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2005 EDITION

FIRST SUPPLEMENT
APRIL 2006

VOLUME 2
TITLE 5

CURRENT THROUGH PUBLIC LAW 28-107
(APRIL 14, 2006)

PREPARED BY THE
OFFICE OF THE COMPILER OF LAWS
HAGÁTÑA, GUAM
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Scope of this Supplement

In December of 2005, the Guam Code Annotated 2005 Edition was released, which updated the code through parts of Public Law 28-68 then in effect. This First Supplement updates the GCA 2005 Edition through Public Law 28-100 (Feb. 7, 2006). Corrections to errors in the 2005 Edition are included at the end of this supplement.

Table of Code Sections Updated and Corrected

Title	Section	Action	Public Law
5	1504 (j)(10)	Added	28-68 : II:IV:1k
5	1504 (k)	Amended	28-68 : IV:24
5	1513 (a - j)	Added	28-68 : II:IV:1
5	1804	Amended	28-68 : IV:45
5	1931	Amended	28-68 : IV:45
5	3127	Amended	28-68 : IV:45
5	4117 (e)	Amended	28-68 : IV:80
5	5111	Amended	28-68 : IV:45
5	5251	Amended	28-68 : IV:66
5	5253	Amended	28-98 : 2
5	5425 (e)(f)(g)(3), h(2)	Amended	28-68 : IV:67
5	5426 (e)	Amended	28-68 : IV:68
5	5427 (e)	Amended	28-68 : IV:69
5	5701-5702	Repealed	28-68 : IV:65
5	5701-5709	R/R	28-68 : IV:65
5	11102	Amended	28-68 : IV:45
5	20106 (e)	Added	28-98 : 3
5	20108	Repealed	28-68 : IV:43
5	22401.1	R/R	28-68 : IV:78
5	22425 (l)(2)	Amended	28-68 : II:I:39
5	23104	Amended	28-68 : IV:114
5	23104	Amended	28-68 : IV:45
5	23105	Amended	28-68 : IV:113
5	30104	Errata	
5	30109	Errata	
5	32701	Added	28-95 : 1
5	32702	Added	28-95 : 1
5	32703	Added	28-95 : 1
5	32704	Added	28-95 : 1

Title	Section	Action	Public Law
5	32705	Added	28-95 : 1
5	32706	Added	28-95 : 1
5	32707	Added	28-95 : 1
5	36105	Repealed	28-68 : IV:43
5	40101	Amended	28-102 : 2
5	40107	Amended	28-68 : IV:45
5	43116	Repealed	28-76 : 7
5	43117	Repealed	28-76 : 8
5	58103	Errata	
5	63101	Amended	28-107 : 2
5	63116.1	Added	28-107 : 3
5	63116.2	Added	28-107 : 4
5	63132	Added	28-107 : 5
5	63501-63512	Renumbered	28-82 : 1
5	73301	Amended	28-68 : IV:45
5	80116	Amended	28-68 : IV:42
5	85108	Amended	28-68 : IV:42
5	87103 (a)(viii)	Added	28-68 : IV:55
5	87106	Amended	28-68 : IV:45
5	87121	Amended	28-68 : IV:45
5	87151	Added	28-68 : IV:56
5	87152	Added	28-68 : IV:57
5	221304 (c)	Added	28-68 : II:III:24

TITLE 5 GOVERNMENT OPERATIONS

5 GCA § 1504. Limited Obligation Highway Refunding Bonds.

(a) Authorization of Issuance of Limited Obligation Highway Bonds. The Governor of Guam is authorized to issue new bonds of the government of Guam in an aggregate principal amount not to exceed Sixty Eight Million Five Hundred Thousand Dollars (\$68,500,000) for the purposes of refunding all or a portion of the Government of Guam Limited Obligation Highway Bonds, 1985 Series A, implementing the Capital Improvement Highway Projects enumerated in Subsection (j) of this Section, and paying expenses incurred in connection with the issuance of such new bonds; provided, however, that the issuance of the new bonds shall not cause a violation of the debt limitation provisions of 48 U.S.C. § 1423a.

(b) Terms and Conditions Determined by Indenture. The terms and conditions of the bonds shall be as determined by the Governor by the execution of an indenture securing the bonds upon or prior to the issuance of the bonds. The indenture shall contain such terms and conditions as are consistent with this Section.

(c) Valid and Binding Obligation. To the extent that the debt limitation provisions of 48 U.S.C. § 1423a are not violated, any bonds authorized by this Section shall constitute the valid and legally binding limited obligations of the government of Guam payable solely from and secured by a pledge of the revenues pledged pursuant to Subsection (d) of this Section. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of Capital Highway Improvement Projects funded by the new bonds or the bonds being refunded or by the application of any escrow created to pay debt service on the bonds being refunded.

(d) Pledge of Revenues; Not a General Obligation. All or any part of the revenues from the taxes levied pursuant to Article 4 of Chapter 26 of Title 11 of the Guam Code Annotated and from the license fees and penalties imposed pursuant to §§ 7146, 7159, 7170, 7171, 3102, 7173 and 11101 of Title 16 of the Guam Code Annotated may be pledged to secure the repayment of any bonds issued under this Section and to pay costs incurred in the issuance or administration of the bonds. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture or agreement by which such pledge is created need not be recorded. All such taxes, fees and penalties, to the extent so pledged,

are hereby continuously appropriated for such purpose. The bonds shall not be, and shall state on their face that they are not, general obligations of the government of Guam.

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated the government of Guam waives immunity from any suit or action in contract on the bonds, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(f) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the maintenance of revenues, shall be as specified in the indenture approved by the Governor, authorizing the issuance of the bonds. The indenture may appoint one or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and revenues relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds, the sale of the bonds and payment of the bonds being refunded.

(g) Authorization for Credit Enhancement. The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal or interest on the bonds. Any such reimbursement obligation shall be payable solely from, and may be secured by a pledge of, the revenues described in Subsection (d) of this Section.

(h) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds shall be used solely to refund all or a portion of the government of Guam Limited Obligation Highway Bonds, 1985 Series A, to implement the Capital Improvement Highway Projects enumerated in Subsection (j) of this Section, and to pay expenses relating to the authorization, sale and issuance of the bonds and the payment of the bonds being refunded, including, without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds, escrow agent fees and other costs, charges and fees in connection with the

issuance, sale and delivery of the bonds and the payment of the bonds being refunded.

(i) No Personal Liability except for failure to perform ministerial duty. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(j) The proceeds shall be expended for the following highway capital improvement projects:

Project	Costs
1. Reconstruction of Route 1 from Polaris Point Intersection to Route 2A (Commissary Junction near Naval Station)	\$ 6.0 Million
2. Reconstruction of Route 2A from Commissary Junction to Namoo River in Agat	\$ 4.0 Million
3. Design and Reconstruction of of three (3) land highway including sidewalks on Route 30 (Camp Watkins Road) from its intersection with Route 1 (Marine Drive) to Guam Memorial Hospital including Farenholt Avenue and land acquisition required for the project	\$10.0 Million
4. Design and Construction of Harmon Access Road including Land Acquisition (Road from Harmon Strip connecting to Route 16 at the Harmon Loop Intersection)	\$ 3.0 Million
5. Land Acquisition for the Agat Umatac Project and for unacquired land on Route 1, land acquisition of unacquired Route 6 property, land acquisition Macheche Road, Bello Road, and Alegeta St.	\$ 4.0 Million
6. Resurfacing of approximately 5 miles of Route 4 through Merizo including spot repair, minor	\$ 3.0 Million

drainage improvements and safety treatments as needed

7. Design and construction of San Ramon Hill roadway network encompassing Route 7, Senator Gibson Road, and Esperanza Street, including installation of underground drainage with sidewalks, spot repair as necessary, widening and installation of anti-skid wearing course \$ 2.0 Million

8. A sidewalk 6 feet in width on the South side of San Vitores Road from John F. Kennedy High School to the traffic circle \$ 0.5 Million

9. Planning, design and initial construction of bike/jogging paths islandwide. \$ 1.0 Million

10. The unused and unencumbered bond proceed balance; to the extent of any bond proceeds not required and unexpended for the projects listed in Items (1) through (9) of this Subsection (j); and the interest earned upon or any profits derived from the sale of bond investments cumulatively deposited and made a part of the Capital Projects Fund of the Territorial Highway Fund (aka Guam Highway Fund) of which the government of Guam is authorized to use and expend by legislative appropriation for capital improvement road and infrastructure projects.

GRAND TOTAL \$33.5 Million

All segments of the road system listed above shall be designed to include an adjacent paved path for pedestrians, bikes and joggers and a paved shoulder to allow for emergency stops by motor vehicles. When limited by space, the design may include a paved shoulder for combined use by pedestrians, bikes and joggers and for emergency stops by motor vehicles.

(k) Village Streets Fund. (1) There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Village Streets Fund ('VSF'). The VSF shall be used exclusively for the purposes of payment to vendors for village road planning, design, construction, reconstruction, improvement, repair and maintenance services, supplies and equipment to be used for road repair and maintenance, the acquisition of rights of way, or to service debt payments of revenue bonds which may be issued to fund the construction, repair and maintenance of secondary and tertiary roads. All roads defined as 'major arterial', 'minor arterial' and 'major collector', as defined in the Highway System Classification Map of Guam, shall continue to be maintained by the Department of Public Works and are excluded from the proceeds of the VSF. Funds deposited into the VSF shall be subject to

Legislative appropriation prior to expenditures from such fund and shall not be subject to any transfer authority.

SOURCE: GC §6128 enacted by P.L. 19-2:1, renumbered §6130 by Compiler in 19th G.L. Session Laws. R/R by P.L. 21-110:1. Subsection (k) added by P.L. 23-128:25. Subsection (k) repealed/reenacted by P.L. 25-164:III:20(b); amended by P.L. 26-77:12 and 13; amended by P.L. 28-068:IV:24 (Sept. 30, 2005). Item (j)(10) added by P.L. 28-068:II:4:1k (Sept. 30, 2005).

5 GCA § 1513. 2005 Revenue Road and Pothole Repair Bonds.

(a) Authorization of Issuance of Revenue Road and Pothole Repair Bonds. *I Maga'lahaen Guåhan* is authorized to issue new bonds of the government of Guam in an aggregate principal amount *not to exceed* Twenty-Six Million Six Hundred Eight Thousand Dollars (\$26,608,000) for the purposes of funding all or a portion of the road and pothole repair projects described herein, and paying expenses incurred in connection with the issuance of such new bonds; provided, however, that the issuance of the new bonds shall not cause a violation of the debt limitation provisions of 48 U.S.C. § 1423a.

(b) Terms and Conditions Determined by Indenture. The terms and conditions of the bonds shall be as determined by *I Maga'laha* by the execution of an indenture securing the bonds upon or prior to the issuance of the bonds. The indenture shall contain such terms and conditions as are consistent with this Section.

(c) Valid and Binding Obligation. To the extent that the debt limitation provisions of 48 U.S.C. §1423a are not violated, any bonds authorized by this Section shall constitute the valid and legally binding limited obligations of the government of Guam payable solely from and secured by a pledge of the revenues pledged pursuant to Subsection (d) of this Section.

(d) Pledge of Revenues; Not a General Obligation. There is established the Road and Pothole Repair Fund, hereinafter known as the 'RPRF'. Notwithstanding the provisions of Section 7161, 16 GCA, all fees deposited and maintained in the Street Light Fund shall be transferred and henceforth, deposited and maintained in the RPRF. All revenues contained in the RPRF may be pledged to secure the repayment of any bonds issued under this Section and to pay costs incurred in the issuance or administration of the bonds. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture or agreement by which such pledge is created need not be recorded. All such fees

and penalties, to the extent so pledged, are hereby continuously appropriated for such purpose. Any annual balances in the RPRF not required for annual debt service, on an annual basis, or such other use as detailed in the indenture may be reverted to the Abandoned Vehicle/Streetlight Fund. The bonds shall not be, and shall state on their face that they are not, general obligations of the government of Guam.

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds, but does *not* waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(f) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the maintenance of revenues, shall be as specified in the indenture approved by *I Maga'lahi*, authorizing the issuance of the bonds. The indenture may appoint one (1) or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and revenues relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. *I Maga'lahi* is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds, the sale of the bonds and payment of the bonds being refunded. The indenture shall be subject to the approval of *I Liheslaturan Guåhan*.

(g) Authorization for Credit Enhancement. *I Maga'lahi* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal or interest on the bonds. Any such reimbursement obligation shall be payable *solely* from, and may be secured by a pledge of, the revenues described in Subsection (d) of this Section.

(h) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds shall be used *solely* to fund all or a portion of the projects enumerated in Subsection (j) of this Section, and to pay expenses relating to the authorization, sale and issuance of the bonds and the payment of the bonds being refunded, including, without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution,

transportation and safekeeping of bonds, escrow agent fees and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds and the payment of the bonds being refunded.

(i) No Personal Liability Except for Failure to Perform Ministerial Duty. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(j) Proceeds. The proceeds shall be expended for the following road and pothole repair projects:

1. Repair of potholes not determined to be caused by the Guam Waterworks Authority or its contractors, the Guam Power Authority or its contractors, or any autonomous agency of the government of Guam or its contractors, as determined by the Director of Public Works. The Director of Public Works shall prioritize the order in which potholes shall be repaired, taking into account usage of the effected road or highway, severity of the pothole and risk to public safety.

