



K. ERIK SWANSON, Ph. D.
Superintendent of Education

DEPARTMENT OF EDUCATION
OFFICE OF SUPPLY MANAGEMENT

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CARMEN T. CHARFAUROS
Supply Management Administrator

AMENDMENT ACKNOWLEDGEMENT FORM

IFB 013-2023

Refurbishment for Guam Department of Education (GDOE) Haya Region

AMENDMENT 1

August 28, 2023

Please review the attached document (All Notice/Amendments can be reviewed on our website). Please sign **this acknowledgement page and only return this page**, attention to **ANTHONY E. QUINATA** via fax (671) 472-5001 or via email to aequinata@gdoe.net.

I, _____ an authorized representative of the company named below, acknowledge receipt of **AMENDMENT 1**, for **IFB 013-2023 Refurbishment for Guam Department of Education (GDOE) Haya Region**. Number of pages: **17** (including this cover sheet).

Company Name (Print)

Print Name

Signature

Time and Date



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CARMEN T. CHARFAUROS
Supply Management Administrator

August 28, 2023

AMENDMENT 1

Prospective Bidder(s):

Kindly refer to our **Invitation for Bid 013-2023 Refurbishment for Guam Department of Education (GDOE) Haya Region**, a copy of which was obtained by your company for consideration.

Please see the changes on attached documents to GDOE Procurement form 006, Affidavit form.

From: 37-6

To: 37-6 & 37-41

Public Law 37-41 also on attachments.

All else remains the same.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Charfauros".

CARMEN T. CHARFAUROS
Supply Management Administrator

GDOE

IFB 013-2023

**Refurbishment For Guam
Department of Education
(GDOE)**

Haya Region

Amendment 1

From



AFFIDAVIT RE: GUAM PUBLIC LAW 37-6

Pursuant to Guam Public Law 37-6 Section 2(a), all prospective bidders, offerors, and contractors shall acknowledge and sign an affidavit stating they are aware of the expedited protest process and agree to abide by the rules and deadlines outlined in the expedited process. Attached herewith for reference.

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
____ day of _____, 20____.

NOTARY PUBLIC
My Commission expires _____, _____.

GDOE

IFB 013-2023

**Refurbishment For Guam
Department of Education
(GDOE)**

Haya Region

Amendment 1

To

DEPARTMENT OF EDUCATION
OFFICE OF SUPPLY MANAGEMENT
501 MARINER AVENUE, SUITE 116
BARRIGADA, GUAM 96913
Telephone: (671) 475-0438/Fax: (671) 472-5001



AFFIDAVIT RE: GUAM PUBLIC LAWS 37-6 & 37-41

Pursuant to Guam Public Law 37-6 Section 2(a), all prospective bidders, offerors, and contractors shall acknowledge and sign an affidavit stating they are aware of the expedited protest process and agree to abide by the rules and deadlines outlined in the expedited process. Attached herewith for reference. The affiant shall attest under penalty of perjury:

1. That the affiant is aware of and agrees to be bound by the expedited procedure regulation found in 2 GAR Div. 4 §12117;
2. That under the procedure, an aggrieved person shall have the right to file a protest with the Public Auditor within fourteen (14) days from the date that such person knew or should have known of the facts giving rise to the protest;
3. That the Department of Education ("DOE") is required to provide the procurement record to the Public Auditor within two (2) business days of the date of the filing of the protest;
4. That the aggrieved person, DOE, and the interested party have up to twenty (20) calendar days from the date of the filing of the protest to resolve it by mutual agreement;
5. That a hearing on the merits of the protest shall be held within fifteen (15) days, Saturdays, Sundays, and government of Guam holidays excepted, of the filing of the protest;
6. That the Public Auditor is to expedite the administrative review process and decide the protest by issuing a written decision within twenty (20) days, Saturdays, Sundays, and government of Guam holidays excepted, after the date of the filing of the protest; and
7. That the decision of the Public Auditor shall be final and conclusive, and no action, judicial review, appellate review or interlocutory appeal is available to any unsuccessful party.

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
____ day of _____, 20____.

NOTARY PUBLIC
My Commission expires _____, ____.

