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Superintendent of Education

DEPARTMENT OF EDUCATION  
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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](mailto: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).

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**Company Name (Print)**

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**Print Name**

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**Signature**

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**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 "Carmen T. Charfauros".  
CARMEN T. CHARFAUROS  
Supply Management Administrator

**GDOE**

**IFB 013-2023**

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

**Haya Region**

**Amendment 1**

**From**

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 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.

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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

**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 LIHESLUTURAN 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 MONEY'S ALLOTTED TO THE GUAM DEPARTMENT OF EDUCATION.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 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.”**

18 **Table of Contents**

- 19 (a) Definitions.
- 20 (b) Exclusive Jurisdiction.
- 21 (c) Exclusive Procedure for Protests.
- 22 (d) Right to Protest.
- 23 (e) Service.
- 24 (f) Protest Resolution by Mutual Agreement.
- 25 (g) Procurement Record.
- 26 (h) Response to Protest.
- 27 (i) Decision of the Public Auditor.
- 28 (j) Hearing on the Merits of the Protest.

- (k) No Automatic Stay of Procurement or Award.
- (l) Notice of Expedited Procedures.
- (m) Requirement of Signed Affidavit.
- (n) Last Effective Date of This Regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The protest at a minimum should include:

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

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

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

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

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

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.

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.

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.

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

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

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

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

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

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.

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

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;

(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.

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.”