UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

March 20, 2020

Speaker Tina Rose Muña Barnes

MAR 2 0 2020
Time 5:20 ( )AM (PM
Received By:

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: Bill No. 196-35 (LS) – An Act to *Amend* § 7116(a) and (d) of Chapter 7, Division 2, Title 17, Guam Code Annotated and § 5008.2 of Subarticle A, Article 1, Chapter 5, Title 5, Guam Code Annotated, Relative to Authorizing the Guam Department of Education to Enter into Power Purchase Agreements to Purchase Solar Energy from Qualified Providers

Dear Madame Speaker:

As I act on Bill No. 196-35, the doors of our local schools are closed and our children are staying home in an effort to slow the spread of COVID-19 on our small island. But we nevertheless must plan for the day when our school hallways are again filled with their laughter -- and we hope that that day will come soon.

In order to prepare for that time and to provide the Guam Department of Education with the best tools and resources to provide suitable environments for its students, I sign Bill No. 196-35 into law as ***Public Law No. 35-76***.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Bill No. 196-35 (LS) *nka Public Law 35-76*

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 196-35 (LS), "AN ACT TO *AMEND* § 7116(a) AND (d) OF CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, AND § 5008.2 OF SUBARTICLE A, ARTICLE 1, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO POWER PURCHASE AGREEMENTS TO PURCHASE SOLAR ENERGY FROM QUALIFIED PROVIDERS,"** was on the 11th day of March 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 11th day of March, 2020, at 3:06 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 3/20/2020

Public Law No. 35-76

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 196-35 (LS)
As amended by the Committee on Education,
Air Transportation, and Statistics, Research,
and Planning; and further amended on the Floor.

Introduced by: Telena Cruz Nelson
Joe S. San Agustin
Jose "Pedo" Terlaje
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Tina Rose Muña Barnes
Sabina Flores Perez
Clynton E. Ridgell
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* § 7116(a) AND (d) OF CHAPTER 7, DIVISION 2, TITLE 17, GUAM CODE ANNOTATED, AND § 5008.2 OF SUBARTICLE A, ARTICLE 1, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GUAM DEPARTMENT OF EDUCATION TO ENTER INTO POWER PURCHASE AGREEMENTS TO PURCHASE SOLAR ENERGY FROM QUALIFIED PROVIDERS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Public Law 32-95 authorized the Guam Department of Education (GDOE) to

enter into Power Purchase Agreements (PPA) in order to purchase solar energy from qualified providers; provided, that such agreements are in the "best financial interests of the government of Guam," for a period not to exceed twenty-five (25) years.

I Liheslatura also finds that such agreements with PPA providers were subject to selection in a Multi-Step Bid conducted by the General Services Agency (GSA) in accordance with the procurement law and regulations for the government of Guam; and further finds that although Public Law 32-95 was signed into law in Fiscal Year 2014, as of Fiscal Year 2019, GDOE has yet to enter into a PPA conducted by GSA.

I Liheslatura finds that there is a need to address the budgetary challenges of the Guam Department of Education, including those related to the rising costs of electricity.

Thus, it is the intent of *I Liheslaturan Guåhan* to authorize the GDOE to enter into one (1) or more PPAs in accordance with the procurement law and regulations of the government of Guam.

Section 2. § 7116(a) and (d) of Chapter 7, Division 2, Title 17, Guam Code Annotated, are hereby *amended* to read:

"(a) The Guam Department of Education (GDOE) may enter into one (1) or more Power Purchase Agreements (PPA) to purchase solar energy from qualified provider(s) which will be in the best financial interests of the government of Guam for a period up to and not exceeding twenty-five (25) years. Such qualified PPA provider(s) shall be selected by a Multi-Step Bid conducted by GDOE, in accordance with the procurement law and regulations of the government of Guam. The qualified PPA provider(s) will be responsible for providing a PPA to cover no more than eighty percent (80%) of the school's power needs, all GDOE owned schools, and GDOE

administrative and ancillary buildings. For schools occupied under a lease agreement as of the enactment of this Section, GDOE may amend its lease agreements or otherwise directly enter into a PPA with a lessor for the purchase of solar power produced with renewable energy directly from the lessor and without application of the procurement law. GDOE is encouraged to participate in energy efficiency programs available through the Guam Power Authority, and shall make every effort to secure federal funding opportunities to augment any local appropriations authorized for Power Purchase Agreements."

"(d) The Guam Power Authority, under the direction of GDOE, shall provide bid specifications for the implementation of this Section, and shall provide technical assistance during the bid selection process as overseen by GDOE. GDOE shall seek technical consultation from the Guam Power Authority in implementing this Section, and the Guam Power Authority shall provide the technical consultation upon request at no cost to GDOE for the life of the contract. Upon GDOE's request, GPA shall provide a cost-benefit analysis of a PPA to GDOE and to *I Liheslaturan Guåhan* within ninety (90) days of said request. GDOE may further seek technical consultation from the Guam Energy Office, the Department of Public Works, the Guam Renewable Energy Association, and/or a third party renewable energy consultant in implementing this Section, and the consultation shall be at no cost to GDOE. Any costs associated with a third party consultant will be passed through in total to the qualified PPA provider(s) equally and in full who is awarded the Multi-Step Bid."

Section 3. § 5008.2 of Subarticle A, Article 1, Chapter 5, Title 5, Guam Code Annotated, is hereby *amended* to read:

"**§ 5008.2. Policy in Favor of Renewable Energy Purchase of Service.**

(a) In procuring services pursuant to 17 GCA § 7116, GDOE shall, subject to the provisions of this Chapter, grant a preference to a local business; and

(b) In addition, five percent (5%) preference of the lowest Multi-Step Bidder for contracts under Five Hundred Thousand Dollars ($500,000); or three percent (3%) preference of the lowest Multi-Step Bidder for contracts of Five Hundred Thousand Dollars ($500,000) or more, shall be given to a local business that meets the following criteria:

(1) the qualified Power Purchase Agreement provider(s) must be doing business on Guam with a valid business license, and be in good standing with the Department of Revenue and Taxation prior to the award of the contract; and

(2) the qualified Power Purchase Agreement provider(s) shall be experienced in designing, implementing and installing solar energy systems, have a record of established projects, and demonstrate technical, operational, financial and managerial capabilities to design and operate the solar energy system."

Section 4. Upon enactment of this Act, GDOE shall calculate its average expenditure on power for the past three (3) fiscal years. This figure shall be used to determine GDOE's realized savings from the implementation of the purchase of solar energy. On a quarterly basis, GDOE shall post on its website and submit to *I Liheslatura* a report on realized savings of the dollar amount and expenditures of funds."

Section 5. GDOE and GPA shall certify and transmit a report to the Legislature that there is a cost savings for both GDOE and GPA ratepayers prior to entering into any Power Purchase Agreement.

Section 6. Notwithstanding any law, rule or regulation, GDOE and the government of Guam may be required to obtain an energy storage system (ESS), such as a battery or frequency control capability, for any solar photovoltaic system or solar energy procured under any Power Purchase Agreement pursuant to 17 GCA § 7116.

Section 7. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.