THIS DOCUMENT MUST BE COMPLETED AND RETURNED WITH THE FORMAL BID DOCUMENTS.
GDOE Procurement Form 006

GUAM PUBLIC LAW 37-41

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN 2023 (FIRST) Regular Session

Bill No. 149-37 (COR)

As amended by the Committee on
Environment, Revenue and Taxation,
Labor, Procurement, and Statistics,
Research, and Planning; substituted;
and further amended on the Floor.

Introduced by:

Sabina Flores Perez
Chris Barnett
Frank Blas, Jr.
Joanne Brown
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Tina Rose Muña Barnes
William A. Parkinson
Roy A. B. Quinata
Joe S. San Agustin
Dwayne T.D. San Nicolas
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje

**AN ACT TO ADD A NEW § 12117 TO CHAPTER 12 OF
DIVISION 4, TITLE 2, GUAM ADMINISTRATIVE
RULES AND REGULATIONS, RELATIVE TO THE
ADOPTION OF RULES AND REGULATIONS
PROVIDING TEMPORARY EXPEDITED
PROCUREMENT PROTEST PROCEDURES FOR
ACQUISITIONS FUNDED WITH AMERICAN RESCUE
PLAN ACT, EDUCATION STABILIZATION FUND, OR
HEAD START GRANT MONEYS ALLOTTED TO THE
GUAM DEPARTMENT OF EDUCATION.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds

that the proposed rules and regulations providing temporary expedited procurement

1 protest procedures for acquisitions funded with the American Rescue Plan Act,
2 Education Stabilization Fund, or Head Start Grant monies allotted to the Guam
3 Department of Education were submitted by the Public Auditor to *I Liheslaturan*
4 *Guåhan* pursuant to Public Law 37-6 on June 1, 2023. Public Law 37-6 added a new
5 § 5425.2 to Subarticle A of Article 9, Chapter 5, Title 5, Guam Code Annotated,
6 which authorized the Public Auditor to adopt and promulgate rules and regulations
7 to carry out the provisions of the mandate.

8 It is, therefore, the intent of *I Liheslaturan Guåhan* to adopt the rules and
9 regulations providing temporary expedited procurement protest procedures for
10 acquisitions funded with the American Rescue Plan Act, Education Stabilization
11 Fund, or Head Start Grant monies allotted to the Guam Department of Education.

12 **Section 2.** A new § 12117 is hereby *added* to Chapter 12 of Division 4, Title
13 2, Guam Administrative Rules and Regulations, to read as follows:

14 **“§ 12117. Expedited Protest Procedure for Procurements Funded in**
15 **Whole or in Part by Funds Allotted to the Department of Education from the**
16 **American Rescue Plan Act of 2021, the Education Stabilization Fund, or the**
17 **Head Start Grant.**

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1 (k) No Automatic Stay of Procurement or Award.

2 (l) Notice of Expedited Procedures.

3 (m) Requirement of Signed Affidavit.

4 (n) Last Effective Date of This Regulation.

5 (a) **Definitions.** When used in this regulation, the following definitions
6 shall apply:

7 (1) *Aggrieved Person* shall mean a non-selected actual or
8 prospective vendor, contractor or service provider who may be aggrieved in
9 connection with a solicitation or an award of a contract that is funded in whole
10 or in part by funds allotted to the Department of Education, government of
11 Guam from the American Rescue Plan Act of 2021, the Education
12 Stabilization Fund, or the Head Start Grant.

13 (2) *ARPA* shall refer to the American Rescue Plan of 2021; *ESF* shall
14 refer to the Education Stabilization Fund; and *HSG* shall refer to the Head
15 Start Grant.

16 (3) *Capital improvement project* shall refer to any project that
17 results in a permanent addition to assets through the acquisition of property,
18 new construction, or rehabilitation of an existing facility to a like-new
19 condition.

20 (4) *Decision* shall mean a written decision or order of the Public
21 Auditor that is issued pursuant to 5 GCA, Chapter 5, Article 9, Subarticle A,
22 § 5425.2, and the procedure found in this regulation.

23 (5) *DOE* shall refer to the Department of Education of the
24 government of Guam.

25 (6) *Interested party* shall refer to an actual or prospective bidder or
26 offeror whose direct economic interest would be affected by the award of a
27 contract or by failure to award the contract.

