



**DEPARTMENT OF EDUCATION
OFFICE OF THE SUPERINTENDENT**

www.gdoe.net
501 Mariner Avenue
Barrigada, Guam 96913
Telephone: (671) 300-1547/1536



JUDITH T. WON PAT ED.D.
Acting Superintendent of Education

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
BY: JL
DATE: 6/27/2023
TIME: 10:33 AM

June 27, 2023

MEMORANDUM

To: OFFICE OF THE PUBLIC AUDITOR (“OPA”) AND SUNLEADER GUAM CO., LTD.

From: James L.G. Stake
Legal Counsel, Guam Department of Education (“GDOE”)

Subject: **PURSUANT TO PUBLIC LAW 37-6, NOTICE OF EXPEDITED PROTEST PROCEDURES FOR GDOE INVITATION FOR BID (“IFB”) 002-2023 FOR THE PURCHASE OF ADMINISTRATIVE AND INSTRUCTIONAL SUPPLIES.**

Please see attached copy of protest for GDOE IFB 002-2023. *See* Attachment 1. IFB 002-2023 is estimated to be valued below \$500,000. *See* 5 GCA §5150; *see also* Attachment 2. IFB 002-2023 is federally funded through the American Rescue Plan Act (“ARPA”) and therefore is subject to Public Law 37-6. *See* Attachment 3. Protester is aware and has executed the amendment and affidavit per the requirements of Public Law 37-6. *See* Attachment 4.

Respectfully submitted,


JAMES L.G. STAKE

Attachment(s)

CERTIFICATE OF SERVICE

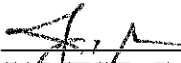
I hereby certify that on June 27, 2023, I caused a true and correct copy of the **PURSUANT TO PUBLIC LAW 37-6, NOTICE OF PROTEST FOR GDOE INVITATION FOR BID (“IFB”) 002-2023 FOR THE PURCHASE OF ADMINISTRATIVE AND INSTRUCTIONAL SUPPLIES.**, to be served on Protester as follows:

RICHARD LUO, President
Sunleader Guam, Co., LTD
317 Chalan San Antonio
Tamuning, Guam 96912

I declare under penalty and perjury that the foregoing is true and correct. Executed
this 27th day of June, 2023.

GUAM DEPARTMENT OF EDUCATION

By:



JAMES L.G. STAKE
GDOE Legal Counsel

ATTACHMENT 1



Sunleader Guam Co., LTD

Add.: 317 Chalan San Antonio, Tamuning, Guam 96913

Tel: (671)637-2928 Fax: (671)637-6202

June 21, 2023

Supply Management Administrator
Office of Supply Management
Guam Department of Education
Barrigada, Guam

Re: GDOE IFB 002-2023
Indefinite Quantity Bid Purchase of Administrative
Instructional Supplies

Dear Ms. Charfauros,

As the above mentioned bid is an "Indefinite Quantity Bid Purchase of Administrative and Instructional Supplies".


Sunleader Guam Co., Ltd regretfully and respectfully submit this **BID PROTEST** to you as the "Supply Management Administrator" for the reason below.

I have checked the other bidder's business license and found out that their business license didn't specifically indicate this type of business "office /school supply". Through this findings, I truly believe they should be disqualified from GDOE IFB 002-2023 , please see below list of the bidders,

1. MD Wholesale
2. JMI-Edison
3. ST Corporation
4. Safety 1st systems Incorporated
5. Horizon Pacific Promotionals
6. HIVE Guam

Your kind understanding will be greatly appreciated.

Sincerely



Richard Luo / President

ATTACHMENT 2

DECLARATION RE COMPLIANCE WITH 5 GCA § 5150

I, Judith T. Won Pat Ed.D., make this declaration on 03/17/2023
[print name clearly] *[enter today's date]*
regarding Procurement No. IFB 002-2023, and do hereby **certify under penalty of perjury** that:
[enter procurement no.]

(1) I am the procurement officer (Chief Procurement Officer; Director of Public Works; or head of a purchasing agency) for this procurement;

(2) I have caused an estimate to be made of the cost of the services or supplies being procured, and for which a contract will be entered into or a purchase order will be issued, whichever is appropriate as the case may be;

(3) My estimate of the total cost of the contract or purchase order, whichever is appropriate as the case may be, is *[please check one]*:

less than \$500,000; or

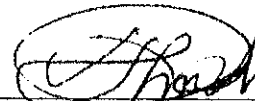
\$500,000 or more;

(4) If the total estimated cost of the procurement is \$500,000 or more, I understand that I must be advised by legal counsel designated by the Attorney General (which may be an Assistant Attorney General or other legal counsel designated as Special Assistant Attorney General ("SAAG") under 5 GCA § 5150) during each and every phase of the procurement process, beginning with the planning stage and before any request for proposal or invitation to bid is issued or notice published, or before any sole source procurement or emergency procurement is undertaken;

(5) If the total estimated cost of the procurement is \$500,000 or more, I understand I may not proceed with any phase of the procurement unless I have been advised by an Assistant Attorney General or a SAAG to proceed;

(6) If the total estimated cost of the procurement is less than \$500,000 initially when the procurement is begun, but the total cost increases to \$500,000 or more at some later point in time, I understand I must contact the Attorney General's Office as soon as I become aware that the procurement will actually cost \$500,000 or more, and that I may not proceed further without the assistance of the Attorney General's Office or a SAAG; and

(7) I understand if I do not comply with the requirements of 5 GCA § 5150 and the Attorney General's Office or a SAAG has not acted as legal counsel during all phases of a procurement estimated to cost \$500,000 or more, the Attorney General or SAAG may disapprove the contract, or the procurement may be subject to cancellation, or any award, contract or purchase order made or entered into may be subject to termination.



