal services provided in compliance with the
4 provisions contained herein.