Speaker's Office <speaker@guamlegislature.org>

M&C Fwd: GEDA Board of Directors Meeting Packet | December 31, 2019

1 message

Speaker's Office <speaker@guamlegislature.org>
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>
Bcc: Tina Muna Barnes <tinamunabarnes@gmail.com>

Tue, Jan 14, 2020 at 3:53 PM

01-14-20	11:44 AM	01-14-20	Pursuant to 5 GCA § 8113.1 Reporting Requirement for Boards and Commissions, meeting agenda, approved minutes and attachments from GEDA's Board of Directors Meeting held on December 31, 2019.*	Guam Economic Development Authority	35GL-20-1407

Sinseru yan Minagâhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910
T: (671) 477-2520/1
speaker@guamlegislature.org

35GL-20-1407
Speaker Tina Rose Muña Barnes

JAN 14 2020
Time 11:44 (AM) PM
Received By:

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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fåbot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

---------- Forwarded message ---------
From: **Austin Grant** <austin.grant@investguam.com>
Date: Tue, Jan 14, 2020 at 11:44 AM
Subject: GEDA Board of Directors Meeting Packet | December 31, 2019
To: Speaker's Office <speaker@guamlegislature.org>

Håfa Adai Speaker Tina Muña Barnes,

Pursuant to 5 GCA § 8113.1 Reporting Requirement for Boards and Commissions, we have attached the meeting agenda, approved minutes and attachments from **GEDA's Board of Directors Meeting** held on **December 31, 2019.**

Audio from the meeting can be found on the Office of Public Accountability's website.

Please let me know if you have any questions or concerns. I will be glad to assist you.

Si Yu'os Ma'åse!

Warm Regards,

AUSTIN GRANT
GEDA Special Projects Coordinator

590 S. Marine Corps. Drive, Suite 511
Tamuning, GUAM 96913
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F 671 649 4146
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2020 JAN 14 PM 4:20

December 2019 BODM Packet_Final.pdf
8135K

1407

GUAM ECONOMIC DEVELOPMENT AUTHORITY
America in Asia
Aturidåd Inadilånton Ikunumihan Guahan

REGULAR BOARD OF DIRECTORS MEETING

Tuesday, December 31, 2019
10:30 a.m.
GEDA 5th Floor GITC Building
Ste. 511, 590 South Marine Corps Drive
Tamuning, Guam 96913

LOURDES A. LEON GUERRERO
Governor of Guam
I Maga'Haga Guahan

JOSHUA F. TENORIO
Lt. Governor of Guam
I Segundo Na Maga'Lahen Guahan

GUAM ECONOMIC DEVELOPMENT AUTHORITY
America in Asia
Aturidåd Inadilånton Ikunumihan Guahan

MELANIE MENDIOLA
Chief Executive Officer/Administrator
Åkto Ge'helo' Ekseketibu Ofisiåt

ARTEMIO "RICKY" HERNANDEZ, Ph.D.
Deputy Administrator
Sigundo Ge'helo'

NOTICE OF A REGULAR BOARD OF DIRECTORS MEETING
PLEASE TAKE NOTE TO ANYONE WHO WISHED TO ATTEND AND PARTICIPATE THAT REGULAR BOARD OF DIRECTORS MEETING WILL BE HELD:

DATE: Tuesday, December 31, 2019
TIME: 10:30 a.m.
PLACE: GEDA 5th Floor GITC Building
Ste. 511, 590 South Marine Corps Drive
Tamuning, Guam 96913

Public Notice: Distributed on Friday, December 20, 2019 & on Friday, December 27, 2019 and sent to the media on those dates.

AGENDA

I. Call to Order
II. Inifresi
III. Roll Call
IV. Approval of Agenda
V. Approval of Minutes
   - October 2019 Board Meeting | October 17, 2019
VI. Chairman's Remarks
VII. CEO/Administrator's Remarks
VIII. Communications
IX. Committee Reports
   a. Real Property Committee
   b. Assisted Living Committee
   c. H2B Visa Committee
   d. Telecommunications Committee
   e. Small Cruise Ship Industry Committee
   f. Agriculture Committee
   g. Aquaculture Committee
X. Old Business
   a. Qualifying Certificate Community Contribution Grant Program Update
XI. New Business
   a. Special Hotel Qualifying Certificate
XII. Adjournment

Enclosures: PMBA Cohort XV Letter Re: Thank you letter, Communications Report, Real Property Committee Report, Assisted Living Committee Report, H2B Visa Committee Report, Telecommunications Committee Report, Small Cruise Ship Industry Committee Report, Agriculture Committee Report, Aquaculture Committee Report, OAGG Letter Re: Organicity of Legislative Approval of First Time Qualifying Certificate Program

LOURDES A. LEON GUERRERO
Governor of Guam
I Maga'Haga Guahan

JOSHUA F. TENORIO
Lt. Governor of Guam
I Segundo Na Maga'Lahen Guahan

GUAM ECONOMIC DEVELOPMENT AUTHORITY
America in Asia
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MELANIE MENDIOLA
Chief Executive Officer/Administrator
Åkto Ge'helo' Ekseketibu Ofisiåt

ARTEMIO "RICKY" HERNANDEZ, Ph.D.
Deputy Administrator
Sigundo Ge'helo'

Board of Directors Regular Meeting
Attendance Sheet
Tuesday, December 31, 2019
10:30 a.m.

David J. John, Chairman

Ernesto V. Espaldon, Jr., Vice Chairman

Gia B. Ramos, Secretary

George Chiu, Director

Siska S. Hutapea, Director

Fe Valencia-Ovalles, Director

Deepak R. Dewan, Director — absent

Melanie Mendiola, CEO/Administrator

Artemio "Ricky" Hernandez, Deputy Administrator

Terry Brooks, Legal Counsel

Tom Fisher, Legal Counsel

590 S. Marine Corps, Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

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Deputy Administrator
Sigundo Ge'helo'

Minutes of Regular Meeting to the Board of Directors of the
Guam Economic Development Authority
October 17, 2019

Call to Order

§1. The regular meeting of the Board of Directors of the Guam Economic Development Authority (hereafter referred to as "GEDA" or the "Authority") was held on Thursday, October 17, 2019 at 1:50 p.m. at the Guam Economic Development Authority Conference Room, 5th Floor, Suite 511, ITC Building, Tamuning, Guam. The meeting was called to order by Chairman David John.

Inifresi

§2. GEDA Board of Directors and all others in attendance recited to *Inifresi*.

Quorum and Attendance

§3. **Roll Call.** As determined by the roll call made by Chairman David John, the following individuals were present:

Directors:	***Offices or Positions:***
David John	Chairman
Ernesto Espaldon, Jr.	Vice Chairman
Siska Hutapea	Director
Fe Valencia-Ovalles	Director
Melanie Mendiola	CEO/Administrator
Artemio Hernandez	Deputy Administrator
Terrence Brooks	Legal Counsel

Also in attendance were:

Bernice Torres	GEDA
Christina Garcia	GEDA
Claire Cruz	GEDA
Larry Toves	GEDA
Matthew Baza	GEDA
Sheena Mitchell	GEDA
Austin Grant	GEDA
Jha'Aunie Leon Guerrero	GEDA
Erin Grajek	Senator C. Ridgell's Office

Approval of Agenda

§4. The first item considered was approval of the agenda. A motion was made to approve the meeting agenda by Director Fe Valencia-Ovalles. Director Siska Hutapea seconded the motion. The motion was unanimously approved.

Approval of Minutes

§5. The next item on the agenda was the approval of the board meeting minutes from September 19, 2019. Director Fe Valencia-Ovalles moved to approve the meeting minutes, which was then seconded by Vice Chairman Ernesto Espaldon, Jr. The motion was unanimously approved.

