

*I Mina'trentai Siette Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
<b>46-37 (COR)</b> As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning and further amended on the Floor	Sabina Flores Perez Chris Barnett	AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO 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.	2/14/23 3:49 p.m.	2/16/23 8:02 a.m.	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	2/23/23 9:00 a.m.	3/13/23 11:41 a.m.	Request: 2/16/23  3/8/23	
	<b>SESSION DATE</b>	<b>TITLE</b>	<b>DATE PASSED</b>	<b>TRANSMITTED</b>	<b>DUE DATE</b>	<b>PUBLIC LAW NO.</b>	<b>DATE SIGNED</b>	<b>NOTES</b>	
	3/20/23	AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO 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.	3/21/23	3/21/23	4/1/23	37-6	4/1/23	Received: 4/1/23 Messages and Communications Doc. No. 37GL-23-0323	

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN  
OFFICE OF THE GOVERNOR OF GUAM

**Transmitted via email to: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)**

April 1, 2023

**HONORABLE THERESE M. TERLAJE**, *Speaker*

*I Mina'trentai Siette Na Liheslaturan Guåhan*

37<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

37GL-23-0323  
**OFFICE OF THE SPEAKER  
THERESE M. TERLAJE**

04 01 2023

**RECEIVED**  
4/3/23 4:21pm  
*[Signature]*

Time: 1:00pm  
Received: *[Signature]*

**Re: BILL NO. 46-37 (COR) - AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO 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**

*Hafa Adai* Madame Speaker,

Investing in and maintaining our public schools is essential to creating a healthy and safe learning environment for our children. Bill 46-37 recognizes the reality that procurement protests often cause substantial delay to urgent capital improvement projects for our schools. Protests at any stage, regardless of their merit, often bring projects to a complete halt until they are resolved. Bill 46-37 takes a small but important step toward correcting this problem. This bill provides for an expedited procedure for post-award protests in Guam Department of Education (“GDOE”) projects funded with the American Rescue Plan Act, Education Stabilization Fund, or Head Start Grant. While I support any measure that would create a more efficient process for resolution of procurement protests, I believe we can and should further these efforts for GDOE procurements and government procurements more broadly.

While limiting the delay of a stay for protests made after the award of the contract in GDOE procurements is helpful, Bill 46-37 does not address pre-award protests, which account for most procurement protests. Further, eliminating the automatic stay at every stage of the procurement process would streamline *all* government procurements, safeguard the rights of the parties, who may still pursue injunctive relief in accordance with established legal standards, and align our stay procedures with the rest of the nation. Eliminating the automatic stay would reduce significant delays in the construction of necessary infrastructure projects, and save taxpayers millions of dollars. It would also expedite protest decisions, while ensuring the integrity of the broader procurement process.

To: Therese M. Terlaje, *Speaker*, 37<sup>th</sup> Guam Legislature  
Fr: Lourdes A. Leon Guerrero, *Governor of Guam*  
Date: April 1, 2023  
Re: Bill No. 46-37 (COR) nka P.L. 37-6

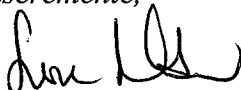
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I recognize that, while this measure is limited in scope and application, it will still expedite the resolution of protests in those limited circumstances, and may reduce delays to some GDOE procurements.

For these reasons, I am signing Bill No. 46-37 into law as ***Public Law 37-6***.

*Senseremente,*



**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*

Governor of Guam

Enclosure: Bill No. 46-37 (COR) *nka P.L. No. 37-6*

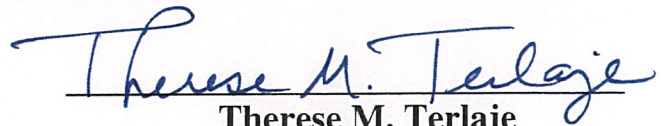
cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam  
Compiler of Laws



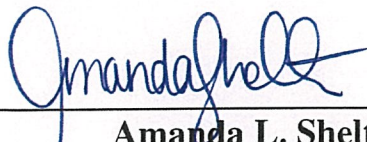
*I MINA 'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN*  
2023 (FIRST) Regular Session