SUBTOTAL \$11,000,000.00

2. Repairs to secondary and tertiary roads in Guam in accordance with the following table:

Mayoral Listing by Priority	Public Secondary/Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
	Agana Heights		
1	Tutujan Drive/Chalan Canton Tutujan	0.12	\$36,000.00
2	Joseph Cruz/Chalan Macajna	0.19	\$57,000.00
3	Fonte Drive	0.08	\$24,000.00
4	Vicente Salomon Drive	0.06	\$18,000.00
5	Niyog Drive	0.12	\$36,000.00
6	Patnetos Drive	0.08	\$24,000.00
7	Francisco Javier Avenue	0.08	\$24,000.00
8	Dadik Lane	0.06	\$18,000.00
9	Chargualaf Drive	0.06	\$18,000.00
	Municipality Subtotals:	0.85	\$255,000.00
	Agat		
1	Erskin Drive	0.31	\$93,000.00
2	San Vicente Avenue	0.25	\$75,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
3	Calle De Los Marteres	0.16	\$48,000.00
4	Father Follard Street	0.25	\$75,000.00
5	Duenas Street	0.17	\$51,000.00
6	San Rogue Street	0.31	\$93,000.00
7	San Isidro Street	0.11	\$33,000.00
8	West Santa Ana Street	0.25	\$75,000.00
9	Bruce Street	0.06	\$18,000.00
10	Perry Street	0.06	\$18,000.00
11	Kalachucha Street	0.20	\$60,000.00
12	Umang Road	0.20	\$60,000.00
13	Kiko Chela Road	0.06	\$18,000.00
14	South Perino Street	0.06	\$18,000.00
15	Santa Cruz Street	0.32	\$96,000.00
16	San Antonio De Padua Circle	0.11	\$33,000.00
17	Pagachao Drive	0.25	\$75,000.00
18	Chalan Kiko Chelo	0.25	\$75,000.00
	Municipality Subtotals:	3.38	\$1,014,000.00
	Asan-Maina		
1	Maria Candelaria Street. - Maina	0.25	\$75,000.00
2	Sene'so Field Road – Maina	0.13	\$39,000.00
3	Kalackac Road – Asan	2.00	\$600,000.00
	Municipality Subtotals:	2.38	\$714,000.00
	Barrigada		
1	<i>Leyang Road</i>	1.10	\$330,000.00
	Manibusan Street, Akaide Street, Cruz Street, and Pickle Symer Street, Caderon Street	0.42	\$126,000.00
2	Chalan Brandi - Canada	0.40	\$120,000.00
3	Canada Toto Road, Harris	0.20	\$60,000.00
4	Aspenago Street	0.30	\$90,000.00
5	Kaila Street	0.20	\$60,000.00
6	San Antonio Street	0.60	\$180,000.00
7	Anderson Street - Lalo	0.30	\$90,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
8	Leon Guerrero Street - Leyang	0.20	\$60,000.00
9	Manibusan Street - Radio	0.30	\$90,000.00
10	Joleen L.G. Street	0.60	\$180,000.00
11	East Route 8 (PC Lujan)	0.60	\$180,000.00
12	Jackson Road	0.15	\$45,000.00
13	Jackson Street	0.50	\$150,000.00
14	Taison Way	0.19	\$57,000.00
15	Guzman Way	0.80	\$240,000.00
16	North Sabana Drive	0.30	\$90,000.00
17	Tun Juan White Street	0.35	\$105,000.00
18	Unnamed Street - Intersecting Nalao Place	0.03	\$9,000.00
	Municipality Subtotals:	7.54	\$2,262,000.00
	Chalan Pago/Ordot		
1	Tai Road	1.00	\$300,000.00
2	Manibusan Road	1.00	\$300,000.00
3	Victorian Road	0.25	\$75,000.00
4	Chalan Peskadot	0.50	\$150,000.00
5	Scout Mike Laguana Road	0.25	\$75,000.00
6	Chalan Okso	0.50	\$150,000.00
7	Padiron - Tai Connector Road	3.00	\$900,000.00
8	Gogue Drive	0.25	\$75,000.00
9	Chalan Naki	0.50	\$150,000.00
10	Chalan Fama	2.20	\$1,700,000.00
11	Dero Road (after the Ordot dump)	0.60	\$180,000.00
12	Chalan Happy	0.04	\$12,000.00
13	Daso Road	0.06	\$18,000.00
14	Chalan Ping Pago	0.08	\$24,000.00
15	Chalan Campos	0.04	\$12,000.00
16	Santa Cruz Drive	0.19	\$57,000.00
17	Chalan Kalo - Judge Sablan Street	0.20	\$60,000.00
	Municipality Subtotals:	10.66	\$4,238,000.00
	Dededo		

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
1	Castro Street (1/2 of road with CLTC)	0.30	\$90,000.00
2	South Caldiola (CLTC)	0.60	\$180,000.00
3	Adora Street (CLTC)	0.30	\$90,000.00
4	Stamp Road (CLTC)	0.80	\$240,000.00
5	East/West Liguán Avenue	0.40	\$120,000.00
6	West Nandez Avenue (CLTC)	0.50	\$150,000.00
7	Chalan Koda	1.00	\$300,000.00
8	Never Mind Road (CLTC)	0.60	\$180,000.00
9	North Ukudo Street	0.60	\$180,000.00
10	Algeta Street	1.00	\$300,000.00
11	<i>Y-Sengsong Road area</i>		
	Chalan I Natibu .05, Atbot de Fuego Street .04	0.90	\$270,000.00
12	<i>Machanao area</i>		
	Chalan Disipulu .3, Chalan Karetá .4, Kayon Cocora .3, Kayon Dalalai .5, Radha Bhojwani Court .4	1.90	\$570,000.00
13	<i>Machanao area</i>		
	Bisaya Road .2, Jalloria Street .3, Chalan Encio .3, Cactus Lane .2, Chalan Espinosa .2, Lucky Road .2	1.40	\$420,000.00
14	Santa Lourdes Street	0.20	\$60,000.00
15	Hegao Loop	0.10	\$30,000.00
	Municipality Subtotals:	10.60	\$3,180,000.00
	Hagatna		
1	East/West O'Brien Drive	1.50	\$450,000.00
2	Chalan Santo Papa	0.20	\$60,000.00
3	Archbishop Flores Street	0.30	\$90,000.00
4	Aspinall Avenue	0.80	\$240,000.00
5	Hessler Place	0.20	\$60,000.00
6	Hernán Cortez Avenue	0.20	\$60,000.00
7	West Soledad Avenue	0.20	\$60,000.00
8	Santa Cruz Lane	0.20	\$60,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
9	Olaiz Street	0.20	\$60,000.00
10	Bradley Place	0.20	\$60,000.00
11	Dulce Nombre Maria Street	0.20	\$60,000.00
12	Murry Boulevard	0.20	\$60,000.00
13	Tenth Street	0.20	\$60,000.00
14	Ninth Street	0.20	\$60,000.00
15	Eighth Street	0.20	\$60,000.00
16	Seventh Street	0.20	\$60,000.00
17	Sixth Street	0.20	\$60,000.00
18	Anecito Street	0.20	\$60,000.00
19	Fifth Street	0.20	\$60,000.00
20	Padre Palomo Street	0.20	\$60,000.00
21	Castillo Drive	0.20	\$60,000.00
22	Father Duenas Avenue	0.20	\$60,000.00
23	Seaton Boulevard	0.20	\$60,000.00
	Municipality Subtotals:	6.60	\$1,980,000.00
	Inarajan		
1	Ija Subdivision (All roads)	2.00	\$1,500,000.00
2	Y-Peca Lane	0.05	\$15,000.00
3	Y-Peca Lane road re-alignment (existing road on private property)	0.06	\$42,000.00
4	Tun Santiago North Paulino Street	0.12	\$36,000.00
5	Tun Jose L. San Nicolas Street	0.48	\$144,000.00
6	Barcinas Drive	0.05	\$15,000.00
7	Tun Jesus Crisostomo	0.10	\$30,000.00
8	Chalan Chandia	0.10	\$30,000.00
9	Tinaga Lane	0.07	\$21,000.00
10	Chalan Guefan	0.20	\$60,000.00
11	Papaya Lane	0.06	\$18,000.00
12	Cepeda Drive	0.07	\$21,000.00
13	Chalan Laman	0.05	\$15,000.00
14	Friholes Street	0.03	\$9,000.00
15	Roy Meno Street	0.04	\$12,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
16	Bear Rock Lane	0.06	\$18,000.00
17	Ben Diego Road	0.06	\$18,000.00
18	Malojloj Well Drive	0.10	\$30,000.00
19	Tun Enemicio & Regina Diego Drive	0.05	\$15,000.00
	Municipality Subtotals:	3.75	\$2,049,000.00
	Mangilao		
1	Farfan Street	1.50	\$450,000.00
2	Spanish Road	1.00	\$300,000.00
3	Sengsong Street	1.00	\$300,000.00
4	Kinney Drive / Arriola Court	2.00	\$600,000.00
5	Sabana Maagas	2.00	\$600,000.00
6	Santos Road	1.50	\$450,000.00
7	Apiag Road	0.75	\$225,000.00
8	Lemon Lane	1.00	\$300,000.00
9	Suni Lane	1.00	\$300,000.00
10	Juan Muna-Mamis Street	0.05	\$15,000.00
11	Sietbro Road	0.30	\$90,000.00
12	Koko Lane	0.50	\$150,000.00
13	Washington Drive	2.00	\$600,000.00
14	Baza Lane	0.75	\$225,000.00
15	Cadena Lane	0.50	\$150,000.00
16	Lalo Street	1.00	\$300,000.00
17	Tum Ramon Street	0.75	\$225,000.00
18	Mandarin Street	1.50	\$450,000.00
19	Costa Lane	0.75	\$225,000.00
20	Bilmar Court	1.00	\$300,000.00
21	Dimas Street	0.50	\$150,000.00
	Municipality Subtotals:	21.35	\$6,405,000.00
	Merizo		
1	Joseph A. Cruz Avenue (Pigua)	1.00	\$300,000.00
2	Benny T. Espinosa Avenue (Geus)	0.50	\$150,000.00
3	Jesus Quinene Road	1.00	\$300,000.00
4	Geronimo Tainatongo Street	0.14	\$42,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
5	Pedro Tainatongo Street	0.05	\$15,000.00
6	Jose Baza Street	0.08	\$24,000.00
7	Chalan J. Lujan	0.05	\$15,000.00
8	Vicente Quitugua Street	0.05	\$15,000.00
9	Chuck McJohn Street	0.05	\$15,000.00
10	Fred B. Quinene Road	0.12	\$36,000.00
	Municipality Subtotals:	3.04	\$912,000.00
	Mongmong/Toto/Maite		
1	Clara Road (Reconstruction)	0.80	\$1,500,000.00
2	North Old George Washington Road	0.30	\$90,000.00
3	J. A. Camacho Street	0.40	\$120,000.00
4	South Old George Washington Road	0.20	\$60,000.00
5	Biang Street/Casimero St. (Anti-skid paving)	0.22	\$44,000.00
6	Tuba Street	0.20	\$60,000.00
7	Torres Street	0.30	\$90,000.00
8	Balaku Street	0.30	\$90,000.00
9	Taluba Street	0.30	\$90,000.00
10	Aragon Street (Anti-skid paving)	0.11	\$21,000.00
11	Manibusan Street	0.50	\$150,000.00
12	Robat Street	0.50	\$150,000.00
13	South Peperu Street	0.60	\$180,000.00
14	Bihu Street	0.30	\$90,000.00
15	Duendes Street	0.30	\$90,000.00
16	Martinez Lane	0.10	\$30,000.00
	Municipality Subtotals:	5.43	\$2,855,000.00
	Piti		
1	Ocean Street	0.17	\$51,000.00
2	Chalan Soling	0.12	\$36,000.00
3	Chalan Sabana	0.17	\$51,000.00
4	Masso Court	0.15	\$45,000.00
5	Edward Lane	0.17	\$51,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
6	Jesus Alig Drive	0.17	\$51,000.00
7	Ocean Summit Drive	0.22	\$66,000.00
8	Ocean Summit Drive (100 ft. of existing coral rd. is on private property, roads need re-alignment)	0.02	\$75,000.00
9	Turner Road	1.00	\$300,000.00
10	Juan Isabel Street	0.05	\$15,000.00
11	J.C. Santos Street	0.10	\$30,000.00
12	Assumption Drive	0.08	\$24,000.00
13	Scharff Street	0.05	\$15,000.00
14	Manga Street	0.12	\$36,000.00
	Municipality Subtotals:	2.59	\$846,000.00
	Santa Rita		
1	Joaquin Diaz Drive (Route 17)	0.05	\$15,000.00
2	Cross Island Road Atenta	0.06	\$18,000.00
3	Felix T. Dysdasco Drive	0.08	\$24,000.00
4	Vicente Borja Drive	0.10	\$30,000.00
5	Juan Cruz Drive	0.24	\$72,000.00
6	Pale Medina Street	0.07	\$21,000.00
7	Sgt. E. Cruz Street	0.23	\$69,000.00
8	Namo Falls Road	0.18	\$54,000.00
9	Blas Dela Cruz Street	0.26	\$78,000.00
10	Aga Drive	0.21	\$63,000.00
11	Sgt. E. Cruz Street	0.21	\$63,000.00
12	Pahong Drive	0.13	\$39,000.00
13	Lalangita Drive	0.14	\$42,000.00
14	Pale Ferdinand Way	0.53	\$159,000.00
15	Joaquin D. Perez Drive	0.50	\$150,000.00
16	Pale Duenas Haya	0.48	\$144,000.00
17	Pale Eugenio Haya	0.10	\$30,000.00
18	Pale Eugenio Lago	0.11	\$33,000.00
19	Juan P. Sarmiento Street	0.48	\$144,000.00
20	Vicente D. Lizama Drive	0.10	\$30,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
	Municipality Subtotals:	4.26	\$1,278,000.00
	Sinajana		
1	Afame Road	0.50	\$150,000.00
2	Daso Road	0.30	\$90,000.00
3	Spring Lane	0.20	\$60,000.00
4	Nungi Street	0.20	\$60,000.00
5	Unnamed Street (Intersecting Nungi Street)	0.10	\$30,000.00
6	NW Spring Lane	0.10	\$30,000.00
7	Alvarez Road	0.10	\$30,000.00
8	Agana Spring / Lucio Road	1.00	\$300,000.00
9	Pale Kieran Drive (Anti-skid paving)	0.60	\$120,000.00
	Municipality Subtotals:	3.10	\$870,000.00
	Talofofo		
1	Route 4A, San Miguel Street-Ernest Santos Street	0.30	\$90,000.00
2	Route 4A-Jose P. Cruz Street	0.43	\$129,000.00
3	West Johnny Taitague	0.08	\$24,000.00
4	Mariano Blas Street	0.08	\$24,000.00
5	Ipan, Talofofo Perez Hts .25 , Cruz Hts .76, Pacha-Don Dei Dr .40, Paulino Hts (North-South) .53, Padua Lane .25	2.19	\$657,000.00
6	Cabrera Lane	0.10	\$30,000.00
7	Nauta Lane	0.08	\$24,000.00
8	Ralph P. Santos Street	0.12	\$36,000.00
9	Ralph Benavente Street	0.10	\$30,000.00
10	Dave Gorton Street	0.30	\$90,000.00
11	Chalan Mapao	0.20	\$60,000.00
12	Chalan Fena	0.20	\$60,000.00
13	West Manuel Mantanona Lane	0.10	\$30,000.00
14	Ignacio P. Quitugua Street	0.49	\$147,000.00
15	Leonardo Tenorio Street	0.34	\$102,000.00
16	Francisco A. Reyes Avenue	0.60	\$180,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
17	Route 4 (Anti-skid paving from Jeff's Pirates Cove to Ipan Mobil)	0.40	\$117,000.00
	Municipality Subtotals:	6.11	\$1,830,000.00
	Tamuning		
1	Anthurium Lane	0.30	\$90,000.00
2	Milindes Court / Street John Street	1.20	\$360,000.00
3	Tun Pedro Cruz Street	0.40	\$120,000.00
4	Adrian Sanchez Street	1.30	\$390,000.00
5	Taitano Road	0.60	\$180,000.00
6	Happy Landing Road (Old San Vitores Road)	0.50	\$150,000.00
7	Harmon Industrial Park (East & West)	1.20	\$360,000.00
8	Carlos Heights Road	0.60	\$180,000.00
9	Jones Town (All Roads)	2.50	\$750,000.00
10	Jalaguac Road	0.20	\$60,000.00
11	Manuel C. Rivera Street	0.20	\$60,000.00
12	Tan Conchita Lane	0.20	\$60,000.00
13	Black Construction Road	0.20	\$60,000.00
	Municipality Subtotals:	9.40	\$2,820,000.00
	Umatac		
1	S-7 Mahamok area	0.30	\$90,000.00
2	Jagan Drive	0.06	\$18,000.00
3	Jose A. Quinata Street (cemetery)	0.30	\$90,000.00
4	Jose Q. Aguon Street	0.30	\$90,000.00
5	George S. Sanchez Court	0.13	\$39,000.00
6	Jesus A. Quidachay Street	0.05	\$15,000.00
7	Unnamed Street, public easement (access to residence: Vivian Esteves)	0.05	\$15,000.00
8	Unnamed Street, public easement (access to residence: Eileen Celoso)	0.05	\$15,000.00
9	Unnamed Street, public easement (access to residence: Trini Halmi)	0.19	\$57,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
10	Unnamed Street, public easement (access to residence:Clare Gofigan)	0.11	\$33,000.00
11	Nino Perdido Street	0.15	\$45,000.00
	Municipality Subtotals:	1.69	\$507,000.00
	Yigo		
1	Juan Jacinto - Wusstig Road	0.39	\$117,000.00
2	Juan Jacinto (Anti-skid)	0.10	\$20,000.00
3	East Gayinero Subdivision (Sylvia S.M. Borja Street, Tun Ramon Flores Street, Charles Flores Street, East Gayinero Court) Gayinero Subdivision 1.75	2.90	\$870,000.00
4	West Gayinero Road (Anti-skid)	0.10	\$20,000.00
5	Lamenta Subdivision Road	0.20	\$60,000.00
6	Emsley Subdivision (Chalan Untalan, Chalan Ahgao, Chalan Abas, Chalan Mendioka, Kayen Markie, Chalan Kadi, Chalan Plumeria Luchan & Kattan)	0.80	\$240,000.00
7	Bhojwani Subdivision & Gill Baza Subdivision (All Roads)	2.50	\$750,000.00
8	Agafa Gumas/Machananao Area-Chalan Abubu, Kahet Avenue, Lila Avenue	2.00	\$600,000.00
9	North Jose F. San Nicolas St. / South Jose F. San Nicolas St. / East As' Diaz St. & all roads connected (Gollo area)	0.50	\$150,000.00
10	Laguna Plains Subdivision (Chalan Gehalom, Chalan Kirida, Chalan Felix Remedio)	0.70	\$210,000.00
11	La Chance area (Chalan Mamis, Chalan Adams, Kayen Mepa, Kayen Mendiola, Chalan Y'Tranka, Chalan Bilimbines) Chalan Atis, Chalan Sungo, Chalan Lemai	0.50	\$150,000.00
12	I Seng Song Mayot (front gate to AAFB)	0.50	\$150,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
13	Kayen G.G. Perez, Chalan Manuel Helen	0.90	\$270,000.00
14	Areas Along Marine Corp Drive-Ojeda Way, Chalan Tun Ignacio Chana, David Flores Court	0.29	\$87,000.00
15	Chalan Paharu (Chalan Mansanita)	0.80	\$240,000.00
16	Lupog (Chalan Luis Tugon, Chalan Padiron Lagu, Chalan Sylvia, Chalan Fatima)	0.19	\$57,000.00
17	Mataguac Area (Chalan Dibidi, Chalan Maanao, Chalan Familian Flores, Kayen Banaderu), Sabanan Mataguac Estates	1.70	\$510,000.00
18	Ana Manet Subdivision (Chalan Josen Tan Ana, Chalan Manuel Tan Ana)	0.12	\$36,000.00
19	Along Rt. 15 (Chalan Padiron Laga) Tun Akin Cabesa, Taitano Nursery, Tun Vicente Affleje Street)	0.19	\$57,000.00
20	Mt. Santa Rosa-Chobito, Chalan Henry Flores, Chalan Tun Vicente, Joaquin Tugon Road, Gloria Way	0.19	\$57,000.00
21	Salas I Subdivision (Chalan Hiteny, Chalan Laggua)	0.13	\$39,000.00
22	Takano Subdivision-Bobbie Lane, Chalan Tun Luis Takano	0.19	\$57,000.00
23	Bordallo Subdivision-Kayen Maipe, Chalan Tan Pai	0.11	\$33,000.00
24	Salas II Subdivison-Kayen Finalagu, Kayen Apreta	0.11	\$33,000.00
	Municipality Subtotals:	16.11	\$4,813,000.00
	Yona		
1	Willy Quichocho Road	0.11	\$33,000.00
2	Manenngon Road or Aguon Road	1.00	\$300,000.00
3	Chaco-Pocaigue Road	0.13	\$39,000.00
4	Teleforo Road	0.50	\$150,000.00