1 (7) *Person* shall refer to both natural and non-natural persons,
2 depending on the context.

3 (8) *Procedure* shall refer to the expedited procedure for resolution
4 of protests pursuant to this regulation, as mandated by Public Law 37-6 and
5 the Legislature's intent in Section 1 of Public Law 37-6.

6 (9) *Procurement* shall refer to any procurement or stage of
7 procurement for a capital improvement project that is funded in whole or in
8 part by funds allotted to the Department of Education, government of Guam,
9 from the American Rescue Plan Act of 2021, the Education Stabilization
10 Fund, or the Head Start Grant.

11 (10) *Protest* shall refer to a written dispute of a procurement
12 solicitation, selection, award, or contract for a capital improvement project
13 funded in whole or in part by funds allotted to the Department of Education,
14 government of Guam from the American Rescue Plan Act of 2021, the
15 Education Stabilization Fund, or the Head Start Grant.

16 (11) *Regulation* shall refer to the regulation required to be
17 promulgated by the Public Auditor pursuant to Section 2 of Public Law 37-6,
18 and as promulgated and codified in this 2 GAR, Division 4, Chapter 12 §
19 12117, to provide for final, conclusive and exclusive resolution of protests of
20 procurements.

21 **(b) Exclusive Jurisdiction.** The Public Auditor shall have exclusive
22 jurisdiction over a protest under this expedited procedure. The Public Auditor's
23 decision under this procedure shall be final and conclusive, and there is no right to
24 file an action under 5 GCA, Chapter 5, Article 9, Subarticle D, § 5480, no right to
25 judicial review or appellate review, and no interlocutory appeal of a Decision or
26 order that is issued under this procedure.

1 **(c) Exclusive Procedures for Protests.** This procedure is the exclusive
2 procedure to file a protest of a procurement. An aggrieved person must utilize this
3 procedure to file a legally cognizable protest.

4 **(d) Right to Protest.** An aggrieved person shall have the right under this
5 procedure to file a protest with the Public Auditor within fourteen (14) calendar days
6 from the date that such person knew or should have known of the facts giving rise
7 to the protest. The protest may be of any phase of solicitation or award. Such right
8 to protest shall lapse and be unenforceable on the fifteenth (15th) calendar day after
9 the date that the aggrieved person knew or should have known of the facts giving
10 rise to the protest.

11 (1) The protest at a minimum should include:

12 (A) the name and address of the aggrieved person;

13 (B) appropriate identification of the procurement and, if a
14 contract has been awarded, its number;

15 (C) a statement of the reasons for the protest;

16 (D) the earliest date that the aggrieved person had reason to know
17 of the fact(s) giving rise to the protest; and

18 (E) supporting exhibits, evidence or documents to substantiate
19 the protest.

20 **(e) Service.** The aggrieved person shall serve the protest through any
21 means authorized by the Guam Rules of Civil Procedure for service of process.
22 Service of all other documents filed with the Public Auditor may be effected through
23 email to the party's attorney of record or to the party's email on record with DOE.
24 If a party serves a filed document by email, a notice of service by email together
25 with the email transmittal shall be filed with the Public Auditor.

26 **(f) Protest Resolution by Mutual Agreement.** The aggrieved person, the
27 Department of Education, and the interested party shall have up to twenty (20)
28 calendar days from the date of the filing of a protest to resolve, by mutual agreement,

1 the protest under this procedure. Such mutual agreement shall be in writing and shall
2 be filed with the Public Auditor by the twentieth (20th) calendar day after a protest
3 has been filed under this procedure.

4 **(g) Procurement Record.** The aggrieved person is required to provide
5 DOE no less than one (1) business day advance notice prior to filing a protest to
6 notify DOE in writing of its intent to file a protest with the Public Auditor, so that
7 DOE may timely produce the procurement record. DOE shall provide the
8 procurement record to the Public Auditor within two (2) business days of the filing
9 of the protest. The Public Auditor may treat either the aggrieved person's failure to
10 timely provide DOE notification of an intent to file a protest or a failure of DOE to
11 timely provide the procurement record as a default and render a decision on such
12 default.