Chairman's Remarks

§6. The next item on the agenda was Chairman's Remarks.

Chairman David John informed everyone in attendance that meetings between GEDA and the Governor and also with Senator Ridgell went well and made good progress. Chairman John made a note to inform the rest of the board of future meetings so they may attend as well.

This concluded the remarks from Chairman David John.

CEO/Administrator's Remarks

§7. The next item on the agenda was CEO/Administrator's Remarks.

CEO/Administrator Melanie Mendiola started off by stating that the Confirmation Hearing for Chairman David John and Director George Chiu went well. Ms. Mendiola noted the discussions regarding the challenges GEDA faces was also made aware and mutually understood during the hearing.

This concluded the remarks from Ms. Melanie Mendiola.

Communications

§8. The next item on the agenda was Communications.

CEO/Administrator Melanie Mendiola reported for communications. She informed all in attendance that GEDA was mentioned in 4 newspaper articles. One article included GEDA's participation in the *Farm to School* initiative to get local produce to the schools. Another article discussed Former Governor Gutierrez's work regarding visa waiver in the Philippines. Lastly, GEDA's contribution of Thirty Thousand Dollars ($30,000.00) to the Junior Achievement was also mentioned in a news article and also discussed on air with Ray Gibson. Overall, GEDA had positive coverage for the month.

This concluded the communications report from Ms. Melanie Mendiola.

Committee Reports

§9. The next item on the agenda was Committee Reports.

CEO/Administrator Melanie Mendiola made a recommendation to the board of directors to table all committee reports with exception of Land/Real Property Committee and H2B Visa Committee. Director Siska Hutapea made a motion per CEO/Administrator Mendiola's recommendation; Director Fe Valencia-Ovalles seconded motion.

Land Committee:

Deputy Administrator Artemio Hernandez began discussions. He informed all in attendance that GEDA is currently in the process of drafting legislation which attempts to allow the legislature to preapprove parcels of property for development or lease. Mr. Hernandez noted that the draft legislation has yet to be introduced nor discussed with any Senator. Mr. Hernandez stated that GEDA would like to get leased properties to be exempted from the exceptional lease term contract requirements and then to propose to include additional parcels thereafter via legislation. This will ensure the legislature is still involved in the process. The proposed legislation would assist any interested private developer with the lease approval process. Mr. Hernandez noted that GEDA staff is still in the draft process and that GEDA staff will continue to work on the proposed legislation. GEDA staff will forward the proposed legislation to its legal counsel for review before moving forward. Mr. Hernandez hopes to have a draft to provide at the next board meeting.

Mr. Larry Toves, Manager of the Real Property Division then spoke on behalf of the land committee. Mr. Toves made reference to two current statues, Public Law 32-40 then amended as 34-99, and noted that these statues make it difficult for GEDA to enter into a lease for commercial development for GEDA inventory properties and also for managed properties via Memorandum of Agreement with CHamoru Land Trust Commission and Guam Ancestral Lands

Commission. Mr. Toves would like to see through GEDA's proposed legislation in efforts to help with the current issues GEDA faces.

Chairman David John suggested that GEDA staff meet with each senator to educate them about GEDA's proposal and to assure them that it is not GEDA's intent to take the legislative oversight from the legislature.

Real Property Committee:

- **CHamoru Land Trust Commission** – Real Property Division Manager Mr. Larry Toves informed the board that RPD is currently working on Determination of Needs for three properties—two properties in Tamuning and one property in Yigo, all of which are under the inventory of the CHamoru Land Trust Commission. RPD staff recently met with the Tamuning Mayor and Yigo Mayor to courteously inform them of these Determination of Needs.

- **AT&T, Guam Ancestral Lands Commission** – The Real Property Division and the Guam Ancestral Lands Commission successfully completed negotiations with AT&T for lease rental arrears from the period of 2007 to 2019 and the lease agreement moving forward for the Tanguisson Cable Landing Station Property. The GALC Board of Commissioners approved the settlement and lease agreement. GEDA is now awaiting receipt of documents which have been post mailed by AT&T to GEDA.

H2B Visa Committee:

Director Fe Valencia-Ovalles reported for the H2B Visa Committee. Director Valencia-Ovalles noted that status remains the same as last month's report. She informed the board of directors that the committee will continue to work with the local government and the Philippine government to resolve the H2 issue.

- **Qualifying Certificate –** Deputy Administrator Artemio Hernandez spoke about the Qualifying Certificates. Mr. Hernandez noted that the prior GEDA Administrator sent a letter in December 2018 to the Office of the Attorney General inquiring about provisions in the FY19 Budget Act as it's has some restriction on new Qualifying Certificates. In addition, a follow-up letter was sent to the Office of the Attorney General in March 2019 and then again in September 2019. GEDA's inquiry was mainly to verify whether it is organic or inorganic for Qualifying Certificates that have been approved by the GEDA Board of Directors to still require the need to go through the legislative review process. GEDA staff will update the board when a response is received from the Attorney General.

Old Business

§10. The next item on the agenda was Old Business.

FY 2020 Budget:

CEO/Administrator Melanie Mendiola reported on GEDA's Fiscal Year 2020 Budget. Ms. Mendiola informed the board of directors that GEDA no longer faces a loss in the FY 2020 Budget, with this information being unaudited. GEDA is now reporting a net income of Fifteen Thousand, One Hundred Ninety-Five Dollars ($15,195.00).

Board Chairman David John made a recommendation to remove the stipend for the board directors for Fiscal Year 2020. Vice Chairman Espaldon made a motion to approve Chairman John's recommendation. Director Siska Hutapea then seconded the motion. CEO/Administrator Melanie Mendiola made a recommendation to move the funds from the board of directors' stipends to training and development initiatives for GEDA staff.

Vice Chairman Ernesto Espaldon, Jr. made a motion to approve the Fiscal Year 2020 Budget for GEDA to include the recommendation by Ms. Mendiola to move the funds from the board of directors' stipends to training and development for GEDA staff. This motion was then seconded by Director Siska Hutapea. A unanimous approval followed.

FY 2020 Organizational Chart:

Ms. Melanie Mendiola reported that the only changes to the FY 2020 Organizational Chart from last fiscal year was changes made under the Business and Economic Development Division for the three positions, namely Industry Development Specialist I & II and Administrative Assistant. These positions are identified as Limited Term Appointments for the Office of the Chief Advisor of Economic Development National and International Affairs, in which these positions are dependent on the availability of funds.

Director Fe Valencia-Ovalles made a motion to approve the Fiscal Year 2020 Organizational Chart for GEDA. Director Siska Hutapea seconded the motion. The motion was unanimously approved.

New Business

§11. The next item on the agenda was New Business.

Executive Management Performance Evaluation:

A motion statement was made by Chairman David John as follows:

"Pursuant to Section 43202, Chapter 43, Title 5 of the Guam Code Annotated entitled, Performance Reviews of Agency Heads, the governing boards of all agencies, instrumentalities, or entities shall issue performance reviews of the Chief Executive selected from that agency six (6) months after appointment of the said Chief Executive and every twelve (12) months thereafter that the Chief Executive is retained by the Governing Board. Each Performance review shall document the Chief Executive's performance, accomplishments, and the respective Governing Board's reasons for retaining the said Chief Executive.

As a result of the "Outstanding" evaluation, the GEDA Board of Directors will retain Ms. Melanie Mendiola as the Chief Executive Officer/Administrator and Mr. Artemio "Ricky" Hernandez, PhD as the Deputy Administrator of the Guam Economic Development Authority."