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

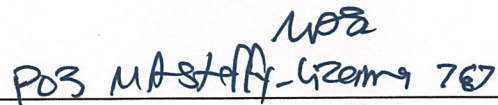
This is to certify that **Bill No. 46-37 (COR)**, "AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING TEMPORARY EXPEDITED PROCUREMENT PROTEST PROCEDURES FOR ACQUISITIONS FUNDED WITH AMERICAN RESCUE PLAN ACT, EDUCATION STABILIZATION FUND, OR HEAD START GRANT MONEYS ALLOTTED TO THE GUAM DEPARTMENT OF EDUCATION," was on the 21<sup>st</sup> day of March 2023, duly and regularly passed.

  
Therese M. Terlaje  
Speaker


Attested:

  
Amanda L. Shelton  
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 21<sup>st</sup> day of March, 2023, at 10:41 o'clock P.M.

  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

  
Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*

Date: 4 | 1 | 2023

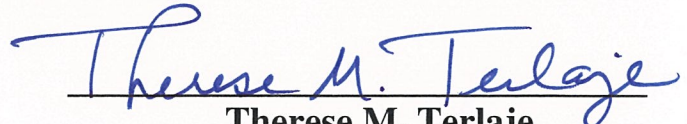
Public Law No. 31-6

Georgiana  
Rodrigues  
2023-18889  
RCUD AT CENTRAL FILES  
MAR 22 '23 PM4:19

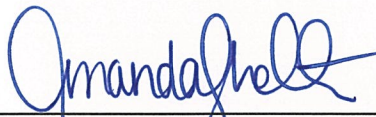
*I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN*  
2023 (FIRST) Regular Session

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

This is to certify that **Bill No. 46-37 (COR)**, “AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO 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,” was on the 21<sup>st</sup> day of March 2023, duly and regularly passed.

  
Therese M. Terlaje  
Speaker

Attested:

  
Amanda L. Shelton  
Legislative Secretary

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This Act was received by *I Maga'hågan Guåhan* this \_\_\_\_\_ day of \_\_\_\_\_,  
2023, at \_\_\_\_\_ o'clock \_\_\_\_\_.M.

\_\_\_\_\_  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

\_\_\_\_\_  
Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

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

**Bill No. 46-37 (COR)**

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

Introduced by:

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

**AN ACT TO *ADD* A NEW §5425.2 TO PART A OF  
ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE  
ANNOTATED, RELATIVE TO 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.**



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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Guam Department of Education (GDOE) School Facilities Master Plan,  
4 published in May 2022, is a ten-year master plan that highlights and prioritizes the  
5 work that is needed to ensure safe and healthy educational environments for all  
6 public-school students. The GDOE Facilities Master Plan (FMP), which guides  
7 investments in our schools, identified needed construction and modernization work  
8 and estimated the deferred maintenance throughout our public school system.  
9 Furthermore, decades-long deferred maintenance has resulted in deterioration of  
10 aging facilities and an urgent need to repair existing or construct new facilities to  
11 ensure safe and healthy learning environments.

12           *I Liheslatura* further finds that GDOE has been provided a once in a lifetime  
13 opportunity to utilize a portion of the federal funds through the American Rescue  
14 Plan Act (ARPA) for capital improvement projects. Additionally, provided that there  
15 are no extensions, the timelines to obligate ARPA funds ends December 2024, along  
16 with the opportunity to accomplish deferred but urgent capital improvement  
17 projects. In addition to ARPA funds, other federal funds will expire within 2023 with  
18 little to no prospect of carryover, which include GDOE Education Stabilization Fund  
19 and the Head Start Grant.

20           *I Liheslatura* finds that although protests are an essential part of the  
21 procurement process, Guam’s current protest process can often lead to lengthy  
22 delays in procurement and can potentially lead to the inability of GDOE to expend  
23 funds within required deadlines or can lead to their inability to secure the best  
24 possible procurement costs to the people of Guam to undergo urgently needed  
25 facilities improvements.