13 **(h) Response to Protest.** The interested party and DOE shall have
14 seven (7) days, Saturdays, Sundays, and government of Guam holidays excepted,
15 from the date of the filing of the protest to file a response to the protest. The Public
16 Auditor may treat a failure to file a timely response to the protest as a default and
17 render a decision on such default.

18 **(i) Decision of the Public Auditor.** If there is no mutual agreement within
19 twenty (20) calendar days of the filing of the protest, the Public Auditor shall
20 expedite the administrative review process and decide the protest by issuing a written
21 decision within twenty (20) days of the filing of the protest, Saturdays, Sundays, and
22 government of Guam holidays excepted.

23 (1) The decision of the Public Auditor shall provide the reasoning
24 for the decision and shall inform the unsuccessful party that they have no right
25 to an action under 5 GCA § 5480, judicial review, final or interlocutory appeal
26 of the decision.

27 (2) The decision shall be served by certified mail at the addresses
28 provided in the procurement record or through personal service to DOE, the

1 vendor, contractor, or service provider who filed the protest (i.e. the aggrieved
2 person), as well as to the person awarded the contract (i.e., the interested
3 party), and to all other non-selected bidders or offerors.

4 (3) A party may elect to receive service of the decision via email to
5 the party or the party's attorney of record, in lieu of service by certified mail
6 or by personal service, by filing a waiver of service of the decision with the
7 Public Auditor and designating in the waiver the email to be used for such
8 service.

9 **(j) Hearing on the Merits of the Protest.** The Public Auditor shall hear
10 the merits of the protest within fifteen (15) days, Saturdays, Sundays, and
11 government of Guam holidays excepted, of the filing of the protest. The hearing on
12 the merits of the protest is to determine whether the method of selection, solicitation
13 or award of a contract, or entitlement to costs under 5 GCA § Chapter 5, Article 9,
14 Subarticle A, § 5425(h) is in accordance with statutes, regulations, and the terms and
15 conditions of the solicitation.

16 (1) Where not provided for in this § 12117, § 12108 of this Chapter
17 shall be read and interpreted to apply to the hearing on the merits of the protest
18 by substitution of "Protest" for "Appeal". Where not provided for in 2 GAR,
19 Division 4, Chapter 12, the Public Auditor shall treat issues that arise during
20 the protest as sui generis and decide the issues on such basis.

21 (2) A party may be present at the hearing; may present any relevant
22 evidence; will be given full opportunity to cross-examine all witnesses
23 testifying against the party; and if the party is a natural person, the party may
24 be, but need not be, represented by counsel.

25 (3) A party shall be entitled to the issuance of subpoenas to compel
26 the attendance of witnesses and the production of books, documents or other
27 things by applying to the Public Auditor.

1 (4) The aggrieved person shall have the burden of proof to show by
2 a preponderance of the evidence that the method of selection, solicitation or
3 award of a contract or entitlement to costs under 5 GCA, Chapter 5, Article 9,
4 Subarticle A, § 5425(h) was not in accordance with statutes, regulations, or
5 the terms and conditions of the solicitation.

6 (5) The aggrieved person may waive a hearing on the merits of the
7 protest pursuant to § 12108(a) of this Chapter.

8 **(k) No Automatic Stay of Procurement or Award.** There shall be no stay,
9 automatic or otherwise, pursuant to 5 GCA, Chapter 5, Subarticle A of Article 9, §
10 5425(g), or 4 GAR, Division 4, Chapter 9, § 9101, of the procurement, or of an
11 award of a contract, unless the Public Auditor shall exercise discretion to order a
12 stay. Such discretion, if it is to be exercised, shall be exercised within five (5) days
13 of the filing of the protest.

14 (1) The aggrieved person, DOE, and the interested party may, within
15 three (3) days of the filing of the protest, file a statement with the Public
16 Auditor in support of, or against, the stay of the procurement or award.

17 (2) The Public Auditor's discretion to order or deny a stay of the
18 procurement or award shall be exercised upon consideration of whether the
19 solicitation or award of contract without delay is necessary to protect the
20 substantial interests of DOE.

21 (3) The Attorney General's written concurrence of the Public
22 Auditor's order staying or denying a stay of the procurement or award is not
23 a requirement under this procedure.