Qualifying Certificate Committee Contribution Grant Program Update:

Deputy Administrator Artemio Hernandez recapped to the board of directors the previously adopted new Qualifying Certificate Community Contribution Grant Program during the March 2019 Board Meeting with plans for a Notice of Funding Availability to be sent out in Fiscal Year 2020. The GEDA management team has indicated a few slight changes to the grant process that was originally approved to include an expanded grant evaluation committee to include one community member as well as a grant compliance monitoring section of the grant process, which is necessary to ensure proper use of such funds. Mr. Hernandez requested the approval from the board for these changes as well as to allow discretion and flexibility by the GEDA CEO/Administrator to make additional administrative changes, if required. A report to the board will be made should any changes be made.

Mr. Hernandez stated that GEDA staff will work to plan a workshop to assist applicants with application requirements. GEDA staff will also work to issue a press release for this program.

Vice Chairman Ernesto Espaldon made motion to approve the changes relative to Qualifying Certificate Community Contributions Grant Program Updates. Director Fe Valencia-Ovalles seconded motion, which was then approved unanimously.

Resolution 20-01:
Approving the Issuance and Sale of A.B. Won Pat International Airport Authority, Guam, General Revenue Bonds

Deputy Administrator Artemio Hernandez stated that GEDA is assisting the Guam International Airport Authority in issuing, refunding and re-structuring bonds to save funds and to assist with debt service savings. These savings will be applying towards additional FAA Grants. Mr. Hernandez then requested for approval of Resolution 20-01.

Vice Chairman Ernesto Espaldon made motion to approve issuance and sale of A.B. Won Pat Airport Authority, Guam, General Revenue Bonds to include authorization of the execution of documents, agreements and certificates and for any related actions. Director Siska Hutapea seconded motion. The motion was unanimously approved.

Resolution 20-02:
Relative to Approving the Short-Term and Medium Range Programs and Projects Identified and Prioritized in the Guam Comprehensive Economic Development Strategy (CEDS) 2020-2025

CEO/Administrator Melanie Mendiola reported that when GEDA applies for any of the grants or programs within the Guam Comprehensive Economic Development Strategy, it is a requirement for GEDA to provide a board resolution stating that the CEO/Administrator of GEDA is authorized to apply for the grant or program. Resolution 20-02 seeks approval of Short-Term and Medium Range Programs and Projects identified in the CEDS, in addition to any projects under Disaster Preparedness and Disaster Recovery as Guam has been declared a disaster area after the previous typhoon. Ms. Mendiola then sought approval of Resolution 20-02 from the board.

Director Siska Hutapea made a motion to approve the Short-Term and Medium Range Programs and Projects identified and prioritized in the Guam Comprehensive Economic Development Strategy 2020-2025. The motion was seconded by Director Fe Valencia-Ovalles and then unanimously approved.

Public Comments

§12. The next item on the agenda was Public Comments.

No public comments were made.

Adjournment

§13. Vice Chairman Ernesto Espaldon, Jr. made a motion to adjourn the board of director's meeting at 2:55 p.m. Director Siska Hutapea seconded the motion. The motion was unanimously approved.

DAVID JOHN, Chairman
Board of Directors

ATTEST:

ERNESTO V. ESPALDON, JR., Vice Chairman
Board of Directors

UNIVERSITY OF GUAM
SCHOOL OF BUSINESS
& PUBLIC ADMINISTRATION

AMERICA'S SBDC
PACIFIC ISLANDS NETWORK

UOG ENDOWMENT FOUNDATION

TO: MELANIE MENDIOLA
GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA)

VIA: Dr. Annette T. Santos, Dean and Dr. John J. Rivera, RCPP Director

FROM: Ione Skye Llagas and Cheery Yeban, PMBA Cohort XV

SUBJECT: Thank you letter

DATE: November 29, 2019

Håfa Adai!

On behalf of the Startup Weekend Micronesia Organizing Team, we would like to thank you for your support and role as a Regional Sponsor. This event was the first to occur regionally across 7 islands simultaneously and would not have been successful without the support of our community partners and sponsors. Thank you for your generosity and helping us make a positive impact in our neighboring communities.

Here is an event summary for your reference:

- **Event Metrics: 7 Islands, 119 Participants, 30 Teams, 50+ Regional and Local Sponsors**
- The 1st place winning business ideas are as follows:
    - **Chuuk** – BioVerse: to make eco-friendly bags made of taro and tapioca as an alternative to plastic bags to fight ocean pollution.
    - **CNMI** – Islander RC: a racetrack catered to remote control cars offering a new activity for Saipan residents. Islander RC will also import unique remote-control cars for consumers to purchase and enjoy.
    - **Guam** – IslaCor: a tour guide app that provides locations of Guam's hidden gems
    - **Kosrae** – Carve with Heart: a hand-carving business specializing in cutting boards, utensils, and reviving traditional art using mahogany and reclaimed wood.
    - **Palau** – Alii Blengur: an authentic Palauan Restaurant designed to cater to tourists while helping promote the Palauan culture.
    - **Pohnpei** – Drop & Drop (D & D): efficient and convenient delivery services for numerous items from hot meals and groceries to supplies, and even laundry.
    - **Yap** – 691 Mogethin Buffet: a buffet restaurant that will offer dishes made with local ingredients and partnering up with local farmers and fishermen.

Thank you,

Ione Skye Llagas and Cheery Yeban
PMBA Cohort XV
University of Guam

LOURDES A. LEON GUERRERO
Governor of Guam
I Maga'Haga Guahan

JOSHUA F. TENORIO
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ARTEMIO "RICKY" HERNANDEZ, Ph.D.
Deputy Administrator
Sigundo Ge'helo'

Communications Report
December 31, 2019

Publication/Communication Interest

Topic/Interest	Total Articles (October 17, 2019 to-date)
Agriculture	1
Aquaculture	0
Bonds & Financing	1
Cruise Ship Industry	0
GEDA Financials	1
GEDA Travel	0
Guam Film Office	3
H2B Visa	0
Hagatna Restoration	1
Leases & Lands	2
Legislation	5
Made in Guam	1
Opportunity Zones & Investments	0
Qualifying Certificate	4
QCCC Grant Program	1
Telecommunications	1
Other	3
TOTAL	24

** Topic combined in article*

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Radio/Talk Show Interviews

Topic/Interest	Total Interviews (October 17, 2019 to-date)
Agriculture	0
Aquaculture	0
Bonds & Financing	0
Cruise Ship Industry	0
GEDA Financials	0
GEDA Travel	0
Guam Film Office	0
H2B Visa	0
Hagatna Restoration	0
Leases & Lands	0
Legislation	0
Made in Guam	0
Opportunity Zones & Investments	0
Qualifying Certificate	0
QCCC Grant Program	3
Telecommunications	0
Other	0
TOTAL	3

Source of Publication/Communication Interest

Topic/Interest
Agriculture
Headline: **Eighth grader urges officials to cut carbon footprint** Media: **The Guam Daily Post** Date: **12/11/19** Link: https://www.postguam.com/island_life/the_scoop/eighth-grader-urges-officials-to-cut-carbon-footprint/article_e13544cc-1ae5-11ea-8fc4-1322aa8ecd13.html
Bonds & Financing
Headline: **Airport's general revenue bonds rated stable** Media: **Pacific Daily News** Date: **10/20/19** Link: https://www.guampdn.com/story/money/2019/10/20/airport-authoritys-general-revenue-bonds-rated-stable/4043212002/