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
5	Ayuyu Road	0.08	\$24,000.00
6	Balajadia and Pangelinan Road	0.12	\$36,000.00
7	Fair Way Drive	0.10	\$30,000.00
8	Fair Way Drive (Road re-alignment, existing road on private property)	0.02	\$90,000.00
9	Rt. 4 / Rt. 17 (Intersection anti-skid paving)	0.38	\$120,000.00
	Municipality Subtotals:	2.44	\$822,000.00
	Grand Total:	121.28	\$39,650,000.00

SOURCE: Added by P.L. 28-068:II:IV:1 (Sept. 30, 2005).

5 GCA § 1804. Equal Employment Programs.

The Bureau shall work with, and assist, the Director of Administration to ensure that the provisions of § 4403(f) of Title 4, Guam Code Annotated, pertaining to equal employment opportunity programs, are properly administered and implemented.

COMMENT: Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 1931. Office of the Public Engineer: Establishment.

There is established within the Bureau of Planning of the Executive Branch, the office of the Public Engineer. The office shall be headed by the ‘Public Engineer’, a classified position, recruited and selected within the rules and regulations of the government of Guam. Compensation for the ‘Public Engineer’ shall be determined by the Director of Administration.

COMMENT: Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 3127. Customs and Quarantine Agency.

There is hereby established within the government of Guam, the Customs and Quarantine Agency (the *Agency*). The Director of the Agency, who is the head of the Agency, shall be appointed by the Governor with the advice and consent of the Legislature. The senior ranking classified Customs & Quarantine Officer within the Agency shall act as the Deputy Director of the Agency with all the powers of such a deputy but without additional compensation. The compensation of the Director of the Agency and of such Director’s personal secretary shall be set by the Director of Administration.

SOURCE: Added by P.L. 22-112:2 (04/11/94). Amended by P.L. 23-3:1. (03/30/95). Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

COMMENT: The amendment made to this section changed the words, “senior classified employee” to “senior ranking classified Customs & Quarantine Officer” to make sure that the Deputy Director was always such an Officer and not, by reason of time in service, another employee of the agency who was not a sworn officer.

5 GCA § 4117. Definitions.

(a) *Agency* shall mean each and every line department of the Executive Branch, each autonomous/semi-autonomous agency, public corporation or instrumentality of the government of Guam, every educational institution whether secondary or post secondary, the Judicial Branch, the Public Defender Service Corporation, and every public entity hereafter to be created by law which receives funding under the General Appropriations Act of 1998 and 1999.

(b) *Capital Outlay* includes:

(1) Equipment, such as loader trucks, tractors, trailers, automobiles or other vehicles; machinery; reference books; filing cabinets, typewriters, computers, microcomputers and printers, facsimile machines, adding and calculating machines, other business machines and office equipment; and tools, implements and instruments which may be used continuously without material change in physical condition and having a useful life of one (1) year or longer and cost not less than Five Hundred Dollars (\$500.00);

(2) repair, remodeling or alteration of a building or replacement thereof and the replacement and renewal of plumbing, wiring and air conditioning systems costing more than Fifteen Thousand Dollars (\$15,000.00);

(3) construction of an entirely new building, including the materials and labor either supplied by an agency of the government or supplied by contract; or

(4) non-structural improvements to buildings, the grading, leveling, drainage and landscaping of land or the construction of roadways, fences, ditches, or sanitary or storm sewers.

Capital Outlay does not include normal maintenance expenditures.

(c) *Contingency* means expenditure for unbudgeted items.

(d) *Contractual Services* include:

(1) services rendered or performed by businesses or other government agencies or individuals other than expenses for personnel services;

(2) current services or charges for rental of personal property, insurance premiums (not employee benefits), dues, paid subscriptions and other fixed charges; or

(3) telex and other forms of communication, except telephone and facsimile.

(e) *Equipment* means items having a purchase price of Five Thousand Dollars (\$5,000.00) or less.

(f) *Encumbrances* means commitments related to unperformed (executory) contracts for goods and services, which are generally evidenced by outstanding purchase orders, contracts and inter-departmental work requests. Encumbrances reported at year end are reported as a reservation of fund balance since they do not constitute expenditures or liabilities.

(g) *Expenditures* means all amounts of money, other than refunds authorized by law, paid out or encumbered for payment by a Territorial agency other than for investment securities or as agent or trustee for other governmental entities or private persons.

(h) *Federal Funds* means payments by the United States Government to the Territorial government or Territorial agencies for specific purposes or in lieu of taxes, including grants, reimbursements and payments made in accordance with contracts, but does not include payments pursuant to Section 30 of the Organic Act of Guam.

(i) *Full Time Equivalency (FTE)* means the equivalent of one (1) permanent position continuously filled for two thousand eighty (2,080) hours per year commencing October 1, 1997.

(j) *General Fund* means that Fund as defined by Title 5 Guam Code Annotated §21110.

(k) *Match* means direct cost sharing or in-kind General Fund support required as a condition for acceptance for Federal funds.

(l) *Office Space Rental* means payment to an entity for rental of office space and may include the cost of maintenance, power and other utility expenses.

(m) *Operating Expense* means the individual and collective budget categories of 'Travel,' 'Contractual Services,' 'Supplies,' 'Equipment,' 'Office Space Rental,' 'Utilities' and 'Miscellaneous.'

(n) *Personnel Services* includes:

(1) salaries and wages payable to persons employed by the government;

(2) the government's contributions to the Government of Guam Retirement Fund and the employer's contributions under the Federal Insurance Contribution Act;

(3) the government's contributions for health, dental and life insurance plans; or

(4) overtime.

(o) *Power* includes all expenses incurred for the use of electricity or liquid propane gas, propane or butane gas.

(p) *Revenue* means all amounts received by a Territorial agency from sources external to that agency, net of refunds and other correcting transactions, other than from the issuance of debt liquidation of investment, or as agent or trustee for other governmental agent, entities or private persons.

(q) *Special Fund* means revenue available to Territorial agencies from sources other than the General Fund and Federal funds.

(r) *Supplies and Materials* means materials which by their nature are consumable, that have a useful lifetime of less than one (1) year, and which, after use, undergo an impairment or a material change in physical condition.

(s) *Telephone* includes all charges for telephone and cellular telephone services.

(t) *Toll Calls* includes all charges for long distance telephone calls, including, but not limited to, facsimile.

(u) *Total Revenue* is defined as General Fund Revenue plus School Operations Fund Revenue.

(v) *Travel and Transportation* means off-island travel expenses and local mileage reimbursement in accordance with the laws of Guam.

(w) *Water/Sewer* includes all expenses for the purchase of water and all expenses for waste-water treatment.