24 **(l) Notice of Expedited Procedures.** The Department of Education shall
25 ensure that the expedited procedures implemented by this regulation shall be
26 prominently displayed in the notice and the solicitation. The notice and the
27 solicitation shall at a minimum state the following:

1 **Notice of expedited procedures for resolution of protests of procurements**
2 **funded in whole or in part with funds allotted to GDOE from the American**
3 **Rescue Plan Act of 2021, the Education Stabilization Fund, or the Head Start**
4 **Grant.** The Department of Education is soliciting proposals/invitations for a
5 Procurement No. _____ for a capital improvement project that is to be
6 funded with an allocation to the Department of Education from the American Rescue
7 Plan Act of 2021(ARPA), the Education Stabilization Fund (ESF), or the Head Start
8 Grant (HSG). Any protest at any stage of this procurement shall be subject to the
9 expedited procedure regulation found in this § 12117. Under the expedited procedure
10 regulation, among other things:

11 (1) an aggrieved person shall have the right to file a protest with the Public
12 Auditor within fourteen (14) days from the date that such person knew or should
13 have known of the facts giving rise to the protest;

14 (2) the aggrieved person is required to provide DOE no less than one (1)
15 business day advance notice prior to filing a protest to notify DOE in writing of its
16 intent to file a protest with the Public Auditor;

17 (3) DOE shall provide the procurement record to the Public Auditor within
18 two (2) business days of the date of the filing of the protest;

19 (4) the aggrieved person, DOE, and the interested party shall have up to
20 twenty (20) days from the date of the filing of the protest to resolve it by mutual
21 agreement;

22 (5) a hearing on the merits of the protest shall be held within fifteen (15) days,
23 Saturdays, Sundays, and government of Guam holidays excepted, of the filing of the
24 protest; and

25 (6) the Public Auditor shall expedite the administrative review process and
26 decide the protest by issuing a written decision within twenty (20) days, Saturdays,
27 Sundays, and government of Guam holidays excepted, after the date of the filing of
28 the protest. The decision of the Public Auditor shall be final and conclusive, and no

1 action, judicial review, appellate review or interlocutory appeal shall be available to
2 any unsuccessful party. Prospective bidders, offerors and contractors who respond
3 to this solicitation are required as part of their response to this solicitation to
4 acknowledge and sign an affidavit stating that they are aware of the expedited
5 procedure regulation and that they agree to abide by the rules and the deadlines in
6 the regulation.

7 **(m) Requirement of Signed Affidavit.** DOE shall require that prospective
8 bidders, offerors, and contractors acknowledge and sign an affidavit stating that they
9 are aware of the expedited process and agree to abide by the rules and deadlines in
10 this regulation. The affiant shall at a minimum attest under penalty of perjury:

11 (1) that the affiant is aware of and agrees to be bound by the
12 expedited procedure regulation found in this § 12117;

13 (2) that under the procedure, an aggrieved person shall have the right to
14 file a protest with the Public Auditor within fourteen (14) days from the date
15 that such person knew or should have known of the facts giving rise to the
16 protest;

17 (3) that DOE is required to provide the procurement record to the Public
18 Auditor within two (2) business days of the date of the filing of the protest;

19 (4) that the aggrieved person, DOE, and the interested party have up to
20 twenty (20) calendar days from the date of the filing of the protest to resolve
21 it by mutual agreement;

22 (5) that a hearing on the merits of the protest shall be held within fifteen
23 (15) days, Saturdays, Sundays, and government of Guam holidays excepted,
24 of the filing of the protest;

25 (6) that the Public Auditor is to expedite the administrative review
26 process and decide the protest by issuing a written decision within twenty (20)
27 days, Saturdays, Sundays, and government of Guam holidays excepted, after
28 the date of the filing of the protest; and

1 (7) that the decision of the Public Auditor shall be final and conclusive,
2 and no action, judicial review, appellate review or interlocutory appeal is
3 available to any unsuccessful party.

4 **(n) Last Effective Date of This Regulation.** This regulation shall be
5 effective until the latter of December 31, 2024, or the latest date under any extension
6 of time for expenditure of ARPA funds by the grantor agency.”