GEDA Financials
Headline: GEDA: No longer operating at a loss Media: The Guam Daily Post Date: **10/18/19** Link: https://www.postguam.com/business/local/geda-no-longer-operating-at-a-loss/article_d4775fea-f0a1-11e9-bb41-17c20e80ed24.html
Guam Film Office
Headline: Film office bill draws concerns as senators bring back cautionary tale about 'Max Havoc' Media: Pacific Daily News Date: **10/29/19** Link: https://www.guampdn.com/story/news/2019/10/29/boon-bane-film-office-bill-draws-concerns-funding-viability/2491897001/ Headline: Senators approve film office transfer; no funding attached Media: The Guam Daily Post Date: **11/1/19** Link: https://www.postguam.com/news/local/senators-approve-film-office-transfer-no-funding-attached/article_158ee878-fbc3-11e9-8a3d-8fdae2dc7bc2.html Headline: Public education can't continue to leave students behind Media: The Guam Daily Post Date: 11/1/19 Link: https://www.postguam.com/forum/editorial/public-education-can-t-continue-to-leave-students-behind/article_14e6cd22-fba1-11e9-90dc-3f466ca3f95b.html
Hagatna Restoration
Headline: If completed, Hagatna Master Plan could be in governor's hands by January Media: KUAM News Date: 12/6/19 Link: https://www.kuam.com/story/41415649/if-completed-hagatna-master-plan-could-be-in-governors-hands-by-january

Leases & Lands
Headline: AT&T leases ancestral lands, will pay $4.8M in back rent Media: The Guam Daily Post Date: 11/20/19 Link: https://www.postguam.com/news/local/at-t-leases-ancestral-lands-will-pay-m-in-back/article_2b8d0746-0a8b-11ea-a91b-bb9bfa94b5ca.html Headline: Oversight hearing: $4.9M AT&T settlement, ancestral landowners urged to come forward Media: Pacific Daily News Date: 12/13/19 Link: https://www.guampdn.com/story/news/local/2019/12/12/ancestral-lands-commission-updates-senate-4-9-m-at-t-settlement/4404446002/
Legislation
Headline: Senators send back bills to committee as others added to session agenda Media: Pacific Daily News Date: 10/29/19 Link: https://www.guampdn.com/story/news/2019/10/28/senators-spar-over-placement-bills-agenda-session/2481917001/ Headline: "Partisan priorities" infuriate Taitague Media: KUAM News Date: 10/31/19 Link: https://www.guampdn.com/story/news/local/2019/10/31/vaping-public-ban-film-office-senators-send-4-bills-governor/4107254002/ Headline: Hospital bill sent back to committee Media: The Guam Daily Post Date: 10/31/19 Link: https://www.postguam.com/news/local/hospital-bill-sent-back-to-committee/article_fdf3449a-fb11-11e9-9a55-476206a39012.html Headline: Hospital task force bill sent back to committee Media: The Guam Daily Post Date: 11/3/19 Link: https://www.postguam.com/news/local/hospital-task-force-bill-sent-back-to-committee/article_9ec17202-fc6b-11e9-b496-3b80b7b25bff.html

Made in Guam
Headline: Group clarifies requirements to promote products as "Made in Guam" Media: KUAM News Date: 10/23/19 Link: https://www.kuam.com/story/41218834/group-clarifies-requirements-to-promote-products-as-made-in-guam
QCCC Grant Program
Headline: $300K in GEDA grants available to nonprofits, goverment agencies Media: KUAM News Date: 11/21/19 Link: https://www.kuam.com/story/41351569/dollar300k-in-geda-grants-available-to-nonprofits-goverment-agencies Radio Interview: The Point with Ray Gibson Date: 11/13/19 Radio Interview: K57 with Andrea Date: 11/13/19 Radio Interview: K57 with Tony Lamorena Date: 11/18/19
Qualifying Certificate
Headline: GEDA wants hotel QC program extended to continue growth Media: KUAM News Date: 11/20/19 Link: https://www.kuam.com/story/41345554/geda-wants-hotel-qc-program-extended-to-continue-growth Headline: Tax incentives for hotel developers might be extended Media: The Guam Daily Post Date: 11/21/19 Link: https://www.postguam.com/news/local/tax-incentives-for-hotel-developers-might-be-extended/article_5fdee49e-0b83-11ea-89fb-676e52d5eadf.html

Headline: GPD reviews $56K study on defunct program Media: The Guam Daily Post Date: 12/2/19 Link: https://www.postguam.com/news/local/gpd-reviews-k-study-on-defunct-program/article_0620373c-0791-11ea-9861-77f456c156be.html Headline: Guam Economic Development Authority to vote on extending tax breaks for new hotels Media: Pacific Daily News Date: 12/20/19 Link: https://www.guampdn.com/story/money/2019/12/19/geda-vote-extending-tax-breaks-new-hotels/2681166001/
Telecommunications
Headline: Robust efforts to protect data privacy needed Media: The Guam Daily Post Date: 12/5/19 Link: https://www.postguam.com/forum/letter_to_the_editor/robust-efforts-to-protect-data-privacy-needed/article_f142e920-1589-11ea-95ba-1ff0cdb4035f.html
Other
Headline: Economic forum speakers named Media: The Guam Daily Post Date: 11/20/19 Link: https://www.postguam.com/business/local/economic-forum-speakers-named/article_f22e1ca2-0a9d-11ea-8950-9b7e2f221b5e.html Headline: Bank of Guam forum keys in on environmental protection, giving back Media: KUAM News Date: 11/22/19 Link: https://www.kuam.com/story/41357985/bank-of-guam-forum-keys-in-on-environmental-protection-giving-back Headline: Forum speakers: Economy is stable, H-2 labor to surge Media: The Guam Daily Post Date: 11/23/19 Link: https://www.postguam.com/news/local/forum-speakers-economy-is-stable-h--labor-to-surge/article_e583a206-0d09-11ea-bb3d-631259f580b9.html

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Sigundo Ge'helo'

Real Property Committee Report
12/19/2019

Key Meetings:

- **Military Affairs/Excess Federal Lands**
  - Governor's Special Assistant on Military Affairs and Governor's Legal Staff – Nov. 19, 2019.
  - Navy Real Estate Representatives – Nov. 8 and 26, 2019
- **Chamorro Land Trust Commission** (CLTC) – September 19 and 25, 2019
- **Hesler Building** – Nov. 7 and Dec. 13, 2019

Items of Interests:

- **Military Affairs/Excess Federal Lands –** Meetings were held between Navy and GEDA officials in response to the Governor's request to return almost 2,600 acres of terrestrial land and 17,031 acres of submerged land to the Government of Guam. The meetings were held to clarify the locations of each parcel requested by the Governor. Navy is expected to formally respond to the Governor's request in Feb. 2020.
- **CLTC.** GEDA provided CLTC with Determinations of Need as required by law and Requests for Proposals to lease 3 properties. The properties include:
  - Lot 5075-REM-A-NEW-R1 (1.9 acres – Behind East West Business Center, Upper Tumon)
  - Lot 7054-RS (11.9 acres located adjacent to Yigo Gym)
  - Tract 111, Lot 12 (0.6 acres located across Proa, Tumon)

  GEDA expects to receive CLTC approval of the RFPs at its next meeting so that prospective developers can submit proposals.
- **Hesler Building.** The Governor's Office via the Bureau of Budget and Management Research has directed GEDA to manage the former Legislative Building situated on Hesler Street in Hagatna. The 20K sf building and the leasehold interest in the land will be purchased by the Department of Administration using federal funds. Various GovGuam agencies will move into the space. GEDA will manage the building using federal funds allocated by the agencies for rent. Revenue of over $500K/year is anticipated while annual expenses would be about half the revenue generated.

Recommendations:

- RPD continues to work with the local Navy in identifying Federal Lands for return to GovGuam for economic development.
- RPD will issue public notices advertising CLTC RFPs as soon as they are approved by CLTC.