SOURCE: Added by P.L. 23-45 (Oct. 1, 1995). Repealed by P.L. 23-46 (Oct. 19, 1995). Repealed and reenacted by P.L. 24-59:14 (Sept. 12, 1997) as §§ 4120.1 and 4120.2. Renumbered by Compiler to § 4117 to maintain section number consistency within this chapter. Subsection (e) amended by P.L. 28-068:IV:80 (Sept. 30, 2005).

NOTE: P.L. 23-45:1:5 created 5 GCA §§ 4120, 4120.1 and 4120.2. These new codes gave definitions regarding the General Appropriation Act of 1996. In P.L. 23-46, the legislature uncodified §§ 4120 and 4120.1 but did not uncodify § 4120.2. In P.L. 23-46, the legislature stated:

Section 10. Non-codification of definitions which are not applicable. Since the definitions contained in [P.L. 23-45] are not complete, and the definition of “agency” does not apply to agencies which do not receive funding from the Legislature, it is not desired that these definitions be codified.

Notwithstanding the language in P.L. 23-46, the legislature in P.L. 24-59 repealed and reenacted §§ 4120.1 and 4120.2 as herein provided. Sections 4120.1 and 4120.2 are combined here by Compiler as a single § 4117 to maintain numerical consistency with this chapter.

5 GCA § 5111. Qualifications of the Chief Procurement Officer.

The Director of Administration shall establish minimum qualifications for the position of Chief Procurement Officer.

SOURCE: GC § 6954.1. MPC modified. Amended by P.L. 18-26:17. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

COMMENT: While the Chief Procurement Officer is a part of the Department of Administration, this Chapter places procurement responsibilities with this Chief Procurement Officer, rather than with the Director of Administration, who still remains his superior. Nonetheless, the Chief Procurement Officer must make the decisions and, to this end, it is he, not the Director of Administration, who must have the qualifications in the specialized area of public procurement.

5 GCA § 5251. Public Record.

The record required by § 5249 of this Chapter is a public record and, subject to rules promulgated by the Public Auditor, any person may inspect and copy any portion of the record.

SOURCE: GC § 6964.6 added by P.L. 18-44:19. Amended by P.L. 28-068:IV:66 (Sept. 30, 2005).

5 GCA § 5253. Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues.

(a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway.

(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

(c) Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or Requests for Proposals shall state all the conditions in

§5253(b).

(d) Any contractor found in violation of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.

SOURCE: Added by P.L. 28-24:2. Amended by P.L. 28-98:2 (Feb. 7, 2006).

5 GCA § 5425. Authority to Resolve Protested Solicitations and Awards.

(a) **Right to Protest.** Any actual or prospective bidder, offeror, or contractor who may be aggrieved in connection with the method of source selection, solicitation or award of a contract, may protest to the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should know of the facts giving rise thereto.

(b) **Authority to Resolve Protests.** The Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of one of these officers shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract. This authority shall be exercised in accordance with regulations promulgated by the Policy Office.

(c) **Decision.** If the protest is not resolved by mutual agreement, the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of one of these officers shall promptly issue a decision in writing. The decision shall:

- (1) state the reasons for the action taken; and
- (2) inform the protestant of its right to administrative and judicial review.

(d) **Notice of Decision.** A copy of the decision under Subsection (c) of this Section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.

(e) **Appeal.** A decision under Subsection (c) of this Section including a decision there under regarding entitlement to costs as provided by Subsection (h) of this Section, may be appealed by the protestant, to the Public Auditor within fifteen (15) days after receipt by the protestant of the notice of decision.

(f) **Finality.** A decision of the Public Auditor is final unless a person adversely affected by the decision commences an action in the Superior Court in accordance with Subsection (a) of §5480 of this Chapter.

(g) In the event of a timely protest under Subsection (a) of this Section or under Subsection (a) of § 5480 of this Chapter, the Territory shall not proceed further with the solicitation or with the award of the contract prior to final resolution of such protest, and any such further action is void, unless:

(1) The Chief Procurement Officer or the Director of Public Works after consultation with and written concurrence of the head of the using or purchasing agency and the Attorney General or designated Deputy Attorney General, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the Territory; and

(2) Absent a declaration of emergency by the Governor, the protestant has been given at least two (2) days notice (exclusive of territorial holidays); and

(3) If the protest is pending before the Public Auditor or the Court, the Public Auditor or Court has confirmed such determination, or if no such protest is pending, no protest to the Public Auditor of such determination is filed prior to expiration of the two (2) day period specified in Item (2) of Subsection (g) of this Section.

(h) Entitlement to Costs. In addition to any other relief or remedy granted under Subsection (c) or (e) of this Section or under Subsection (a) of § 5480 of this Chapter, including the remedies provided by Part B of Article 9 of this Chapter, when a protest is sustained, the protestant shall be entitled to the reasonable costs incurred in connection with the solicitation and protest, including bid preparation costs, excluding attorney's fees, if:

(1) the protestant should have been awarded the contract under the solicitation but was not; or

(2) there is a reasonable likelihood that the protestant may have been awarded the contract but for the breach of any ethical obligation imposed by Part B of Article 11 of this Chapter or the willful or reckless violation of any applicable procurement law or regulation. The Public Auditor shall have the power to assess reasonable costs including reasonable attorney fees incurred by the government, including its autonomous agencies and public corporations, against a protestant upon its finding that the protest was made fraudulently, frivolously or solely to disrupt the procurement process.

SOURCE: GC §6975. MPC §9-101. Repealed and reenacted by P.L. 18-44:2. Subsections (e), (f),(g)(3),(h)(2) amended by P.L. 28-068:IV:67 (Sept. 30, 2005).

5 GCA § 5426. Authority to Debar or Suspend.

(a) Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency, after consultation with the using agency and the Attorney General, shall have authority to debar a

person for cause from consideration for award of contracts. The debarment shall not be for a period of more than two (2) years. The same officer, after consultation with the using agency and the Attorney General, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three (3) months. The authority to debar or suspend shall be exercised in accordance with regulations promulgated by the Policy Office.

(b) Causes for Debarment or Suspension. The causes for debarment or suspension include the following:

(1) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a private contract or subcontract, or in the performance of such contract or subcontract;

(2) conviction under territorial or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a territorial contractor;

(3) conviction under federal antitrust statutes arising out of the submission of bids or proposals;

(4) violation of contract provisions, as set forth below, of a character which is regarded by the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency to be so serious as to justify debarment action:

(i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
or

(ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

(5) any other cause the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency determines to be so serious and compelling as to affect responsibility as a territorial contractor, including debarment by another governmental entity for any cause listed in regulations of the Policy Office;

(6) for violation of the ethical standards set forth in Article 11 of this Chapter.

(7) filing a frivolous or fraudulent petition, protest or appeal under § 5425(e), § 5426(f) or of § 5427(e) of this Chapter.

(c) Decision. The Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency shall issue a written decision to debar or suspend. The decision shall:

(1) state the reasons for the action taken; and

(2) inform the debarred or suspended person involved of its rights to judicial or administrative review as provided in this Chapter.

(d) Notice of Decision. A copy of the decision under Subsection (c) of this Section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.

(e) Finality of Decision. A decision under Subsections (c) or (f) of this Section shall be final and conclusive, unless fraudulent, or an appeal is taken to the Public Auditor in accordance with § 5706 of this Chapter.

(f) Any member of the public may petition the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency to take action to debar or suspend pursuant to Subsection (a) of this Section. An investigation of each petition shall be conducted promptly and a written report should be made of findings of fact and action taken.

SOURCE: GC § 6975.1. MPC §9-102. Subsection (b) amended by P.L. 18-44:31; (c) by P.L. 18-44:3; (e) amended and (f) added by P.L. 18-44:4 and 5 respectively. Subsection (e) amended by P.L. 28-068:IV:68 (Sept. 30, 2005).

5 GCA § 5427. Authority to Resolve Contract and Breach of Contract Controversies.

(a) Applicability. This Section applies to controversies between the Territory and a contractor and which arise under, or by virtue of, a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

(b) Authority. The Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of one of these officers is authorized, prior to commencement of an action in a court concerning the controversy, to settle and resolve a controversy described in Subsection (a) of this Section. This authority shall be exercised in accordance with regulations promulgated by the Policy Office.

(c) Decision. If such a controversy is not resolved by mutual agreement, the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or the designee of one of these officers shall promptly issue a decision in writing. The decision shall:

(1) state the reasons for the action taken; and

(2) inform the contractor of its rights to judicial or administrative review as provided in this Chapter.

(d) Notice of Decision. A copy of the decision under Subsection (c) of this Section shall be mailed or otherwise furnished immediately to the contractor.

(e) Finality of Decision. The decision reached pursuant to Subsection (c) of this Section shall be final and conclusive, unless fraudulent, or the contractor appeals administratively to the Public Auditor in accordance with § 5706 of this Chapter.

(f) Failure to Render Timely Decision. If the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or the designee of one of these officers does not issue the written decision required under Subsection (c) of this Section within sixty (60) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

SOURCE: GC § 6975.2. MPC § 9-103. Subsection (c) amended by P.L. 18-44:6 and (e) amended by P.L. 18-44:7. Subsection (e) amended by P.L. 28-068:IV:69 (Sept. 30, 2005).

5 GCA Article 12. Procurement Appeals.

[This entire Article was repealed and reenacted by P.L. 28-068:IV:5 (Sept. 30, 2005) replacing the Procurement Appeals Board with the Public Auditor.]

- § 5701. Rules of Procedure.
- § 5702. Decisions of the Public Auditor.
- § 5703. Jurisdiction of the Public Auditor.
- § 5704. Standard of Review.
- § 5705. Suspension or Disbarment Proceedings.
- § 5706. Contract and Breach of Contract Controversies.
- § 5707. Appeals and Review of Public Auditor Decisions.
- § 5708. Discontinuance of Contractor' Appeal.
- § 5709. Transfer of Authority.

5 GCA § 5701. Rules of Procedure.

The Public Auditor shall adopt rules of procedure, which, to the fullest extent possible, will provide for the expeditious resolution of controversies in accordance with the requirements of this Chapter.

The Public Auditor shall have the authority to appoint a hearing officer, who shall take written, oral or otherwise presented testimony, evaluate such testimony and make recommendations to the Public Auditor.

The Public Auditor may adopt Small Claims Procedures for the resolution of controversies involving claims of less than Twenty-five Thousand Dollars (\$25,000.00).

5 GCA § 5702. Decisions of the Public Auditor.

The Public Auditor shall issue a decision in writing or take other appropriate action on each appeal submitted. A copy of any decision shall be provided to all parties, and, as appropriate, the Chief Procurement Office, the Director of Public Works and the head of a purchasing agency.

5 GCA § 5703. Jurisdiction of the Public Auditor.

The Public Auditor shall have the power to review and determine de novo any matter properly submitted to her or him. The Public Auditor shall not have jurisdiction over disputes having to do with money owed to or by the government of Guam. Notwithstanding § 5245 of this Chapter, no prior determination shall be final or conclusive on the Public Auditor or upon any appeal from the Public Auditor. The Public Auditor shall have the power to compel attendance and testimony of, and production of documents by any employee of the government of Guam, including any employee of any autonomous agency or public corporation. The Public Auditor may consider testimony and evidence submitted by any competing bidder, offeror or contractor of the protestant. The Public Auditor's jurisdiction shall be utilized to promote the integrity of the procurement process and the purposes of 5 GCA Chapter 5.

5 GCA § 5704. Standard of Review.

Any determination of an issue or a finding of fact by the Public Auditor shall be final and conclusive unless arbitrary, capricious, fraudulent, clearly erroneous, or contrary to law. Any decision of the Public Auditor, including any determination regarding the application or interpretation of the procurement law or regulations, shall be entitled to great weight and the benefit of reasonable doubt, although it shall not be conclusive on any court having competent jurisdiction.

5 GCA § 5705. Suspension or Debarment Proceedings.

(a) Scope. This § 5705 applies to a review by the Public Auditor of a decision under § 5426 of this Chapter.

(b) Time Limitation on Filing an Appeal. The aggrieved person shall file his/her appeal with the Public Auditor within sixty (60) days of the receipt of a decision under Subsection (c) of § 5426 of this Chapter.

(c) Decision. The Public Auditor shall decide whether, or the extent to which, the debarment or suspension was in accordance with the statutes, regulations and the best interest of the the government or any autonomous agency or public corporation, and was fair. The Public Auditor shall issue her or his decision within thirty (30) days of the completion of the hearing on the issue.

5 GCA § 5706. Contract and Breach of Contract Controversies.

(a) Scope. This § 5706 applies to a review by the Public Auditor of a decision under § 5427 of this Chapter.

(b) Time Limitation on Filing an Appeal. The aggrieved contractor shall file

his/her appeal with the Public Auditor within sixty (60) days of the receipt of the decision or within sixty (60) days following the failure to render a timely decision as provided in § 5427 of this Chapter.

(c) Decision. The Public Auditor shall decide the contract or breach of contract controversy and shall issue her or his decision within thirty (30) days of the completion of the hearing on the issue.

5 GCA § 5707. Appeals and Review of Public Auditor Decisions.

(a) Appeal. Any person receiving an adverse decision, the government or any autonomous agency or public corporation, or both, may appeal from a decision by the Public Auditor to the Superior Court of Guam as provided in Article D of Chapter 9 of this Chapter.

(b) Authorization of Appeal by the Government. No such appeal shall be made by the government or an autonomous agency or public corporation unless recommended by the Chief Procurement Officer, the Director of Public Works, or the head of the Purchasing Agency involved.

5 GCA § 5708. Discontinuance of Contractor's Appeal.

After notice of an appeal to the Public Auditor has been filed by the Chief Procurement Officer, the Director of Public Works or the head of the Purchasing Agency, a contractor may not discontinue such appeal without prejudice, except as authorized by the Public Auditor.”

5 GCA § 5709. Transfer of Authority.

Upon enactment, all Guam statutes and regulations which refer to the “Procurement Appeals Board” are hereby amended to reflect the “Public Auditor.” All other government of Guam documents which may refer to “Procurement Appeals Board” shall mean the “Public Auditor.”