[Declarant's Signature]

ATTACHMENT 3



**US Department of Education
Washington, D.C. 20202**

S425X210003

GRANT AWARD NOTIFICATION

1	RECIPIENT NAME Guam Department of Education 501 Mariner Avenue Barrigada, GU 96913	2	AWARD INFORMATION PR/AWARD NUMBER S425X210003 ACTION NUMBER I ACTION TYPE New AWARD TYPE Formula																				
3	PROJECT STAFF RECIPIENT STATE DIRECTOR Ignacio C Santos (671) 475-0470 <u>icsantos@gdoe.net</u> EDUCATION PROGRAM CONTACT Remidene Aboko-Cole (202) 453-7613 Diakit <u>remidene.diakite@ed.gov</u> EDUCATION PAYMENT HOTLINE G5 PAYEE HELPDESK 888-336-8930 <u>edcaps.user@ed.gov</u>	4	PROJECT DESCRIPTION 84.425X American Rescue Plan - Outlying Areas SEA (ARP-OA SEA)																				
5	KEY PERSONNEL N/A																						
6	AWARD PERIODS BUDGET PERIOD 04/08/2021 - 09/30/2023 FEDERAL FUNDING PERIOD 04/08/2021 - 09/30/2023 FUTURE BUDGET PERIODS N/A																						
7	AUTHORIZED FUNDING CURRENT AWARD AMOUNT \$286,940,627.00 PREVIOUS CUMULATIVE AMOUNT \$0.00 CUMULATIVE AMOUNT \$286,940,627.00																						
8	ADMINISTRATIVE INFORMATION DUNS/SSN 855023255 REGULATIONS EDGAR AS APPLICABLE 2 CFR AS APPLICABLE ATTACHMENTS 1 , 3 , 8 , 9 , 11 , 12 , 13 , 14 , ARP-OA-SEA , GDOE-A-T , GE3 , GE4 , GE5																						
9	LEGISLATIVE AND FISCAL DATA AUTHORITY: PL PUBLIC LAW 117-2 N/A AMERICAN RESCUE PLAN ACT OF 2021 PROGRAM TITLE: EDUCATION STABILIZATION FUND CFDA/SUBPROGRAM NO: 84.425X <table border="1"> <thead> <tr> <th>FUND CODE</th> <th>FUNDING YEAR</th> <th>AWARD YEAR</th> <th>ORG. CODE</th> <th>CATEGORY</th> <th>LIMITATION</th> <th>ACTIVITY</th> <th>CFDA</th> <th>OBJECT CLASS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>0251N</td> <td>2021</td> <td>2021</td> <td>ES000000</td> <td>B</td> <td>DR1</td> <td>000</td> <td>425</td> <td>4101A</td> <td>\$286,940,627.00</td> </tr> </tbody> </table>			FUND CODE	FUNDING YEAR	AWARD YEAR	ORG. CODE	CATEGORY	LIMITATION	ACTIVITY	CFDA	OBJECT CLASS	AMOUNT	0251N	2021	2021	ES000000	B	DR1	000	425	4101A	\$286,940,627.00
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US Department of Education
Washington, D.C. 20202