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- GEDA Board approval is recommended to approve the MOA with the Department of Administration to allow GEDA to manage the Hesler Building using federal grant funds allocated to the agencies for rent.

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Assisted Living Committee Report

12/31/2019

Key Research:

- Comms w DPHSS Health Care Financing Administration Sep & Oct 2019
- Applicable Laws: 10 GCA Ch7, GAR Article 3 (MIP)
- 2017 September Marianas Business Journal
- Others (Awaiting reply from Dr. Akimoto as of Dec 17, 2019)
- Meeting w Director Gia Ramos Dec 20, 2019

Results of Research (Ongoing):

- Applicable Public Laws
    - 10 GCA Health and Safety, Ch. 7 Nursing Homes
        - Existing codified law allows for establishment and operation of nursing homes
        - Must be regulated and Licensed by Department of Public Health and Social Services (DPHSS)
    - Guam Administrative Rules (GAR) Article 3 - Medically Indigent Program (MIP)
        - Established for Low Income Households who are NOT eligible for Medicaid
        - Locally Funded
        - Includes maximum income and other eligibility criteria
        - Does allow for LIMITED assisted living and related medical services but ONLY for a limited term (180 days or less) in a given year
        - Does NOT cover any service already provided by DPHSS
    - **Bottom Line** – All insurances (to include Medicaid, MIP, and others) provide only for limited services on a limited basis
- Magas Patriot Group (CEO Dr Vince Akimoto) & Leo Palace Resort
    - 2017 Presented potential plans to construct Assisted Living Facilities w/in Leo Palace property. Also lobbied for use of CLTC property of Oka Point
- 2017 Sep 4 Marianas Business Journal Article
    - Indicates a feasibility study was conducted by Dr. Roseann Jones of UOG on the affordability of assisted living on Guam

Recommendations:

- Meeting w Dr Roseann Jones to discuss results of feasibility Study
- Meeting w Dr Vince Akimoto to discuss Magas Patriot Group's Efforts
- Draft Legislative Bill to allow for Residential Care Facility for Elderly (RCFE) and lobby for support
- Continue research on increasing Medicaid Coverage in State Plan and expand MIP coverage for Intermediate Care and RCFE

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COMMITTEE

H2B VISA AD HOC

CENTRAL ISSUE

Since 2015 USCIS has denied almost all H2 applications due the petitioner being unable to demonstrate "temporary need". This changed in 2018 to allow H2 workers for NDAA projects.

January 19, 2019: Department of Homeland Security removes Philippines from the 2019 register of approved countries for the H-2A and H-2B Non-immigrant Worker Program. The removal is for one year. Shortly thereafter DHS issues a new NDAA allowing H2 labor for Military related projects, on or off military bases for Guam.

OTHER NEWS AND UPDATES

Chief Advisor Carl Gutierrez prepared a draft letter for Governor Leon Guerrero's review requesting to add Philippines back to the register of eligible countries for H-2A and H-2B No update.
As of 12/18/2019:
- USCIS filings: 2,131 positions (All related to NDAA)
- USCIS approvals: 1,850 positions
  100% approvals from USCIS
- Current Worker Population on Guam: 1,219
- GCA Lawsuit Temporary Injunction : On 12/12/19 District Court Judge denies holding USCIS in contempt for refusing to approve H-2B petitions.

KEY MEETINGS

September 9, 2019: Department of Labor Director David Dell'Isola receives confirmation letter from the POEA Administrator concurring with Guam's request to have contracts be apostillized going forward. This removes the local Philippines Consul Generals office from the approval process.

On-going: DOL Director meeting regularly with Guam Contractors Association and various contractors to convey the 100% support by Navy Admiral for H-2B workers.

ACTION ITEMS

Committee will continue to work with Guam Department of Labor and Chief Advisor Carl Gutierrez to resolve the H2 issue, and monitor and report updates on the class action suit filed against USCIS by the Guam Contractors Association and 11 other Guam companies.

TRIP REPORT

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COMMITTEE

TELECOMMUNICATIONS

GEDA COMMITTEE REPORT

CENTRAL ISSUE

GEDA is identifying concrete opportunities to encourage the growth of the telecommunications and technology industry in Guam through the following projects: 1) Guam Silicon Village Park - a technology park that would provide a central location for the clustering of a high-tech industry; 2) High Tech Workforce Development - programs to support training for higher level paying jobs; and 3)Technology Entrepreneurship - creating opportunities for tertiary industries, jobs, and services to support the tech industry.

OTHER NEWS AND UPDATES

1. Two potential sites for the Guam Silicon Village Park may no longer be feasible – the ownership of the former FAA housing site is in contention and an RFP will soon be announced on the Andy South property for lease of land.

2. DOL workforce development grants identified but requires GEDA collaborate with public/private entities and UOG as a potential lead applicant.

3. Additional tech-related grants being tracked for upcoming FY2020 announcements.

KEY MEETINGS

Melvin Tabilas attended the Guam Registered Apprenticeship Forum hosted by the Guam Department of Labor.

Melvin Tabilas met with UOG regarding their plans to support a local technology industry.

Melvin Tabilas met with the U.S. Department of Commerce to discuss potential opportunities to support GEDA's technology-related initiatives.

ACTION ITEMS

Meetings planned with GCC, Guam Registered Apprenticeship Program, and Docomo regarding tech workforce development.

Meeting planned with the Pacific Islands Small Business Development Center Network regarding tech entrepreneurship initiatives.

Identify potential grant funding for technology workforce development initiatives.

TRIP REPORT

None

DECEMBER 2019

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COMMITTEE

SMALL-SHIP CRUISE INDUSTRY

CENTRAL ISSUE

GEDA has been engaged in long term research and study to potentially establish Guam as a homeport for a cruise ship. In 2016, the government of Guam received from the Pacific Asia Travel Association (PATA) a report that indicates that Guam may be a ripe location to homeport a cruise ship of no more than 400 passengers. The government has received a grant to refurbish Hotel Wharf at the Commercial Port to accommodate a cruise ship and Governor Leon Guerrero issued EO 2019-17 to form a working group to determine a strategy.

OTHER NEWS AND UPDATES

- Oct 9-11: GEDA attended the 2019 Seatrade Asia Pacific Cruise Conference in Shanghai

KEY MEETINGS

Dec 6: Micronesian Cruise Association held its first meeting with GEDA,GVB, PAG and other regional stakeholders. MCA Gerry Perez asked the group if MCA should be re-established since it has been inactive for several years and the group voted unanimous to continue MCA. The Next MCA meeting is scheduled for April 2020 during the PATA meeting in Pohnpei.

ACTION ITEMS

GEDA is developing an RFP for professional services to assist with creating of a comprehensive implementation strategy. RFP will be circulated for review before the end of October. This is still pending.

GEDA has a working file completed by potential island port calls. This serves as a foundation for working groups in the respective island nations for planning and preparations.

TRIP REPORT

In line with the administration's priority to develop a small cruise line homeport for Guam to service Micronesia, the Guam delegation attended the annual Seatrade Asia Pacific Cruise Conference in Shanghai at the Delta Hotel by Marriott. The purpose for attending was to meet industry leaders and their groups to establish a network of support and interest to help Guam with it's initiative.

The conference attracted over 1,000 participants with many of which were top group executives and leaders of some of the global brands such as Carnival, Princess Cruises, Genting Cruises, and Mediterranean Shipping Company (MSC) among others. The conference enabled the Guam delegation to meet and network with key groups and organizations to consider our island and it's region as a potential location to do business in. While their focus has been developing the rapidly growing China market, they all agree finding new destinations and products to offer their clientele is surely a priority as a common denominator.