SOURCE: The entire Article 12, Procurement Appeals Board, was added as § 6983, et seq. of the Government Code by P.L. 18-44, effective on January 4, 1987. Amended by P.L. 26-90:2 & 3. The entire Article 12 was repealed and reenacted by P.L. 28-068:IV:65 (Sept. 30, 2005).

5 GCA § 11102. Employment Security.

No classified employee at the time a reorganization plan is adopted shall be removed from his or her position or downgraded as a result of any reorganization undertaken pursuant to the plan, except pursuant to reduction in force procedures contained in 4 GCA § 4207, Director of Administration Rules, and Public Law 27-05:IV:19.

SOURCE: Added as GC § 5301 by P.L. 17-81:14. Amended by P.L. 27-34:2. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 20106. General Powers & Duties of Director.

As head of the Department, the Director

(a) shall administer the Department;

(b) shall exercise and discharge the powers and duties of the Department through such divisions or other organizational units as he may establish pursuant to this Division or as otherwise provided by law;

(c) shall enforce the provisions of this Division and of any other laws imposing any power, duty or other function upon the Department; and

(d) may formulate and adopt rules necessary or proper for the internal administration of the Department.

(e) The Director of Administration shall establish and maintain a list of all government employees who are sex offenders, as that term is defined in §4203.3 of Article 2, Chapter 4 of Title 4 Guam Code Annotated, and identify those employees who are assigned to positions which require public contact. The Director shall determine the positions in the classified service not requiring public contact for which those employees are qualified and eligible. The Director shall notify each employee determined to be eligible for a position or of positions of his or her eligibility and allow the employee to voluntarily transfer to a position not requiring public contact.

SOURCE: GC § 60006 renumbered from § 54156 and amended by P.L. 11-219. Subsection (e) added by P.L. 28-98:3 (Feb. 7, 2006).

5 GCA § 20108. Transfer of Officers & Employees.

[Repealed].

SOURCE: GC § 6008 renumbered from § 54158 by P.L. 11-219. Repealed by P.L. 28-068:IV:43 (Sept. 30, 2005), effective January 1, 2006.

5 GCA § 22401.1. Expenditures on Alcoholic Beverages Illegal.

Except for Guam Visitors Bureau, the A.B. Won Pat International Airport Authority of Guam, and the Governor and the Lieutenant Governor, no officer, employee, or agent of any public corporation or of any branch, department, agency, or instrumentality of the government of Guam, including, *but not limited to*, the Guam Power Authority, the Guam Economic Development and Commerce Authority, the Guam Housing Corporation, the Government of Guam Retirement Fund, the Jose D. Leon Guerrero Commercial Port, the Guam Waterworks Authority, the Guam Memorial Hospital Authority, and Boards and Commissions established by law or rule, shall expend public funds for the purchase of alcoholic beverages.

SOURCE: Added by P.L. 27-152:2. Repeal and reenacted by P.L. 28-068:IV:78 (Sept. 30, 2005).

5 GCA § 22425. General Obligation Bonds for Certain Capital Projects, Including Certain Educational Facilities Projects, and for Certain General Fund Expenses.

(a) Authorization of Issuance of General Obligation Bonds for Capital Projects and General Fund Expenses. The Governor of Guam is authorized to issue two (2) or more series of general obligation bonds of the government of Guam in an aggregate principal amount not to exceed Two Hundred Ninety-Six Million Dollars (\$296,000,000) to undertake the capital projects enumerated in subsection (m) of this Section, to provide for the payment of the general fund expenses listed in subsection (m) of this section and to pay expenses incurred in connection with the issuance of such bonds; provided, however, that the issuance of the bonds shall not cause a violation of the debt limitation provisions of 48 USC 1423a (§ 11 of the Organic Act of Guam).

(b) Terms and Conditions Determined by Certificate. The terms and conditions of the bonds shall be as determined by the Governor by the execution of a certificate authorizing the issuance of the bonds upon or prior to the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Section, and that the bonds shall mature not later than December 1, 2023 and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders not exceeding eight percent 8% per annum. The certificate of the Governor shall separately designate the amount of each maturity of bonds issued for each of the capital projects enumerated in subsection (m) of this Section and for general fund expenses, but shall also permit reallocation and redesignation of such bonds, with approval from the Legislature.

(c) Valid and Binding General Obligation. Any bonds authorized by this Section shall constitute the valid and binding general obligations of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the bonds. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds. All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of the capital projects funded by the bonds or for the payment of the general fund expenses funded by the bonds.

(d) Appropriations from the General Fund. There are hereby appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal and interest on such bonds.

(e) Additional Parity Bonds. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling

legislation, other obligations of the government secured by the general obligation of the government on a parity with the bonds authorized by this Section.

(f) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(g) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection of revenues, shall be as specified in the certificate executed by the Governor authorizing the issuance of the bonds. The certificate may appoint one (1) or more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and monies relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the certificate. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds.

(h) Authorization for Credit Enhancement. The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds. Any such reimbursement obligation shall be a general obligation of the government of Guam, and any such advance, if necessary, shall be treated as creating a reimbursement obligation issued to refund the bonds.

(i) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds shall be used solely to implement and equip the capital projects enumerated in subsection (m) of this Section, to pay general fund expenses listed in subsection (m) of this section and which are otherwise appropriated by the Legislature, to establish necessary reserves, and to pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, bonds insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the

bonds. The fees charged by the Guam Economic Development Authority for this bond issuance shall be waived.

(j) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(k) University of Guam Bond Fund. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the "University of Guam Bond Fund" (the "UOG Bond Fund"). The UOG Bond Fund shall not be commingled with either the General Fund, the Current Fund of the University of Guam, or any other fund of the government of Guam. The UOG Bond Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. All tuition revenues received by or on behalf of the University of Guam shall be deposited in the UOG Bond Fund and shall be accounted for and used periodically only for the following purposes and in the following order:

(1) On the dates on which monies are remitted from the General Fund to any trustee, co-trustee or paying agent for the bonds for the purpose of either paying the principal of and interest on the bonds designated as having been issued for the capital project set out in subsection (m) item (5) or accumulating the amounts necessary to pay the principal of or interest on such bonds, there shall be transferred from the UOG Bond Fund to the General Fund amounts equal to, but not in excess of, the amounts remitted from the General Fund for such purposes, and in the event that the amount so transferred on any such date is insufficient to fully reimburse the amount so remitted, the amount of the insufficiency shall be transferred as soon thereafter as it becomes available in the UOG Bond Fund, together with interest from such remittance date to such date of transfer at a rate equal to the yield on the bonds.

(2) On the dates on which monies are transferred to the General Fund pursuant to paragraph (1) of this subsection (k) of this Section, if such transfer is sufficient to fully reimburse the General Fund (with interest, if required), the balance remaining in the UOG Bond Fund shall be transferred to the Current Fund of the University of Guam to be utilized only to implement the Physical Master Plan of the University.

Such tuition revenue collections shall not be pledged to the payment of amounts due on the bonds, and this subsection (k) may be amended at any time by subsequent act of the Legislature. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after

appropriate enabling legislation, for the benefit of the University of Guam, other general obligations of the government secured by such tuition revenues on a parity with the bonds authorized by this Section. In addition, nothing in this Section shall be construed to prevent the University of Guam from issuing, after appropriate enabling legislation, revenue bonds or general obligations of the University of Guam secured by such tuition revenues on a parity with the bonds authorized by this Section.

(3) Notwithstanding Paragraphs (1) through (3) of this Subsection (k), *if* the Board of Regent of the University of Guam ('University') elects to issue revenue bonds of the University pursuant to Chapter 17 of Title 17 of the Guam Code Annotated, tuition revenues received by or on behalf of the University may be pledged as a first priority to secure the payment of the obligations of the University with respect to the revenue bonds, and may be used to pay such obligations to create or replenish required reserves relating such revenue bonds, and to pay expenses directly related to the issuance and payment of such revenue bonds. In such event tuition revenues shall be deposited, used and applied as provided in the bond indenture, trust agreement or loan agreement relating to such revenue bonds.

(l) Territorial Educational Facilities Fund. There is continued in existence, separate and apart from other funds of the government of Guam, a fund known as the "Territorial Education Facilities Fund" (the "TEF Fund"). In TEF Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The TEF Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. All real property tax revenues received by or on behalf of the government of Guam pursuant to § 24103, Title 11, Guam Code Annotated, shall be deposited in the TEF Fund and shall be accounted for and used periodically only for the following purposes and in the following order:

(1) On the dates on which monies are remitted from the General Fund to any trustee, co-trustee or paying agent for the bonds for the purpose of either (A) paying the principal of and interest on the bonds designated as having been issued for the capital projects enumerated in items (1), (2), (3), (4), (6) and (7) of subsection (m) of this Section and for the payment of general fund expenses or (B) accumulating the amounts necessary to pay the principal of or interest on such bonds, there shall be transferred from the TEF Fund to the General Fund amounts equal to, but not in excess of, the amounts remitted from the General Fund for such purposes, and in the event that the amount so transferred on any such date is insufficient to fully reimburse the amount so remitted, the amount of the insufficiency shall be transferred as soon thereafter as it becomes available in the TEF Fund, together with interest from such remittance date to such date of transfer at a rate equal to the yield on the bonds.

(2) On the dates on which monies are transferred to the General Fund pursuant to paragraph (1) of this Subsection (1) of this Section, if such transfer is sufficient to fully reimburse the General Fund, (with interest, if required), the balance remaining in the TEF Fund shall remain in the TEF Fund and shall *only* be appropriated by *I Liheslatura* for the purpose of constructing, refurbishing, replacing and funding educational facilities and to fund the operations of the Guam Community College.

Such tax collections shall *not* be pledged to the payment of amounts due on the bonds, and this Subsection (1) may be amended at any time by subsequent act of *I Liheslatura*. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, for the benefit of the government of Guam other general obligations or revenue obligations of the government secured by such real estate tax revenues on a parity with the bonds authorized by this Section.

(m) The capital projects to be implemented and equipped with the proceeds of the bonds authorized by this Section are as follows:

Capital Projects:	Allocated Amounts:
1. High school located in Santa Rita, Guam	\$ 76,000,000;
2. Including a sewage treatment plant, infrastructure and off-site development, related to the high school in Santa Rita, Guam	\$ 21,000,000;
3. Elementary school located in Tamuning, Guam	\$ 15,000,000;
4. Elementary school located in Astumbo, Dededo, Guam	\$15,000,000;
5. Buildings at the University of Guam as follows: College of Arts and Sciences Building; renovation and addition to the Health Science Building; Plant Maintenance Building; Building II for the College of Agriculture and Life Sciences; College of Business and Public Administration; Fine Arts Building; and the Student Center,	\$ 28,000,000;
6. For the purchase of equipment and furniture and the relocation expenses for students during construction of projects set out in items (1), (3) and (4) of this subsection (m), including temporary classrooms,	\$ 3,000,000;
7. To the extent of any bond proceeds not required for the projects listed in Items (1) through (6) of this Subsection (m), any remaining balance other than the portions designated to be used for the Northern High School, or to pay General Fund expenses, may be applied to the cost of:	
(i) repairing or reconstructing the Inarajan Elementary School;	

- (ii) repairing or reconstructing the earthquake-damaged Ordot-Chalan Pago Elementary School;
 - (iii) reconstructing the earthquake-damaged gymnasium and classrooms at Inarajan High School;
 - (iv) repairing and reconstructing Upi Elementary School;
 - (v) repairing or reconstructing earthquake damage at any other school;
 - (vi) design and construction of additional elementary schools in Guam, subject to Subsection (n) of this Section;
 - (vii) needed infrastructure improvements for schools;
 - (viii) the completion of design plans for the Northern High School;
 - (ix) the design, construction and renovation of facilities, and capital improvement projects on the existing campus of the Guam Community College not to exceed One Million One Hundred Thousand Dollars (\$1,100,000);
 - (x) The Guam Public School System 's ten percent (10%) local share, over and above the approved FEMA funding, for the architectural, engineering design, construction and repair of the Jose Rios Middle School (formerly Piti Middle School) from damage resulting from Super Typhoon Paka and to add an additional classroom for Special Education needs;
 - (xi) Perform feasibility studies, pro forma cost projections and other documents necessary to justify and/or obtain financing/leasing of additional schools or education facilities;
 - (xii) Replace two (2) classrooms destroyed by fire at L.P. Untalan Middle School;
 - (xiii) Repair, replace, and/or modify air conditioners and air conditioning electrical systems for schools and repair of water infrastructure at the school. The Guam Public School System shall evaluate the following options on a school-by-school basis: (1) the cost to repair the units and electrical systems, (2) the cost to replace the air conditioning systems with new systems, (3) the cost to install single units in each classroom, office or other enclosed facility, (4) the cost to add expansion units to existingsystems, (5) any combination of the four (4) options herein and (6) the recurring cost to operate and maintain each of the four (4) options herein. The Guam Public School System shall conduct a public hearing at each affected school prior to engaging any firm to supply systems, parts, or perform repairs. Any system purchased herein shall comply with the comfort and air quality standards set forth for Heating, Ventilation and Air Conditioning (HVAC) equipment as provided for by Chapter 5 of the Federal GSA's Facilities Standards For Public Buildings Service (Revised November 2000 – PBS-P100); and
 - (xiv) The Superintendent of the Guam Public School System (“DOE”), in consultation with the Guam Education Policy Board (“Board”) shall have the authority and flexibility to review, and if necessary, reprogram such funds appropriated herein to DOE, to meet the needs of DOE, for repair, renovation and upgrade of public school facilities.
 - (xiii) other projects approved by subsequent legislation.
8. To the extent of any bond proceeds not required for the projects listed in Items (1) through (6) of this Subsection (m), any remaining balance, other than the portions designated to be used for the Northern High School or to pay general fund expenses,

may be applied to the costs of (i) repairing or reconstructing the Inarajan Elementary School, (ii) repairing or reconstructing the earthquake damaged Ordot-Chalan Pago Elementary School, (iii) reconstructing the earthquake damaged gymnasium and classrooms at Inarajan High School, (iv) repairing or reconstructing Upi Elementary School, (v) repairing or reconstructing earthquake damage at any other school, (vi) construction of additional elementary schools in northern Guam, subject to subsection (n) of this Section, (vii) needed infrastructure improvements for schools, (viii) the completion of design plans for the Northern High School, or (ix) other projects approved by subsequent legislation.

