

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 204-34 (COR)

Speaker Antonio R. Unpingco Legislative Session Hall

As substituted by the Committee on Appropriations and Adjudication; and amended in Committee of the Whole.

May 1, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA	✓					
Senator FRANK B. AGUON, JR.	✓					
Senator William M. CASTRO	✓					
Speaker Benjamin J.F. CRUZ	✓					
Senator James V. ESPALDON	✓					
Senator Fernando Barcinas ESTEVES					✓	✓
Senator Régine Biscoe LEE	✓	I				
Senator Tommy MORRISON	✓					
Senator Louise B. MUÑA	✓					
Senator Telena Cruz NELSON	✓	I				
Senator Dennis G. RODRIGUEZ, JR.	✓					
Senator Joe S. SAN AGUSTIN	✓					
Senator Michael F.Q. SAN NICOLAS	✓					
Vice Speaker Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES	✓					

TOTAL:	14	1	1	1	1
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

I = Pass

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 204-34 (COR)

As substituted by the Committee on Appropriations
and Adjudication; and amended in
the Committee of the Whole.

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Introduced by:

FRANK B. AGUON, JR.
Joe S. San Agustin

AN ACT TO AMEND §§ 58D103(l), 58D105, 58D109, AND 58D112; AND TO REPEAL § 58D103(m)(2), ALL OF CHAPTER 58D, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE GUAM DEPARTMENT OF EDUCATION (GDOE) AS THE PROCURING ENTITY FOR PURPOSES OF ANY SOLICITATION WITH RESPECT TO THE CONSTRUCTION AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL UNDER A LONG-TERM LEASE-BACK, AMENDING DEFINITIONS WITH RESPECT TO RESPONSIVENESS, AND AUTHORIZING GDOE TO SOLICIT FOR ARCHITECTURAL AND ENGINEERING SERVICES, CONSTRUCTION MANAGEMENT SERVICES, FINANCING SERVICES, RENOVATION AND CONSTRUCTION SERVICES, COLLATERAL EQUIPMENT, AND RELATED SERVICES.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 58D103(l) of Chapter 58D, Title 5, Guam Code Annotated, is

3 *amended* to read:

1 “(1) Responsive offer *shall* mean an offer that conforms, at opening
2 of the offers in response to the solicitation, in all material respects to the
3 solicitation.”

4 **Section 2.** § 58D103(m)(2) of Chapter 58D, Title 5, Guam Code Annotated,
5 is hereby *repealed*.

6 **Section 3.** § 58D105 of Chapter 58D, Title 5, Guam Code Annotated, is
7 *amended* to read:

8 “**§ 58D105. Procurement.**

9 (a) In addition to availing of the services of the Department of Public
10 Works, the Guam Department of Education may solicit, in compliance with
11 the Guam procurement law, for the services of an Owner’s Agent Engineer
12 (OAE) to assist the Guam Department of Education in the procurement of
13 architectural and engineering (A&E) services, construction management
14 (CM) services, financing services, renovation and construction services,
15 collateral equipment, and related services consistent with this Chapter.

16 (1) The solicitation *shall* specifically state the minimum
17 specifications that will be required for a submitted offer to be
18 considered.

19 (2) The determination of responsible offerors and responsive
20 offers *shall* be made by an evaluation committee comprised of the
21 Superintendent of the Department of Education, serving as Chairman,
22 and including the Director of the Department of Public Works or
23 Deputy Director, the Director of Land Management or Deputy Director,
24 and the Administrator of the Guam Economic Development Authority
25 or Deputy Administrator.

26 (3) The committee *shall* evaluate offerors and offers received
27 based on the requirements set forth in the solicitation. Upon completion

1 of the committee’s evaluation, the Superintendent *shall* issue the award,
2 in accordance with the Guam procurement law.

3 (b) The solicitation for the renovation, construction, or combination
4 thereof for a new fully equipped and functional Simon Sanchez High School
5 as specified in the solicitation, on the existing site, which may include
6 demolition of such portions of the existing facility as necessary, *shall* be
7 issued within forty-five (45) days of completion of the architectural and
8 engineering design for the new Simon Sanchez High School. The award of
9 any lease-back contract *shall* be based upon a responsive offer submitted by a
10 responsible offeror that offers the lowest annual aggregate leaseback payment,
11 inclusive of finance and capital maintenance cost, to the government of Guam
12 for a fixed thirty (30) year term.

13 (c) Notwithstanding any other provision of law, the solicitation *shall*
14 *not* be combined with other procurement pursuant to Public Law 32-121 (the
15 repair and maintenance of 35 other schools).”

16 **Section 4.** § 58D109 of Chapter 58D, Title 5, Guam Code Annotated, is
17 *amended* to read:

18 **“§ 58D109. Pledge of Additional Revenue from the Real Property**
19 **Valuation.**

20 Rental payments under the lease and the lease-back, as well as funding
21 required to support the activities set forth in § 58D105(a) of this Chapter, may
22 be secured by a pledge or other reservation of revenues received by the
23 government of Guam pursuant to 5 GCA §§ 22425(q)(4) and (6). Any
24 amounts pledged as provided in this Section are hereby continuously
25 appropriated for the purpose of making lease-back payments, but any amounts
26 only reserved as provided in this Section, and not pledged, *shall* be subject to
27 an annual appropriation for the purpose of funding the activities set forth in §

1 58D105(a) of this Chapter, and making lease-back payments. Any such
2 pledge or reservation authorized hereunder *shall* be valid and binding from
3 the time the pledge or reservation is made, and *shall* be limited to the sum of
4 Five Million Fifty-one Thousand Nine Hundred Seventy-seven Dollars and
5 Ninety-eight Cents (\$5,051,977.98) per year during the pre-development,
6 construction, and lease-back period, as outlined in 5 GCA §§ 22425(q)(4) and
7 (6). The revenues pledged or reserved and thereafter received by the
8 government of Guam or by any trustee, depository or custodian *shall* be
9 deposited in a separate account and *shall* be immediately subject to such
10 reservation or the lien of such pledge without any physical delivery thereof or
11 further act, and such reservation or the lien of such pledge *shall* be valid and
12 binding against all parties having claims of any kind in tort, contract or
13 otherwise against the government of Guam or such trustee, depository or
14 custodian, irrespective of whether the parties have notice thereof. The
15 instrument by which such pledge or reservation is created need not be
16 recorded.”

17 **Section 5.** The first sentence of the first paragraph of § 58D112 of Chapter
18 58D, Title 5, Guam Code Annotated, is *amended* to read:

19 “Prior to undertaking the work of renovating or constructing a new
20 Simon Sanchez High School, the Guam Economic Development Authority,
21 the Guam Department of Education, and the developer or contractor *shall*
22 enter into a binding construction contract to renovate or construct a new
23 Simon Sanchez High School in accordance with the Guam Building Code (21
24 GCA Chapter 67), and any other applicable requirements.”

25 **Section 6. Severability.** If any provision of this Act or its application to
26 any person or circumstance is found to be invalid or contrary to law, such invalidity
27 *shall not* affect other provisions or applications of this Act that can be given effect

- 1 without the invalid provisions or application, and to this end the provisions of this
- 2 Act are severable.