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Small Cruise Ship Line - Working File (Updated: 12/18/2019)

	Natural Port characteristics - Describe what is needed to engage in shore activities	Port Efficiency - Plans to facilitate passengers.	Plan for security checks	How to handle customs and immigrations	Passenger embarkation/disembarkation	Facility to house passengers at terminal or temporary shelter to protect against poor weather	Shops, Rental Vehicles, Food and Refreshments at port	Restroom and waste recption facilities	Port Dues	Distance between airport to port	How can we maximize revenues on each port visit. Plan for passenger activities	Policy for cruise terminal concessions	What is the experience we want passengers to have. Plans to create and authentic experience	Plan to accommodate ship needs: cleaning, re-fueling, supplies	What is unique about our island
Guam	Ships may dock at PAG. However, bus transport is required from port to shore activities. Using same port as cargo	Ability for same day turn around	Use metal detectors and baggage scanners	Process on board prior to arrival	At port upon arrival and departure using ramp	Temporary tents are being used	None	Temporary restrooms. Waste receptacles		10 miles or 20mins away	Coordinate with tour groups to include ATM or credit card transactions	None. This needs to be addressed	Welcome group composed of local dances and greetings. Shore experiences to be representative of the island	Contracted out to third party	We have the warmth of our people and our culture is rich with traditional foods, crafts and language
CNMI	Commerical port is utilized for cruise ship operations. Busses arranged by ground agent are used to transport passengers/crew to planned activities.	Cruise ships usually arrive at first light and depart by 1700H.	The vessels usually have their own security checkpoints. Customs & port police also perform random inspections.	USCBP will require FACE-TO-FACE inspections of all crew/pax. Customs requires customs declaration forms.	Arrival/departure utilize the vessel's ramp way.	Pop up tents are used as temporary shelters.	None.	Porta poties are provided by agent.	Vessel is liable for dockage fee, passenger fee, and port entry fee.	About 7 miles away.	The ground agent is usually nomiated to advertise and plan for tours on the island.	Needs to be defined by the port authority.	Meet and greet is usually organized by Marianas Visitors Authority.	Agent coordinates these requests.	An island paradise that offers a great blend of historical/cultural sites to visit as well as shopping for souvenires and other localy made items.
Palau	There are two options for Palau - Palau Pacific Resort Anchorage and alongside at the Malakal Commercial Port. Most passenger vessels utilize the anchorage.	Most passenger vessels haved turned around on the same day. NOTE: At present time, passage in shipping lane is only open from sunrise to sunset.	Both the PPR anchorage and the Malakal Commercial Port have security measures in place.	By request of vessel through agent, we are able to accommodate processes, onboard, during passage.	Alongside - ship's accomodation ladder/gangway. Anchorage - from ship to tender boat.	Temporary shelters such as tents can be utilized.	At anchorage - yes.	Yes	Will send you copy of Regulation containing yacht and cruise vessel fees.	8 Miles	Local agent is to work with Tour Operators and hoteliers to provide land tour. Also on site when the passengers are greeted at the dock, we have an information booth for the passengers.	None. This needs to be addressed	Our Meet & Greet Program is to meet and greet them by the dock. We also provide traditional dance and an information booth at the dock.	Contracted out to third-party (local agent) is to handle.	Palau is known as one of the world's best places for diving with its clear blue waters. We are also known for our rich culture, friendly people, our traditional foods, craft and our language. Palau is a Fantastic Tourist Destination with its pristine beaches and clear waters which are not polluted.
Yap	Ships can dock easily at the Yap Dock. The Yap Living History Museum is a designated cruise welcome center, which is less than a block walk from the dock security gate.	Vessels can arrive and depart the same day.	Currently, security is done mannually.	This can be processed on Board prior to arrival, however remote clearance is more economical.	Arrival and departure uses a pedistrian ramp.	Temporay pop up tents will be used at the dock and the welcome center	Stores are located 1/8 block from the security gate at the dock, and vendor tents will also be set up.	There are toilets at the Welcome Center.		Yap International Airport is a 7 minute ride from the dock/port area	Banks will be involved in the planning to accommodate this service.	Rules and positioning will be coordinated by the Yap Chamber of Commerce and the Yap Visitors Bureau	Welcome and departure activites will be held a the Yap Living History Museum which is less than a block from the security gate of the dock/port	This could be contracted out if needed.	Yap Stone Money, and a unique living culture complete with traditional dances.
Chuuk	Vessles can easily berth at the commercial dock at 4 sides Dock "A", "B", "C", and "D" . Land transport will arranged by ground agent for passengers and crew activities. Same dock is ussed for loading and offloading.	Vessels can arrive at daytime only, 0600 - 1800 hours.	Security is conducted manually.	Process on board prior to arrival.	Arrival and departure utilize the vessels rampway.	Temporary shelters such as tents can be utilized.	Stores, shops and restaurants are about 3 minutes and more from the commercial dock. Temporary tents will beset for the way day of arrival.	None on the pier.	Dues will be submitted to the local agent.	3 to 5 minutes drive to the airport.	The ground agent is usually nomilated to advertise along with visitor Bureau and plan for tours on the island.	None, needs to be addressed.	Welcome and departure activities will be local dances. Local shops, set up on the pier including a information booth.	Local agent will handle or contract it out.	We have the warmth of the people and the culture is rich with. Crafts, dances and one of the worlds places for diving.
Pohnpei	Vessels can easily berth at the commercial dock. Therefore, bus transport will be needed to transport passengers to shore activities. Keep in mind that the same dock is untilize for Cargo operations.	Vessel can arrive and depart on the same day. Pohnpei Harbour is only open from sunrise to sunset.	Security is conducted manually.	Through the shipping agent, process can be done onboard during the ocean passage.	Upon arrival or departur- vessel can use her own accomodation ladder or gangway.	Coordination with the Tourism Office, tents can be set up.	Stores, shops and restaurants are about 5 minutes away from the commercial dock. Temporary vendor tents will be set for the day of the arrival.	None. However, coordination with the shipping agent, portable rest rooms and waste receptacles can be provided on the pier.	Will send you copy of Regulation contained cruise vessel fees.	3 minutes drive from the pier to the airport.	Local shipping agent to work Tourism office to liaise with local businesses and the Banks for the planning in the accomodating the services avaialble to the passengers/ tourists.	None. This needs to be addressed	Welcoming and departing actvities such local dances, local shops set up on the pier including a information booth.	Local Agent to handle or contract it out.	Pohnpei is know for the Gateway to Micronesia or Land of Mystery for its unique ruins, waterfalls, people, culture and its famous Sakau "Kava" drink.