9. The aggregate principal amount of bonds authorized to be issued to provide for the payment of general fund expenses is One Hundred Fifteen Million Dollars (\$115,000,000), the proceeds of which to be used exclusively for the purposes outlined below. The general fund expenses authorized to be paid with the proceeds of such bonds are income tax refund payments, supplemental retirement payments, transfer payments to governmental agencies, and vendor payments, but in each case only to the extent such expenses have been incurred or previously obligated by the government for goods, services, and obligations rendered, received, or incurred prior to May 15, 1995.

(n) Uniform Design of Projects. In utilizing the bond proceeds authorized by projects set out in items (3) and (4) of subsection (m) of this Section, in order to optimize funds and not replicate services, a standard and uniform design for all elementary schools, shall be employed in their construction, unless the topography and size of the land for such a school prevents the use of such a standard and uniform design. Such standard and uniform designs shall be as energy efficient as is practical, and shall conform to island styles.

(o) Head Start Classrooms. The elementary schools described in items (3) and (4) of subsection (m) of this Section and whose construction is to be funded by this Act shall include a minimum of five (5) "Head Start" classrooms at each school.

(p) Selection of Participants. In view of the urgency for the issuance of the bonds for the purpose of financing general fund expenses and for the infrastructure related to the high school located in Santa Rita, the Governor is hereby authorized to utilize such method as he deems appropriate for the selection of all participants in connection with the issuance and sale of those bonds, including trustees, depositories, paying agents, underwriters, counsel, any credit enhancement provider and any other participants; provided, however, that such selection shall be subject to any provision of law which requires bidding, other competitive process, or any other procedure with respect to such selection, except that the Governor may limit the requests for proposals for services associated with the issuance of the bonds to those firms that have previously participated in bond issues for Guam.

(q) Additional bonds for Northern High School and Asan Elementary School. In the event that the debt capacity of the government of Guam as limited under § 11 of the Organic Act of Guam shall, as a result of the triennial property tax valuation now underway, be increased by no less than \$101,000,000 the aggregate principal amount of bonds authorized under this section shall be

increased by \$101,000,000 and the following project shall be added to the projects listed in subsection (m) of this section:

(1) Elementary School located in Asan, Guam \$15,000,000

(2) Northern High School \$86,000,000

(r) It is the policy of the Guam Legislature to ensure that the projects enumerated in Subsection (m) of this Section are completed. In this respect, the Guam Legislature gives its consent and authorization to allow the transfer of funds between projects contained in Subsection (m), Items 1, 2, 3, 4, 6, 7 and 9. The Guam Legislature shall be notified in writing prior to any transfer. This Subsection shall take effect immediately.

(s) Interest earned on the bonds authorized by this Section shall be used exclusively for the projects enumerated in Subsection (m) of this Section.

(t) Authorization of Issuance of General Obligation Loans for the Dededo Precinct and Crime Lab of the Guam Police Department. *I Maga'lahren Guåhan* is authorized to borrow one (1) or more general obligation loans of the government of Guam in the aggregate principal amount not to exceed Seven Million Dollars (\$7,000,000) to undertake the cost of the design, plans and construction of the Dededo Police Precinct at a cost not to exceed One Million Dollars (\$1,000,000.00), and the cost of the design, plans and construction of the Crime Lab at a cost not to exceed Six Million Dollars (\$6,000,000), and paying expenses incurred in connection with the issuance and closing of such loans; provided, however, that the incurring of the loans shall *not* cause a violation of the debt limitations provision of Title 48 USC § 1423a (§ 11 of the Organic Act of Guam).

(1) Terms and Conditions Determined by Certificate. The terms and conditions of the loans shall be determined by *I Maga'lahren Guåhan* by the execution of a certificate authorizing the incurring of the loans upon the incurring of the loans; provided, however, that such terms and conditions shall be consistent with this Subsection, and that the loans shall mature not later than December 31, 2013 and shall bear interest at such rates as shall result in a yield to the lending institutions not exceeding nine (9%) percent per annum.

(2) Valid and Binding General Obligation. Any loan or loans authorized by this Section shall constitute the valid and binding general obligation of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the loans. There shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the loans. All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum.

The validity of any such loans shall not be affected by the validity or regularity of any proceedings for the implementation of the capital projects funded by the loans.

(3) Appropriations from the General Fund. There are hereby appropriated from the General Fund such sums as will equal in each year the amount of money necessary to pay the principal and interest of such loans.

(4) Additional Parity Loans. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with the loans authorized by this Subsection.

(5) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the loans, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(6) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any loans granted under this Subsection, or for any other liability arising in connection with the loans; provided, however, that nothing in this Subsection shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(7) Guam Police Department Loan Fund. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the '*Guam Police Department Loan Fund*' ('GPD Loan Fund'). The GPD Loan Fund shall *not* be commingled with either the General Fund or any other fund of the government of Guam. The GPD Loan Fund shall be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts or funds of the government of Guam. Annually, on or before the date payments of the principal and interest on the loan or loans are to become due, the Director of the Department of Administration shall transfer from the GPD Police Services Fund and deposit in the GPD Loan Fund the amounts necessary for the complete payment of the principal and interest then due. In the event the funds transferred from the GPD Police Services Fund is found to be insufficient, the Superior Court of Guam shall transfer from the Superior Court of Guam Building Fund and deposit in the GPD Loan Fund One Hundred Thousand Dollars (\$100,000.00) annually, on or before the date payments of the principal and interest on the loan or loans are to become due, to supplement the amounts necessary for the complete payment of the

principal and interest then due. If the funds transferred from the GPD Police Services Fund is sufficient for the complete payment of the principal and interest on the loan or loans, then the One Hundred Thousand Dollars (\$100,000.00) transferred from the Superior Court of Guam shall be expended by GPD on cost of crime fighting equipment and training. All transfers of revenues from the GPD Police Services Fund and the Superior Court of Guam and received by or on behalf of the Guam Police Department shall be deposited in the GPD Loan Fund and shall be accounted for and used periodically only for the following purpose:

(i) on the dates on which monies are remitted from the General Fund to any lending institution for the purpose of paying the principal and interest due on the loans authorized in this Subsection of this Section, there shall be transferred from the GPD Loan Fund to the General Fund amounts equal to, but not in excess of, the amounts remitted from the General Fund for such purposes.

SOURCE: Added as § 14430 by P.L. 22-19:2 (6/18/93). Amended by P.L. 23-14:2. Subsection (m)(7) repealed/reenacted by P.L. 24-25:1. Subsections (r) and (s) added by P.L. 24-25:2-3. Subsection (m)(7) repealed and reenacted by P.L. 24-59:III:3(e) and by P.L. 25-25:1. Subsection (r) repealed and reenacted by P.L. 24-59:III:3(f). Subsection (k)(3) added by P.L. 24-312:5. Subsection (t) added by P.L. 24-243:2. Subsection (m)(17) amended by P.L. 27-33:2. Subsection (l)(2) amended by P.L. 28-068:II:1:39 (Sept. 30, 2005).

NOTE: Subsection (k)(3) of this section was originally enacted as subsection (k)(4). However, subparagraph (3) appears to have no legislative history thereby establishing it's vacancy. Renumbered by Compiler to reflect the correct citation.

COMMENT: Reference to Department of Education changed to Guam Public School System pursuant to P.L. 28-045:10 (June 6, 2005).

5 GCA § 23104. Per Diem Allowance.

(a) Prior to departure, the employee shall receive an advance per diem allowance equal to the number of days of authorized office travel multiplied by the current per diem allowance rate provided by the Federal government, contained in the Joint Travel Regulations, to its employees for the respective travel destinations when engaged in official business.

(1) If the employee is the Governor, Lieutenant Governor, a member of the Legislature or a Judge, the rates are One Hundred Thirty Percent (130%) of the basic per diem rates;

(2) If the employee is an Executive Assistant or Special assistant to the Governor, director or deputy director of any department, or member of the board of directors or commission of any autonomous agency, authority, line agency (including the Council of the Arts and Humanities), authority, or public corporation, the rates are One Hundred and Twenty-five Percent (125%) of the basic per diem rates.

(b) Annually in March, the Governor for the Executive Branch and all autonomous agencies and public corporations, the Presiding Judge of the Superior Court for the Judicial Branch and the Committee on Rules for the Legislative Branch shall establish a policy with regard to advance payment for travel expenses. An employee may receive an advance allowance for travel expenses.

(c) Within ten days following the return from official travel, an employee may submit an itemized statement of account supported by receipts, an affidavit, or both, of actual expenses incurred for lodging, meals and travel expenses actually incurred on official business during the period of official travel. If the advances of the per diem allowance and travel expenses allowance are less than the employee's actual authorized expenses then he shall be reimbursed for the amount his actual expenses exceeded the advance allowances.

(d) If the employee does not submit a statement of account, then he shall submit an itinerary of his official travel within ten days of his return. If the employee does not submit a statement of account, then he shall not be paid any money in excess of the advance per diem allowances and travel expense allowance. If the employee received an excessive advance allowance, he shall reimburse the Government the excessive amount at the time he submits an itinerary.

(e) The Governor, the Lieutenant Governor, Senators and Judges may be reimbursed for expenses incurred in hosting appropriate persons while conducting official business for the government of Guam. When seeking reimbursement under this subsection, the official shall submit an itemized statement of account of the actual expenses incurred and a brief statement of the purpose for the meeting.

(f) The Director of Administration shall annually in March, in accordance with the Administrative Adjudication Law, establish a schedule of allowances for expenses of employees sent off-island for training for more than 30 days. The provisions of subsections (a) through (e) of this Section shall not apply to an employee who is off-island receiving training for more than 30 days. Such an employee shall receive prior to departure the allowance for his expenses according to the schedule established by the Director of Administration. No report of actual expenses shall be required of a person who spends more than 30 days off-island receiving training. Such an employee shall not be entitled to reimbursement for actual expenses incurred even if they are greater than his allowance.

(g) The provisions of this Chapter shall apply to all government of Guam employees and board and commission members including, but not limited to those of the executive, legislative and judicial branches, autonomous agencies, authorities, and public corporations including, but not limited to the Guam Economic Development Authority, Guam Election Commission, Government

House, Public Defender Corporation, Guam Visitors Bureau, University of Guam, Public Utility Agency of Guam, Guam Telephone Authority, Guam Housing and Urban Renewal Authority, Guam Memorial Hospital Authority, Port Authority of Guam, Guam Housing Corporation, Guam Airport Authority, Guam Power Authority, and dependents or spouses authorized to accompany the employee on official travel.

SOURCE: GC § 6610.4 amended by P.L. 10-6, 11-73, 11-194; repealed/ reenacted by P.L. 15-58:2. Subsection (a) amended by P.L. 15-125:14; amended by P.L. 20-214:2; repealed and reenacted by P.L. 20-224:12 (12/24/90); amended by P.L. 28-068:IV:114 (Sept. 30, 2005). Subsection (f) amended effective January 1, 2006 to replace “Civil Service Commission” with “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 23105. Mileage Allowance.

Persons authorized to travel at government expense shall, in accordance with regulations and whenever such mode of transportation is authorized or approved as more advantageous to the government, be paid in lieu of transportation a maximum personal vehicle mileage allowance rate equal to the mileage reimbursement rate provided by the Federal government, contained in the Federal Travel Regulations, to its employees for the use of personal vehicles when engaged on official business.

SOURCE: GC § 6610.5. Amended by P.L. 14-119, P.L. 15-87. Repealed and reenacted by P.L. 21-14:19(b). Amended by P.L. 28-068:IV:113 (Sept. 30, 2005).

5 GCA § 32701. Legislative Findings and Intent.

I Liheslaturan Guåhan finds that nationwide, the broad use and public exposure of Social Security Numbers has been a major contributor to the tremendous growth in identity theft and other forms of credit fraud.

Therefore, it is the intent of *I Liheslaturan Guåhan* to protect the citizens of Guam from identity theft through the inappropriate disclosure and misappropriation of their Social Security Numbers by limiting its use and display to the general public.

5 GCA § 32702. Short Title.

This Act shall be known and may be cited as the “*Social Security Number Confidentiality Act*”.

5 GCA § 32703. Definitions.

The following definitions shall be used in interpreting this Act:

(a) “*Phish*” means the act of sending an electronic mail or message over the internet to a user in an attempt to mislead the user into surrendering private information for any purpose other than the purpose disclosed to the user by the sender of the e-mail or message.

(b) “*Public entity*” means the government of Guam and any agency or

instrumentality thereof. For purposes of this Act, public entity does *not* include the federal government.

(c) “*Private entity*” means any individual, corporation, company, partnership, firm, association, or any entity other than a public entity.

(d) “*Private information*” means any privileged personal information protected by law requiring the consent of that individual prior to disclosure.

(e) “*Publicly post*” or “*publicly display*” means to intentionally communicate, openly exhibit or otherwise make available to the general public.

5 GCA § 32704. General Rule.

No public or private entity shall:

(a) Assign an identification number to an individual which is identical to or incorporates an individual’s Social Security Number (SSN).

(b) Publicly post or publicly display, in any manner, private information or an individual’s SSN.

(c) Print an individual’s SSN on any card required for the individual to access products or services provided by the person or entity.

(d) Print an individual’s SSN on identification cards or badges.