S425X210003

GRANT AWARD NOTIFICATION

10

PR/AWARD NUMBER: S425X210003
RECIPIENT NAME: Guam Department of Education

TERMS AND CONDITIONS

- (1) The Office of Management and Budget requires all Federal agencies to assign a Federal Award Identifying Number (FAIN) to each of their financial assistance awards. The PR/AWARD NUMBER identified in Block 2 is your FAIN. If subawards are permitted under this grant, and you choose to make subawards, you must document the assigned PR/AWARD NUMBER (FAIN) identified in Block 2 of this Grant Award Notification on each subaward made under this grant. The term subaward means:
 1. A legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient. (See 2 CFR 200.331(a))
 2. The term does not include your procurement of property and services needed to carry out the project or program (The payments received for goods or services provided as a contractor are not Federal awards, see 2 CFR 200.501(f) of the OMB Uniform Guidance: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards").
 3. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract. (See 2 CFR 200.1)
- (2) You are authorized, in carrying out this grant, to utilize the higher threshold set for micro-purchase and simplified acquisition thresholds for federal assistance under this grant or under a contract you award under this grant established by recent statutory changes. These statutory changes raise the threshold for micro-purchases under Federal financial assistance awards to \$10,000 and raise the threshold for simplified acquisitions to \$250,000 for recipients. These higher thresholds are not effective until implemented in the Federal Acquisition Regulations (FAR) at 48 CFR Subpart 2.1 (Definitions), which has not yet occurred. See 2 CFR 200.67 and 200.88. For FY 2018, OMB is granting an exception allowing recipients to use the higher thresholds in advance of changes to the FAR. Please refer to Office of Management and Budget's Memorandum 18-18 regarding the statutory changes. If you have any questions about these regulations, please contact the program officer identified in Block 3 of this GAN.
- (3) The negotiated indirect cost rate or the indirect cost allocation plan approved for the entity identified in Block 1 of this GAN applies to this grant award.
- (4) AMERICAN RESCUE PLAN OUTLYING AREAS STATE EDUCATIONAL AGENCY FUND (ARP- OA SEA) Attachment to Grant Award Notifications (GAN) for the American Rescue Plan Outlying Areas State Educational Agency (ARP- OA SEA) Fund awards, as authorized in section 2005 of the American Rescue Plan Act (ARP) of 2021.
- (5) This grant award is subject to the Fiscal Year (FY) 2020 Departmental Specific Conditions imposed on the Guam Department of Education (GDOE), dated June 11, 2020 (under cover letter dated June 15, 2020), attached to this Grant Award Notification. This grant award is also subject to any future Departmental Specific Conditions that the Department may impose on GDOE.
- (6) Under the Tydings Amendment, Section 421(b) of the General Education Provisions Act, 20 U.S.C. 1225(B), any funds that not obligated at the end of the Federal funding period specified in Block 6 shall remain available for obligation for an additional period of 12 months

ATTACHMENT 4



JUDITH T. WON PAT ED. D.
Acting Superintendent of Education

DEPARTMENT OF EDUCATION
OFFICE OF SUPPLY MANAGEMENT

www.gdoe.net
501 Mariner Avenue, Suite 116
Barrigada, Guam 96913
Telephone: (671) 475-0438/Fax: (671) 472-5001



CARMEN T. CHARFAUROS
Supply Management Administrator

May 18, 2023

AMENDMENT 3

Prospective Offeror:

Please refer to our Invitation for Bid for IFB No. 002-2023 Indefinite Quantity Bid Purchase of Administrative and Instructional Supplies.

In the Spirit of clarity and achieving the best possible solution to satisfy the requirements of IFB 002-2023, Public Law 37-6 was implemented to expedite procurement protest process. The Expedited procedures shall be prominently designated as such in the notice and the solicitation. Please note all prospective bidders, offerors, and contractors shall acknowledge and sign an affidavit stating they are aware of the expedited process and agree to abide by the rules and deadlines outlined in the expedited process. Section 2(a). This will apply to all projects that is utilizing The American Rescue Plan, Emergency Stabilization Fund and Headstart funding effective immediately. Please see attached affidavit and supporting documents for review and acknowledgement.

Sincerely,


CARMEN T. CHARFAUROS
Supply Management Administrator



DEPARTMENT OF EDUCATION
OFFICE OF SUPPLY MANAGEMENT

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JUDITH T. WON PAT E.D. D.
Acting Superintendent of Education

CARMEN T. CHARFAUROS
Supply Management Administrator

May 18, 2023

AMENDMENT 3 ACKNOWLEDGEMENT FORM

IFB 002-2023

Indefinite Quantity Bid Purchase of Administrative and Instructional Supplies

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 DIANA D. HAYASHI via fax (671) 472-5001 or e-mail to: ddhayashi@gdoe.net.

I, Richard Luo, an authorized representative of the company named below, acknowledge receipt of AMENDMENT 3, for IFB 002-2023, Indefinite Quantity Bid Purchase of Administrative and Instructional Supplies. Number of pages 8 (including this coversheet).

Sunleader Guam Co, Itel

Company Name (Print)

Richard Luo

Print Name

[Handwritten Signature]

Signature

6/7/23 1:00 PM

Time and Date

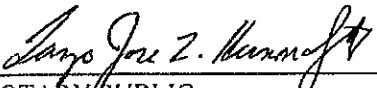
AFFIDAVIT RE: GUAM PUBLIC LAW 37-6

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.



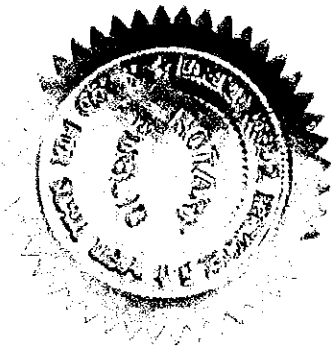
Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
08 day of JUNE, 2023.



NOTARY PUBLIC
My Commission expires JUNE 26, 2026.

LORENZO JOSE Z. HERNANDEZ III
NOTARY PUBLIC
In and for the Territory of Guam, U.S.A.
My Commission Expires: JUNE 26, 2026
201 PANGELINAN WAY BARRIGADA GU 96913



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.

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 _____, _____.

GUAM PUBLIC LAW 37-6

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.