Small Cruise Ship Line - Working File (Updated: 12/18/2019)

	Natural Port characteristics - Describe what is needed to engage in shore activities	Port Efficiency - Plans to facilitate passengers.	Plan for security checks	How to handle customs and immigrations	Passenger embarkation/disembarkation	Facility to house passengers at terminal or temporary shelter to protect against poor weather	Shops, Rental Vehicles, Food and Refreshments at port	Restroom and waste recption facilities	Port Dues	Distance between airport to port	How can we maximize revenues on each port visit. Plan for passenger activities	Policy for cruise terminal concessions	What is the experience we want passengers to have. Plans to create and authentic experience	Plan to accommodate ship needs: cleaning, re-fueling, supplies	What is unique about our island
Marshall Islands	Coordination with the Toursim Bureau office, along with all relevant stakeholders, to set up shore-side activities coordination at the docks such as on-island and boat tours, communications and internet services , and island products show case. Ships have the option to anchor in the harbor or berth at the docks as may be needed.	Same day turn around	Use metal detectors and/or manual searches.	Processed onboard incldiuing Quarantine and EPA	Ramp	Dock Terminal is used to house passnegers against poor weather	Stores are located 1/8 block from the security gate at the dock, and vendor tents will also be set up.	Terminal restrroms and reception facilities are available	Yes	10miles	Coordinate with tour groups to include ATM or credit card transactions	The Marshalls Visitors Bureau is reponsible to coordinate concessions at the Terminal	Welcome group composed of local dances and greetings. Shore experiences to be representative of the island Local Product show case	Currently under contract to private entities	We have the warmth of the people and the culture is rich with crafts, dances and language
Kosrae	Kosrae have two harbors available were Ships could easily enter and berth at the existing docks, with the help of local pilot on board. We have the Lelu dock were we sometime get yatch,purse seiner, and curise ship enter to anchor and restock. Lelu is the most populated village and have many available shopping stores . And on the other hand, Okat dock is the busiest were offloading and unloading of cargos take place.	Vessels can arrive and depart the same day.	Port security work 24/7. Security measures can be arranged and adjusted upon request.	Local Agent will make arrangment for official to board and clear on board prior arrival	Kosrae Port have no ramps avalible, but depend mostly on the vessel ramp	can be arranged if requested	None. First store is a mile and half away.	No restroom at the Seaport, but there are few public restrooms at Airport. Quarantine will deal with the waste.	Dues will be submited to the local agent	Kosrae International Airpot is a minute or two minutes walk from Dock to Airport.	Making sure that vendors/tour groups have credit card transactions available.	None. Will be arranged and addressed if needed.	Greeting of passsengers and providing local performances will be held at the port to provide the passengers great glimpse of what the island could be offering to them.	We rarely have Cruise Ship visit the island,hence last year we had a small one came in name MS Bremen, but they didn't asked for such services. Indeed arrangment can be made if requested.	Beside the friendly, kind hearted people in Kosrae, Kosrae have the sleeping lady Mountain, Fahfah Fiti, Kosrae Soup, Mangrove Crabs, tangerines, the Menke Ruins and Lelu Ruins to offer.

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COMMITTEE

AGRICULTURE

CENTRAL ISSUE

Guam is highly dependent upon the import of agriculture products, and efforts must be taken to grow and develop the local farming industry to become more sustainable and ultimately reduce imports.

GEDA initiatives:
1. Expand and build agriculture assets
2. Workforce development
3. Private investment initiatives

OTHER NEWS AND UPDATES

- The first Purchase Order for the Farm to Cafeteria program to provide locally grown farm products to GDOE was issued to Farm to Table for $30K. The program will supply produce to Okkodo High once a week throughout FY2020.
- The Farmers Cooperative store will open in early 2020 with the assistance through a GEDA loan and QC Community Contribution grant.

KEY MEETINGS

- Since April this year, GEDA has been meeting regularly with relevant parties to identify issues and action items to achieve a more sustainable industry. Engaged parties include representatives from GEDA, GDOE, DoAG, Guam EPA, and local farmers.

ACTION ITEMS

- GEDA will submit an EDA grant by January 2020 to finance improvements for "Green Market Facilities" in Agat, Mangilao and Sinajana.
- Draft legislation to allow agriculture/aquaculture producers to partner with businesses to avail of the Guam Registered Apprenticeship Program (GRAP) tax benefits.
- Explore initiatives to develop an agriculture incubator program and the creation of an agriculture master plan.

TRIP REPORT

Oct. 2019: GEDA attended the National Direct Agriculture Marketing Summit in Rosemont, Illinois. The summit focused on networking opportunities, direct to consumer markets, local food systems and value-added technical assistance. The information learned will assist GEDA's initiative to grow and develop a sustainable agriculture industry.

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COMMITTEE

AQUACULTURE

CENTRAL ISSUE

Guam needs to develop an Aquaculture industry to become more sustainable and less reliant on imports.

GEDA initiatives:
1. Help establish a process and pathway forward with regulatory agencies
2. Workforce development
3. Private investment initiatives
4. Expand and build aquaculture assets

OTHER NEWS AND UPDATES

- Governor LG issues EO No. 2019-12 creating the Aquaculture Task Force with DoAG, GEDA, UoG, GCC, GDOE, GEPA and any other stakeholder or partner as necessary.
- GEDA and DoAG co-chair the task force
- UoG lease of their Hatchery Facility will be presented to their board for consideration and possible signing on Dec. 20, 2019.

KEY MEETINGS

- Aug-Oct 2019: GEDA has been meeting with task force members to identify issues and concerns, as well as assign sub-committee chairs.

- Dec. 2019, GEDA met with AICI Corp., a Taiwan Company, looking to acquire land in Agat, adjacent to Namo River, to develop a shrimp farm. The company will again visit Guam in January 2020 to negotiate the purchase of the property.

ACTION ITEMS

- Draft legislation to allow agriculture/aquaculture producers to partner with businesses to avail of the Guam Registered Apprenticeship Program (GRAP) tax benefits.

TRIP REPORT

No Trips Taken

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Special Hotel Qualifying Certificate (Public Law 32-233)
Sunset Provision – Extension Requirements

Relevant Section from Special Hotel QC Law:

"§ 58206. "Sunset" Provision.

This Article shall take effect on its approval by *I Maga'lahen Guåhan* and shall remain in effect until the earlier of:

five (5) years;

1,600 hotel rooms have been committed to be built; or

a China Visa Waiver or China Visa Parole declaration has been approved for Guam; upon which period this Article shall automatically be deemed repealed; provided, however, that the GEDA Board, at its discretion, with input from *I Liheslatura* (the Legislature), the visitor industry, the Administration, and the community as a whole, will re-examine the effectiveness and need of the program to determine if it should be extended, and may extend the effectiveness of this Article an additional two (2) years by adopting a resolution to such effect prior to the expiration date. Any QC issued under the conditions of this Article shall remain in full force and effect until its particular term expires or it is canceled on other grounds."

Relevant dates:

PL 32-233 effective date: December 31, 2014
PL 32-233 sunset date: December 31, 2019

Maximum length of extension: Two (2) years

Possible Required Actions:

Obtain Legislative input	• Consult with oversight chair • Draft Legislative Resolution for hearing and passage by *I Liheslaturan Guåhan*
Obtain visitor industry input	• Consult Guam Visitors Bureau Board • Receive a Board resolution supporting extension
Obtain Governor's (Administration) input	• Schedule meeting with Governor • Obtain official letter or Executive Order supporting extension
Obtain Community Input	• GEDA holds public hearing/forum • Compiles all public input for Board consideration
GEDA Board Action	• Reviews all public input and government support • Issues Board resolution adopting extension anytime prior to December 31, 2019

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Deputy Administrator
Sigundo Ge'helo'

Report of a Public Meeting of the **GUAM ECONOMIC DEVELOPMENT AUTHORITY** for **THE EXTENSION OF THE APPLICATION PERIOD OF THE SPECIAL HOTEL QUALIFYING CERTIFICATE PROGRAM**
on Thursday, December 12, 2019 at 9:00 AM
at the GEDA Conference Room, 5th Floor ITC Building Tamuning, Guam..

1. Overview

The meeting was conducted by Guam Economic Development Authority (GEDA) Business and Economic Development Manager Ed Camacho, who was appointed by CEO/Administrator Melanie Mendiola to serve as hearing officer. In accordance with the procedures set out in Guam's Administrative Adjudication Law, the purpose of the meeting was to allow the public to discuss GEDA's plans to extend the application period of the Special Hotel Qualifying Certificate (QC) program for an additional two (2) years pursuant to the QC Law (11 GCA § 58206).