(e) Print an individual’s SSN on materials that are mailed, unless Federal or Guam law requires the SSN to be on the document to be mailed. Notwithstanding this Act, applications and forms sent by mail may include SSNs.

(f) Require an individual to transmit his private information or SSN over the internet in an unsecured or unencrypted connection.

(g) Deny to any individual any right, benefit or privilege provided by law because of an individual’s refusal to disclose his SSN as provided in 5 U.S.C. §552(a). Any public or private entity which requests an individual to disclose his SSN shall inform the individual upon his request whether that disclosure is mandatory or voluntary, by what statutory or legal authority the SSN is solicited, and what uses will be made of it.

(h) *Phish* across the internet in an attempt to have an individual disclose private information or their SSN.

5 GCA § 32705. Exception.

(a) Nothing in this Act shall prevent any public entity or private entity from using a SSN for internal verification and administrative purposes, so long as the use does not result in, or require the release of, the SSN to persons not designated by the entity to perform associated functions authorized by law.

(b) This Act shall *not* be asserted as a means to avoid compliance with an otherwise valid request for records pursuant to the Freedom of Information Law and the Sunshine Reform Act of 1999, Title 5 GCA, Chapter 10, and the Open Government Law, Title 5 GCA, Chapter 8.

5 GCA § 32706. Enforcement. The Attorney General may:

(a) bring suit against any public entity or private entity for violating the provisions of this Section;

(b) collect civil penalties of up to Two Hundred Fifty Dollars (\$250) per violation together with attorney’s fees and costs incurred in the investigation and prosecution of the matter;

(c) seek appropriate injunctive relief; and

(d) bring criminal charges pursuant to Title 9 GCA § 46.80 regarding the theft or the misappropriation of an individual’s SSN.

5 GCA § 32707. Effective Date.

This Act shall become effective on May 1, 2006 and apply to acts occurring on or after May 1, 2006.

5 GCA § 40101. Number of Mayors and Vice-Mayors.

There shall be a Mayor and/or Vice Mayor for the municipalities and villages of Guam as indicated in the following table:

Municipality	Mayor	Vice
Municipality of Agana.	1	0
Municipality of Sinajana (Sinajana Village)	1	1
Agana Heights	1	0
Chalan Pago & Ordot	1	0
Municipality of Yona	1	0
Municipality of Talofofo	1	0
Municipality of Inarajan	1	0
Municipality of Merizo	1	0
Municipality of Umatac	1	0
Municipality of Agat	1	1
Santa Rita Village	1	0
Municipality of Piti	1	0
Municipality of Asan	1	0

Municipality of Barrigada	1	1
Municipality of Mangilao	1	1
Village of Tamuning	1	1
Municipality of Dededo	1	1
Municipality of Yigo	1	1
Mongmong, Toto, Maite	1	0
[Total Number]	19	7

SOURCE: GC § 15000; amended by P.L. 2-76, 3-89, 10-133, 10-167 and 20-33:1. Amended by P.L. 28-102:2(April 14, 2006)

COMMENT: Public Law 28-102 added vice mayors for the villages of Mangilao and Yigo.

5 GCA § 40107. Council Staffing.

(a) Subject to budgetary limitations, the Council may hire personnel necessary to carry out the purposes of this Chapter. The staff shall include an Executive Director, who shall be the Executive Secretary of the Council, who shall be responsible for the day-to-day operations of the staff and shall also be the Certifying Officer for the Council and the nineteen (19) municipal funds. The staff of the Council shall be paid such compensation as shall be determined by the Civil Service Commission within ninety (90) days of the enactment of this section; provided, however, that such compensation shall be comparable to equivalent position classifications within the government of Guam.

(b) Executive Director; unclassified. The position of Executive Director shall be in the unclassified service and he shall serve at the pleasure of the Council.

SOURCE: GC § 15004 repealed/reenacted by P.L. 14-27:3. R/R by P.L. 22-50:3.

CROSS-REFERENCES: See 5 GCA § 30117 for provision for attorney (Attorney General) of the Mayors' Council.

COMMENT: Effective January 1, 2006, the Civil Service Commission's duties herein were effectively transferred to the Director of Administration pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 43116. Development of the Boards and Commissions Training Program.

The University of Guam shall, within six (6) months of the receipt of funding for this Section, develop a training program for members of government of Guam boards and commissions. Such training programs shall include, but not be limited to, parliamentary procedures, ethics, fiduciary responsibilities, leadership and direction, personnel policy and government finance.

SOURCE: Added by P.L. 24-191:2.

NOTE: Pursuant to P.L. 28-076:9 (Nov. 25, 2005), this section will be repealed effective January 1, 2007.

5 GCA § 43117. Boards and Commissions Training.

The University of Guam shall, beginning with calendar year 1999, conduct a training program for members of government of Guam boards and commissions developed under the provisions of § 43116 of this Chapter. Such training program shall be conducted at least twice per year. If there are fewer than five (5) board members who wish to take a scheduled course, the two-year requirement may be waived. The cost of tuition for such training shall be the responsibility of the agency whose board or commission, the member serves on.

SOURCE: Added by P.L. 24-191:3.

NOTE: Pursuant to P.L. 28-076:9 (Nov. 25, 2005), this section will be repealed effective January 1, 2007.

5 GCA § 63101. Definitions.

As used in this Article:

(a) Altering – to change, damage, impact, break, remove, relocate, or to harm, resulting from activities to include, but not limited to, construction, drilling, trenching, mechanical equipment, and development;

(b) Angling - taking of aquatic animal life with a hook;

(c) Aquatic Life - includes all aquatic animals and aquatic plants;

(d) Coral – any live or dead member or part thereof of the Phylum Cnidaria that form calcareous skeletons, spicules, or sclerites (including soft and hard corals both hermatypic and ahermatypic) or exist as sessile, solitary, or colonial polyps. Those members include, but are not limited to, all stony corals (Scleractinia), fire corals (Milleporina), hydrocorals (Stylasterina), soft corals (Alcyonacea), blue corals (Coenothecalia), organpipe corals and relatives (Stononifera) sea fans (Gorgonacea), black corals (Antipatharia), and sea anemones (Order Actinaria, Ceriantharia, and Zoanthidea);

(e) Firearm - any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannons, submachine guns, powerheads, and bangsticks. The specific mention of certain weapons does not exclude from this definition other weapons operated by explosives;

(f) Fish - any aquatic animal life, including, but not limited to, oysters, clams, mollusks, mussels, crustaceans, other shellfish, and coral;

(g) Fish Weir - an apparatus for catching fish, consisting of a pocket or trap, with one or more wings or leaders, or both. Any reference to a fish weir in this Article includes any part or component thereof, including any pole, support, net, brush, wire, mesh, rope, or other item or material. For the purpose of this Article, there are two (2) types of fish weirs:

(1) Main weir means the central pocket or trap of any fish weir and its leader (main entrance) and wings (side entrance); and

(2) Auxiliary weir means any supplementary trap or pocket and its leader and wings which are attached to the leader or wings of a main weir;

(h) Game - all native or introduced species of wild birds and wild or feral animals;

(i) Juvenile Goatfish (*Ti'āo*)- is defined as fish within the family Mullidae (Goatfishes) that are four (4) inches (100 mm) or smaller when measured from the tip of the snout or jaw to the rear center edge or fork of the tail (fork length);

(j) Juvenile Jacks (*I'e'*)- is defined as fish within the family Carangidae (Jacks) that are four (4) inches (100 mm) or smaller when measured from the tip of the snout or jaw to the rear center edge or fork of the tail (fork length);

(k) Juvenile Rabbitfish (*Mañāhak*) - is defined as fish within the family Siganidae (Rabbitfishes) that are three (3) inches (76 mm) or smaller when measured from the tip of the snout or jaw to the rear center edge or fork of the tail (fork length);

(l) Mangroves - are defined as plants growing in soils with a high salt content and/or possess a well-developed system of conducting tissue to transport water, mineral salts, and sugars that occur in estuarine-tidal flat areas to include, but not limited to, species in the family Rhizophoraceae;

(m) Marine Preserve - is defined as a delineated area in which certain activities or uses are permanently restricted or prohibited;

(n) Resource- is defined as any non-living, or living entity;

(o) Rock - is defined as any hard material larger than sand size grains made from a mineral or petrified mass including, but not limited to, coral skeleton that has been weathered to form limestone;

(p) Sand - is defined as any loose grainy non-living material formed from the erosion of rocks, skeletal material and/or calcium carbonate formations;

(q) Seagrass - is defined as any species of marine angiosperms

(flowering plants) to include, but not limited to, species in the families Hydrocharitaceae and Potamogetonaceae;

(r) Snagging - is defined as fishing in a manner with jerking motions with hooks and line in an attempt to pierce the body of the fish externally;

(s) Take - is defined as hunt, pursue, catch, capture, angle, seize, kill, trap, harm, shoot in any way or by any agency or device; every attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts;

(t) Traditional Fishing Methods - is defined as subsistence-level cultural fishing practices in which the catch is not marketed, but rather is shared within the family or community for purposes of home consumption. Traditional methods most commonly include, but are not necessarily limited to:

- (1) cast net (*talåya*);
- (2) drag net/seine (*chenchulon ma hålla*);
- (3) surround net (*chenchulon ma sugon*);
- (4) trap net (*chenchulon ma mongle*); and
- (5) butterfly net (*chenchulon ababbang*).

(u) Vehicle - is defined as including every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, including boat trailers, but does not include aircraft;

(v) Vessel - is defined as including every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water; and

(w) Waters of Guam - is defined as that area of shore and waters seaward of the mean high water line (mark) to the outermost limits of Guam's exclusive economic zone as provided by 1 GCA § 402(a).

SOURCE: All SOURCE references in this Article will be to P.L. 6-87 unless otherwise noted. GC § 12300. Added by P.L. 6-87. Repealed/reenacted by P.L. 16-39:1. Amended by P.L. 20-185:2; P.L. 25-186:9; P.L. 28-107:2 (April 14, 2006).

§ 63116.1. Purpose of Marine Preserves.

The purpose of the marine preserve is to protect, preserve, manage, and conserve aquatic life, habitat, and marine communities and ecosystems, and to ensure the health, welfare and integrity of marine resources for current and future generations by managing, regulating, restricting, or prohibiting activities to include, but not limited to, fishing, development, human uses.

SOURCE: Added by P.L. 28-107:3 (April 14, 2006).

§ 63116.2. Activities within Marine Preserves.

All forms of fishing, and the taking or altering of aquatic life, living or dead coral and any resources to include, but not limited to, mangroves, seagrass, sand, and rocks within a preserve, is unlawful except as specifically permitted by the Director of Agriculture through regulations.

SOURCE: Added by P.L. 28-107:4 (April 14, 2006).

§ 63132. Chamorro Terms required.

All references in Guam statutes and regulations to terms defined by Title 5 GCA §63101 are hereby modified to reflect the updated *Chamorro* spelling therein.

SOURCE: Added by P.L. 28-107:5 (April 14, 2006).

5 GCA Chapter 63, Article 5 (Soil and Water Conservation Program (§§ 63501-63512)).

[Moved to 17 GCA Chapter 2 by P.L. 28-082 (Dec. 9, 2005), which transferred the duties from the Department of Agriculture to the University of Guam.]

5 GCA § 73301. Transfer of Plant Protection and Quarantine Section Personnel and Functions of the Department of Agriculture to the Customs and Quarantine Agency.

(a) All classified employees filling positions within the Plant Protection and Quarantine Section of the Department of Agriculture ('DOA') prior to September 30, 2003 shall be transferred to the Customs and Quarantine Agency ('CQA') with the exception of the positions of the entomologist and cashier who will remain with DOA for the administration and management of import and export permits, phytosanitary permits, and a Plant Inspection Station. Classified employees transferred to CQA shall be transferred with all duties, responsibilities and compensation intact, and with no lapses in service to the government of Guam.

The Director of CQA shall have the power to reorganize and realign positions in conformance with the rules and regulations of the Director of Administration and all other applicable laws of Guam. Employees transferred from the Plant Protection and Quarantine Section of DOA shall be entitled to the same retirement, workmen's compensation and hospital insurance benefits to which they are currently entitled.

(b) Transfer of Duties. Except as otherwise specifically provided, CQA shall hereby assume all the powers, duties and responsibilities of the Plant Protection and Quarantine Section of DOA as set out in this Act, and any other section of law with the exception of the administration of local and Federally regulated import and export plant permits, phytosanitary permits and the control management and administration of a USDA sanctioned Plant Inspection Station.

Any regulation or other action adopted, prescribed, taken or performed by Plant Protection and Quarantine Officers of the Plant Protection and Quarantine Section of DOA in the administration of a program, the performance of a power, duty or responsibility, or the exercise of any function transferred by this Act shall remain in effect and shall be deemed to be a regulation or action of CQA or of any of its officers to whom the program, power, duty, responsibility or function is transferred.

(c) Transfer of Records and Equipment. Upon the transfer of functions as provided in this Section, CQA shall have possession and control of all books, records, papers, maps, plans, documents, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, and other property, real or personal, connected with the transfer of, administration of, or held for the benefit or use of, Plant Protection and Quarantine Officers transferred to CQA.

(d) Employee Preference to Continue Service with DOA. Nothing herein shall prevent any Plant Protection and Quarantine Officer from filling any vacant position within DOA pursuant to the Merit System.

(e) DOA and CQA Nexus on Plant Protection Inspections.

(1) DOA shall provide technical and scientific support to CQA upon assuming specific duties and responsibilities of the Plant Protection and Quarantine Section of DOA as set out in this Section, and any other section of law or regulation pertinent thereto.

(2) CQA shall provide personnel support for the operations of the Plant Inspection Station of the Department of Agriculture.

(3) A Memorandum of Understanding (MOU) shall be executed between DOA and CQA in the operations of the Plant Quarantine Station including the duties and responsibilities of DOA in providing specific technical and scientific support to CQA as set out in this Section.

