

In the Appeal of G4S Security Systems (Guam) Inc.
Response to Agency's "Status of Procurement"
OPA-PA-13-013

statute, Guam Public Law 31-234, provided for the appropriation of these funds to expire if the funds were not obligated by September 30, 2013. Bill No. 209-32 would resolve this situation by amending Public Law 31-234 so that the appropriations would expire if not obligated by January 31, 2014, the same extended deadline set by USDOE.

Because the Guam Legislature has not yet acted upon Bill No. 209-32, there is uncertainty as to the issues in this appeal. If Bill No. 209-32 is not enacted into law, then the funding for IFB 032-2013 is gone. In that case, it might not make sense for the parties and the OPA to proceed with this appeal.

If Bill No. 209-32 is enacted into law, there are two possibilities. Since Bill No. 209-32 simply amends an existing deadline rather than set forth a new appropriation, it may apply *nunc pro tunc* to negate any lapse of funding by the prior deadline. In that case, this appeal should go forward on the existing record as if there were no intervening lapse of funds. Alternatively, if Bill No. 209-32 is construed as allowing new obligations of funds that had lapsed on September 30, 2013, then the funding may have lapsed and this appeal may be moot in whole or in part. Under this second alternative, GDOE could issue a new IFB for the project.

If the Guam Legislature does not act either way on Bill No. 209-32 before the scheduled hearing date in this appeal, then the OPA and the parties to the appeal will still be in the dark as to whether a hearing and decision in this appeal will resolve necessary issues or ultimately prove to be a moot exercise.

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In preliminary research, G4S's counsel has been unable to find controlling authority or persuasive precedent addressing any substantially similar situation. Because of these uncertainties, appellant G4S will continue to meet deadlines in this appeal to preserve its rights pending resolution of the funding issue by legislative action or other means. G4S reserves any right it may have to address this issue further in its hearing brief.

Dated this 20 day of November, 2013.

Respectfully submitted,

DOOLEY ROBERTS & FOWLER LLP

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Systems (Guam) Inc.

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

2013 OCT 15 PM 3:31

Bill No. 209-32(00F)

Introduced by:

Judith T. Won Pat, Ed.D.

AN ACT TO AMEND SECTION 1 OF PUBLIC LAW 31-234, RELATIVE TO EXTENDING THE DEADLINE TO OBLIGATE OR EXPEND AMERICAN RECOVERY AND REINVESTMENT FUNDS.

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

2 **Section 1.** Section 1 of Public Law 31-234 is hereby *amended* to read as
3 follows:

4 **“Section 1. Appropriation.** Upon USDOE approval to amend the
5 Phase I and Phase II ARRA SFSF grant application, whereby, the amount of
6 Sixty Million Eighty-Eight Thousand Nine Hundred Thirty-Five Dollars
7 (\$60,088,935) of federal funds originally allocated for Capital Improvement
8 Projects (CIPs), Technology Upgrades and Science, Technology,
9 Engineering and Math (STEM) CIPs and Equipment is reprogrammed to
10 Salaries and Benefits resulting in a reimbursement of funds appropriated and
11 expended in Section 2 of Chapter II, Part I of Public Law 30-196, the
12 reimbursement of Sixty Million Eighty-Eight Thousand Nine Hundred
13 Thirty-Five Dollars (\$60,088,935) from the SFSF grant authorized by the
14 USDOE pursuant to the expenditure of local funds and certified by the

1 TPFAs shall be deposited to the Trust Account. The use of the reimbursed
2 funds in the Trust Account shall be pursuant to the following amounts and
3 requirements:

4 (a) Sixty Million Eighty-Eight Thousand Nine Hundred Thirty-
5 Five Dollars (\$60,088,935) is appropriated from the Adequate
6 Education Act Trust Account to the Guam Department of Education
7 in Object Classes 230, 250 and 450 as follows: object class 230
8 (Contracts) – Thirty-Five Thousand Dollars (\$35,000); object class
9 250 (Equipment) – Three Million Fifty Thousand Dollars
10 (\$3,050,000); and object class 450 (Capital Outlay) – Fifty-Seven
11 Million Three Thousand Nine Hundred Thirty-Five Dollars
12 (\$57,003,935).

13 (b) The appropriation to Object Classes 230, 250 and 450 in
14 this Section shall be continuing appropriations for the GDOE and
15 shall be earmarked for Capital Improvement Projects and for the
16 renovation, rehabilitation, and repair of Untalan Middle School,
17 Technology Upgrades and Science, Technology, Engineering and
18 Math (STEM) CIPs and Equipment approved by USDOE contained in
19 the ARRA SFSF Phase I and Phase II grant application, including any
20 subsequent amendments approved by USDOE; *provided*, that all these
21 appropriations shall expire if *not* obligated by ~~September 30, 2013~~
22 January 31, 2014.

23 (c) Up to the sum of Two Hundred Twenty-Six Thousand
24 Dollars (\$226,000) from the appropriation in Subsection (a), object
25 class 250 may be transferred to personnel object classes 112 to fund
26 overtime for GDOE employees for the implementation of GDOE's
27 Financial Management Information System.

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(d) GDOE *shall* report to *I Maga'lahi* and *I Liheslatura* on a monthly basis as to the obligation and expenditure of the funds from the Trust Fund and the completion of the ARRA/SFSF projects.”

I Mina'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
209-32 (COR)	Judith T. Won Pat, Ed.D.	AN ACT TO AMEND SECTION 1 OF PUBLIC LAW 31-234, RELATIVE TO EXTENDING THE DEADLINE TO OBLIGATE OR EXPEND AMERICAN RECOVERY AND REINVESTMENT FUNDS.	10/15/13 3:34 p.m.	10/17/13	Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land			Fiscal Notes Request 10/21/13