26           *I Liheslaturan Guåhan* intends to provide a temporary expedited procurement  
27 protest procedure for capital improvement projects funded with American Rescue

1 Plan Act, Education Stabilization Fund, or Head Start Grant allotted to the Guam  
2 Department of Education and enable GDOE to complete much needed improvement  
3 projects for the well-being of our school children and faculty.

4 **Section 2.** A new §5425.2 is *added* to Part A, Article 9, Chapter 5, Title 5,  
5 Guam Code Annotated to hereby read as follows:

6 **“§5425.2. Protest Procedure for Procurement Funded with**  
7 **American Rescue Plan Act of 2021, Education Stabilization Fund, or**  
8 **Head Start Grant Allotted to the Guam Department of Education.**

9 (a) Notwithstanding any other provision of law, if a selected or non-  
10 selected vendor, contractor, or service provider is aggrieved by an award or a  
11 contract for capital improvement projects funded, in whole or in part, by the  
12 funds allotted to the Guam Department of Education from the American  
13 Rescue Plan Act (ARPA) of 2021, Education Stabilization Fund, or Head Start  
14 Grant, the procedure for initiating a protest outlined in this Section shall apply,  
15 and shall be the exclusive means available to resolve the concerns of persons  
16 aggrieved in connection with awards or solicitations funded in whole or in  
17 part with moneys allotted to GDOE from ARPA, the Education Stabilization  
18 Fund, or the Head Start Grant. The protest shall be submitted to the Public  
19 Auditor who shall expedite the administrative review process of the appeal in  
20 accordance with rules and regulations to be adopted and promulgated by the  
21 Public Auditor within sixty (60) calendar days of the effective date of this Act  
22 and approved by *I Liheslaturan Guahan*. The expedited procedures shall be  
23 prominently designated as such in the notice and the solicitation. All  
24 prospective bidders, offerors, and contractors shall acknowledge and sign an  
25 affidavit stating they are aware of the expedited process and agree to abide by  
26 the rules and deadlines outlined in the expedited process.



1 (b) If the protest is not resolved by mutual agreement within twenty  
2 (20) days of the filing of the protest with the Public Auditor, the Public  
3 Auditor shall issue a decision, in writing, no later than twenty (20) days,  
4 Saturdays, Sundays and Government of Guam holidays excepted, of receipt  
5 of the protest. The decision shall state the Public Auditor's reasons for its  
6 decision. A copy of the written decision shall be served by certified mail, or  
7 otherwise personally served to the parties named in the protest, including but  
8 not limited to: the vendor, contractor, or service provider who initiated the  
9 protest, the person awarded the contract, and to all other non-selected bidders  
10 or offerors.

11 (c) For purposes of this Section, the Public Auditor's decision and  
12 determination of facts resolving protests of procurement contracts funded in  
13 whole or in part by ARPA, Education Stabilization Fund, or Head Start Grants  
14 *shall* be final and conclusive with no right of appeal or judicial review. The  
15 fact that a protest has been filed pursuant to this Section shall not stay the  
16 procurement process or award of any contract funded in whole or in part by  
17 ARPA, Education Stabilization Fund, or Head Start Grants unless so ordered  
18 by the Public Auditor. In addition, a request for reconsideration shall not stay  
19 the award of any contract funded in whole or in part by ARPA, Education  
20 Stabilization Fund, or Head Start Grants, *unless* so ordered by the Public  
21 Auditor.

22 This Section is repealed effective December 31, 2024, unless the federal  
23 grantor agency authorizes an extension of time for the expenditure of ARPA funds,  
24 in which case this Section shall be repealed at the end of the extension period.”

25 **Section 3. Effective Date.** This act shall be effective upon enactment.

26 **Section 4. Severability.** If any provision of this Act or its application to any  
27 person or circumstance is found to be invalid or inorganic, such invalidity shall not

1 affect other provisions or applications of this Act that can be given effect without  
2 the invalid provision or application, and to this end the provisions of this Act are  
3 severable.