(f) Transition Team Created.

(1) Transition Team. There is hereby created a Transition Team to help ensure a smooth transition of functions from the Plant Protection and Quarantine Section of DOA to the Customs and Quarantine Agency ('CQA'). The Transition Team shall include the following:

(a) the Director, or a designee of DOA; and

(b) the Director, or a designee of CQA.

(2) Authority. The Transition Team shall have sixty (60) days from the enactment of this Act to do the following:

(a) ensure the smooth transition of the operations of the Plant Protection and Quarantine Section of DOA to CQA; and

(b) examine and recommend any other facts or data as may be necessary to ensure the smooth transition from the transfer of employees and duties of the Plant Protection and Quarantine Section of DOA to CQA.

(g) Vacant Plant Protection and Quarantine positions shall be phased out and not be filled. Future recruitment for Plant Protection and Quarantine Officer duties shall be for Customs Officer positions as approved by the Director of Administration.

This Section shall be effective October 1, 2003.

SOURCE: Added by P.L. 27-29:V:22 as 5 GCA § 73206. This section was already occupied by another as part of a different topic, so the Compiler created a new Article for these transfer provisions. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 80116. Selection of Employees.

Employees of the Library System, except for the Director and Deputy Director, shall be appointed, paid and hold their positions pursuant to the provisions of Title 4, Guam Code Annotated, and other personnel laws, and their remuneration shall be established in accordance with the provisions of said Title 4 and such other personnel laws. The salary of the Director and Deputy Director shall be established by the Director of Administration.

SOURCE: GC § 42014, repealed/reenacted by P.L. 22-92:6. Repealed and reenacted by P.L. 24-41:3. Amended by P.L. 28-68:IV:42 and 47 (Sept. 30, 2005), effective January 1, 2006; reference to Civil Service Commission changed to Director of Administration.

5 GCA § 85108. Staff.

In order to effect a transition, the staff employed by the Insular Arts Council on the effective date of this Chapter may remain in their positions as unclassified personnel for ninety (90) days. During the ninety (90) day period, if they qualify, they may become classified employees in accordance with law and the rules of the Director of Administration.

SOURCE: GC § 65007. Added by P.L. 16-122:3. Amended by P.L. 28-68:IV:42 and 47 (Sept. 30, 2005); reference to Civil Service Commission changed to Director of Administration effective January 1, 2006,

5 GCA § 87103. Purposes and Authorized Activities of the Corporation; General.

The purpose and authorized activities of the Corporation are to assist in the implementation of an integrated program for the preservation, development and promotion of the Chamorro Heritage of Guam, for the public benefit and to

provide specific services to the Chamorro people. It is intended that this Corporation be a catalyst in the preservation, development and promotion of language, arts, humanities, historic and cultural preservation, research, restoration, presentation, museum activities and support programs significant to Guam's history and culture, and to enhance the future of the Chamorro people of Guam. It is a further purpose of this Chapter to enable the Corporation to aid private enterprise without unfairly competing with it in the expansion of cultural and historical resources for Guam.

(a) Specific. The Corporation has the following specific purposes and is authorized to:

(i) conduct, or cause to be conducted, research and investigation into natural, cultural, medicinal and historic resources, and to publicize the results of these activities as deemed necessary;

(ii) *except* as specifically prohibited in this Chapter, make loans to any person, firm, partnership or corporation licensed to do business on Guam in furtherance of the purposes and activities stated in this Chapter (All loans made shall be of sound value or secured to reasonably assure repayment. Each loan made by the Corporation may be sold to a commercial lending institution for a sum *not* less than the principal balance of the loan, and the proceeds of the loan shall be returned to the capital fund of the Corporation, *subject* to the terms specified in a resolution of the Board of Trustees of the Corporation. Each loan made by the Corporation shall include, wherever possible, an option on the part of the Corporation to convert up to fifty percent (50%) of the total loan into equity.);

(iii) enter into contracts to provide grants or loans to individuals, organizations or institutions, whether public or private, which are engaged in projects or programs related to language, culture, history, arts and humanities;

(iv) receive and administer grants in furtherance of the preservation, promotion and development of Chamorro heritage and culture;

(v) obtain land belonging to the government of Guam as required to carry out its purposes and objectives, under the terms and tenure that *I Liheslaturan Guåhan*, by appropriate legislation, prescribes;

(vi) make direct loans to any person, firm, corporation or governmental entity on residential real property for purposes of restoration and historical site development; *and*

(vii) accept loans of cultural or intellectual properties on a custodial basis from individuals, families, organizations or institutions with terms and conditions to be agreed upon by all parties concerned.

(viii) The Corporation shall have authority over and supervise the Chamorro Village (*I Sengsong Chamorro*).

SOURCE: Subsection (a)(viii) added by P.L. 28-068:IV:55 (Sept. 30, 2005).

5 GCA § 87106. *Mās Ge'Hilo'* or President.

(a) *I Mas Ge'Hilo'* shall come from a pool of qualified candidates, who shall possess the following qualifications: a local resident with demonstrated knowledge of Chamorro language, culture and history; formal education; and administrative experience, and shall be appointed by the Board of Trustees. The *Mas Ge'Hilo'* shall be directly responsible to the Trustees for the day-to-day operations of the Corporation and shall administer its programs and policies. The *Mas Ge'Hilo'* shall be an *ex-officio* member of the Board of Trustees, without the right to vote, and shall serve at the pleasure of the Trustees, *unless* sooner terminated by the Trustees.

(b) Salary and Expenses. The *Mas Ge'Hilo'* shall be paid a salary and other allowances and benefits established by the Director of Administration.

COMMENT: Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 87121. *Segundo/a Mas Ge'Hilo'* or Vice-President.

(a) The Trustees shall appoint a *Segundo/a Mās Ge'Hilo'* from a pool of qualified candidates, who shall possess the following minimum qualifications: a local resident with a bachelor’s degree in Business Administration/Management or Finance/Economics, experience as a manager in the area of business or financial administration and with the knowledge and ability to manage diverse work units, oversee day-to-day activities, and understand property and fiscal management concepts and human resources management. The *Segundo/a Mās Ge'Hilo'* shall be under the direct supervision of the *Mās Ge'Hilo'* and shall be responsible for the operations of the *Ufisanan Minaneha* and may perform the duties of Comptroller of the Corporation.

(b) Salary and Expenses. The *Segundo/a Mas Ge'Hilo'* shall be paid a salary and other allowances and benefits as established by the Director of Administration.

COMMENT: Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

5 GCA § 87151. Purpose.

The Corporation shall maintain and operate under its control a public market, or markets, for Guam products at such place or places as *I Mas Ge'Hilo'* may deem proper. Any such market shall be maintained and operated at all times in a sanitary and orderly manner, beneficial to both producers and patrons alike. Producers and sellers desiring to use space within such market to display or sell

their produce shall be levied a uniform fee based upon the amount of space used and period of such use.

SOURCE: Added by P.L. 28-068:IV:56 (Sept. 30, 2005).

5 GCA § 87152. Public Market Revolving Fund.

(a) There is hereby established a fund to be known as the '*Public Market Revolving Fund*,' which shall be maintained separate and apart from any other funds of the government of Guam. The President of Chamorro Affairs shall administer the Fund. Independent records and accounts shall be maintained in connection therewith.

(b) Funds of the Public Market Revolving Fund shall be used *exclusively* for the administration, operation and maintenance of the Public Market.

(c) All funds collected from fees levied pursuant to § 87151 shall be deposited in the Public Market Revolving Fund.

(d) An audit shall be conducted by the Public Auditor for regulatory compliance at least once every two (2) years."

(e) Revenues and expenditures from the Public Market Revolving Fund shall be reported to the Speaker of *I Liheslaturan Guåhan* at the end of each month and such report shall be posted on the Department's website.

SOURCE: Added by P.L. 28-068:IV:57 (Sept. 30, 2005).

5 GCA § 221304. Health Security Trust Fund.

(a) There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Health Security Trust Fund. The Health Security Trust Fund shall not be commingled with the General Fund and shall be kept in a separate bank account, and shall be subject to legislative appropriation and expended exclusively for the purpose of funding the operations and capital expenditure at the Guam Memorial Hospital.

(b) The Health Security Trust Fund, subject to legislative approval, may be invested or reinvested in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the Health Security Trust Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first five (5) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund.

(c) The sum of Three Million Five Hundred Thousand Dollars (\$3,500,000) is transferred from the present series 2001B sub-account of the Health Securities Trust Fund to the 2001A sub-account and is de-allocated and subsequently appropriated to the Guam Memorial Hospital Authority for support of the operations of the Guam Memorial Hospital. This transfer is conditional upon the approval of bond counsel.

SOURCE: Subsection (b) amended by P.L. 27-069:6 and P.L. 28-042:3. Subsection (c) added by P.L. 28-068:II:III:4 (Sept. 30, 2005), which apparently mis-numbered the section as 221204.

CORRECTIONS

5 GCA § 30104. Attorney General as Public Prosecutor.

The Attorney General shall have cognizance of all matters pertaining to public prosecution, including the prosecution of any public officials.

SOURCE: GC § 7003 repealed/reenacted by P.L. 13-117.

COMMENT: Public Law 24-288:6 purported to repeal this section upon the election of a public prosecutor. However, P.L. 25-44 repealed P.L. 24-288, providing instead for an elected Attorney General.

5 GCA § 30109. Duties.

The Attorney General is the public prosecutor and, by himself, a deputy or assistant, shall:

(a) Conduct on behalf of the Government of Guam the prosecution of all offenses against the laws of Guam which are prosecuted in any of the courts of Guam, the District Court of Guam, and any appeals therefrom.

(b) Draw all informations, conduct grand jury proceedings, prosecute all recognizances forfeited in the courts and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the government of Guam, except as otherwise provided in this Act;

(c) Conduct on behalf of the government of Guam all civil actions in which the government is an interested party; provided that those branches, departments or agencies which are authorized to employ their own legal counsel may use them instead of the Attorney General.

(d) Deliver receipts of money or property received by him in his official capacity and file duplicates thereof with the Director of Administration;

(e) As soon as practical after the receipt of any money in his official capacity, turn the money over to the Director of Revenue and Taxation, and on the first Monday of each month file with the Director of Administration, an account, verified by his oath, of all monies received by him in his official capacity for the government of Guam during the preceding month;

(f) Be diligent in protecting the rights and properties of the government of Guam;

(g) Institute by any appropriate action proceedings on behalf of himself or any other public officer (not an employee) to have determined by the courts the validity of any law, rule or regulation of the government of Guam; and

(h) Perform such other duties as are required by law.

SOURCE: GC § 7008 repealed/reenacted by P.L. 13-117. Subsection (c) amended by P.L. 18-004:5. Subsection (a) repealed by P.L.24-288:5; reenacted by P.L. 25-44. Subsection (h) repealed/reenacted by P.L. 25-44:4.

COMMENT: Subsection (c) has been amended, by P.L. 18-04:5, to conform to the other laws which give to specific agencies the authority to hire their own lawyers, who may undertake litigation without the supervision of the Attorney General. Such entities include the University of Guam, GEDA, the Airport Authority, GPA, GTA, the Civil Service Commission, and the Guam Memorial Hospital Authority. These authorizations are contained within the laws establishing each of the above entities.

While P.L. 18-4:5 amends "section (a)", this is a typographical error, or, perhaps, a failure by the Legislature to realize the then-recent implications of declaring the Independent Prosecutor null and void. See the NOTE at the beginning of this Chapter. Since it is obvious that the court returned criminal prosecution to the Attorney General, that the Legislature, has not placed that responsibility with any other agency, and that the subsection amended is clearly, after the demise of P.L. 16-72, what was and is subsection (c), the Compiler has made the appropriate amendment to subsection (c).

Public Law 24-288:6 purported to amend this section to remove reference to the Attorney General as public prosecutor upon the election of a public prosecutor. However, P.L. 25-44 repealed P.L. 24-288, providing instead for an elected Attorney General.

5 GCA § 58103. Definitions.

For purposes of this Chapter and unless otherwise specified, the following words and phrases are defined to mean:

(a) *‘Act’* means Chapter 58 of Title 5 of the Guam Code Annotated, known as *‘The Education Facilities Construction Initiative Act of 2001.’*

(b) *‘Contractor’* shall mean the authorized entity which shall be the signatory on the Contract and shall be fully responsible for carrying out the design, construction, financing and maintenance of the Education Facility. The Contractor may cooperate with another entity or entities in any manner the Contractor deems appropriate to provide for the financing, design, construction and maintenance of the public school facilities envisioned by this Chapter.

(c) *‘Contract’* shall mean the design, construction, financing and maintenance contract entered into by and between the Education Agency and the Contractor, following negotiations on the response to the Request for Proposal.

(d) *‘Education Agency’* shall mean the Guam Public School System, the University of Guam or the Guam Community College.

(e) *‘Education Facility’* shall mean any structure or structures, together with all ancillary facilities, including parking facilities, utilities, infrastructure and equipment associated with providing the educational or related services required by an Education Agency. *‘Education Facility’*

may include an existing facility being converted or rehabilitated by the Contractor.

(f) *'Lease'* shall mean a ground or site lease of the property from an Education Agency, the Chamorro Land Trust Commission, or other government land, as applicable, to the Contractor.

(g) *'Lease-Back'* shall mean the period of the term of the facilities lease between the Contractor and the Education Agency over the term of which period the costs of the design, construction, financing and maintenance of an Education Facility are amortized according to the terms agreed to between the government of Guam and the Contractor.

(h) *'Property'* shall mean any property on which an Education Facility is located.”

SOURCE: Added by P.L. 28-047:2 (June 10, 2005).

COMMENT: Reference to Department of Education changed to Guam Public School System pursuant to P.L. 28-045:10 (June 6, 2005).