2. Presentation

Mr. Ed Camacho called the meeting to order at 9:04 AM. He identified that the meeting's purpose is to provide the public the opportunity to provide input on GEDA's plans to extend the application period of the Special Hotel Qualifying Certificate (QC) program for an additional two (2) years pursuant to the QC Law. He then acknowledged that no members of the public were present and acknowledged that only GEDA staff was present. Mr. Camacho then listed the general rules of conduct for the hearing, and paused the meeting for a few moments to wait for any members of the public to arrive. He then read into the record the following section of the QC law relating to the extension of the Special Hotel QC program:

"§ 58206. "Sunset" Provision.

This Article shall take effect on its approval by *I Maga'lahen Guåhan* and shall remain in effect until the earlier of:

(a) five (5) years;

(b) 1,600 hotel rooms have been committed to be built; or

(c) a China Visa Waiver or China Visa Parole declaration has been approved for Guam; upon which period this Article shall automatically be deemed repealed; provided, however, that the GEDA Board, at its discretion, with input from *I Liheslatura* (the Legislature), the visitor industry, the Administration, and the community as a whole, will re-examine the effectiveness and need of the program to determine if it should be extended, and may extend the effectiveness of this Article an additional two (2) years by adopting a resolution to such effect prior to the expiration date. Any QC issued under the conditions of this Article shall remain in

full force and effect until its particular term expires or it is canceled on other grounds."

Mr. Camacho then provided a brief overview of the tax benefits contained in the Special Hotel QC program, and noted that the sunset date of the Special Hotel QC is December 31, 2019. He then mentioned that three hundred forty (340) rooms are currently under construction with five hundred (500) more that may begin construction in 2020.

Mr. Camacho then opened the floor for public testimony.

Mr. Camacho then indicated that he would wait five minutes to see if any members of the public would come in to provide testimony. After waiting, he indicated that no other members of the public arrived.

Seeing as no other members of the public were present to provide comment on the matter, Mr. Camacho ended the public testimony period.

He thanked those present for their attendance, and adjourned the meeting at 9:12 AM.

Prepared by:

Matthew Baza
Business and Economic Development Supervisor

Reviewed by:

Ed Camacho
Business and Economic Development Manager

Approved by:

Melanie Mendiola
CEO/Administrator

Governor of Guam
I Maga'Haga Guahan

JOSHUA F. TENORIO
Lt. Governor of Guam
I Segundo Na Maga'Lahen Guahan

GUAM ECONOMIC DEVELOPMENT AUTHORITY
America in Asia
Aturidåd Inadilånton Ikunumihan Guahan

Chief Executive Officer/Administrator
Åkto Ge'helo' Ekseketibu Ofisiåt

ARTEMIO "RICKY" HERNANDEZ, Ph.D.
Deputy Administrator
Sigundo Ge'helo'

Attendance Log Sheet
Public Meeting on the matter of the proposed extension of the application period for the
SPECIAL HOTEL QUALIFYING CERTIFICATE PROGRAM
Thursday, December 12, 2019 - 9:00 AM
GEDA Conference Room

Please print your name, company and at least one form of contact information.

	NAME	ORGANIZATION	EMAIL/PHONE
1.	Matthew Baza	GEDA	
2.	Ed Camacho	GEDA	
3.	Austin Grant	GEDA	
4.			
5.			
6.			
7.			
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9.			
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18.			

590 S. Marine Corps, Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

T 671.647.4332 F 671.649.4146
www.investguam.com

Sex offender, 60, sentenced to 5 years

By Nick Delgado
nick@postguam.com



Teddy Benavente Duenas

A 60-year-old man accused of sexually molesting a young girl known to him pleaded no contest to the sexual assault charges filed against him.

Teddy Duenas pleaded no contest to second-degree criminal sexual conduct before Superior Court of Guam Judge Maria Cenzon on Tuesday.

While technically not an admission of guilt for commission of the crime, a plea of "no contest" will be treated for sentencing purposes by a judge as an admission of responsibility, according to Cornell Law School's Legal Information Institute.

The victim, 13, reported the allegations to her school. She said Duenas had inappropriately touched her when she was in the second grade, court documents state.

Duenas was sentenced to five years in prison with credit for time served.

Duenas, who will also serve three years parole, was ordered to register as a level one sex offender.

The court ordered that he stay away from the victim and all school grounds, and cannot work around children once he is released from prison.

As part of the plea agreement, Cenzon dismissed the remaining charges against Duenas of second-degree criminal sexual conduct and a special allegation of committing a crime against a vulnerable victim.

DOC reaches out to about 30 potential recruits

By Oyaol Ngirairikl
managingeditor@postguam.com

Calling it a "fast track" of "the largest recruitment of corrections officers in recent history," the governor's office announced Tuesday that letters were sent to 28 potential Department of Corrections officer recruits.

Acting DOC Director Frank Ishizaki sent the letters to the recruits Tuesday, said Gov. Lou Leon Guerrero's spokeswoman, Janela Carrera.

DOC also is reaching out to about two or three former officers to see if they are willing to return to the department, the press release stated.

Carrera said the department hopes to hear back from the potential officers and returnees within the next week or so.

The potential officers could be manning posts as soon as February.

"Once processed and officially hired, the new employees will undergo eight weeks of training with the assistance of the Judiciary of Guam for transport and electronic monitoring," the press release stated. "Guam Peace Officer Standards and Training (POST) Commission Certification requirements will also be met concurrently with on-the-job training."

Funding for the new recruits will come from existing budget, the release stated. DOC's budget for fiscal 2020 is $24.3 million, which falls short of fiscal 2019's $26 million budget, files state.

The recruitment comes after DOC officers and management raised concerns that the shortage of officers meant shifts lasted up to 24 hours without anyone to provide needed backup when detainees or inmates got out of hand.

Committee On Health, Tourism, Historic Preservation, Land and Justice
SENATOR THERESE M. TERLAJE
Mina'trentai Singko na Liheslaturan Guåhan
35th Guam Legislature

PUBLIC HEARING NOTICES
Guam Legislature Public Hearing Room, Guam Congress Building, Hagåtña
Wednesday, December 11, 2019:

12:00 p.m. Public Hearing:

- Bill No. 124-35 (LS) - Louise Borja Muna- AN ACT TO AMEND § 5106(a) OF CHAPTER 5, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING TO THE AUTOMATIC CERTIFICATION AS ADULTS FOR MINORS UNDER THE AGE OF 16 CHARGED WITH THE CRIMES OF HOMICIDE OR CRIMINAL SEXUAL CONDUCT.
- Bill No. 206-35 (COR) - Louise B. Muña- AN ACT TO ADD A NEW § 25A204 TO ARTICLE 2 OF CHAPTER 25A OF TITLE 9, GUAM CODE ANNOTATED RELATIVE TO CREATING THE OFFENSE OF PRODUCTION OF CHILD PORNOGRAPHY AS A FIRST-DEGREE FELONY.

1:00 p.m. Oversight Hearing: Chamorro Land Trust Commission update on commercial collections, issuance of residential leases, and litigation

Thursday, December 12, 2019:

8:00 a.m.: Public Hearing:

- Bill No. 141-35 (COR)- Tela Taitague- AN ACT TO AMEND § 61545 OF SUBARTICLE 5, ARTICLE 5, CHAPTER 61, DIVISION 2, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO VIOLATIONS INVOLVING SIGN REGULATIONS.

10:00 a.m.: Oversight Hearing: the Guam Ancestral Lands Commission

If you require any special accommodations or for further information, please contact the Office of Senator Therese M. Terlaje at 472-3586. Testimonies may be submitted to our office at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910, to the Guam Congress Building, or via email at senatorterlaje@gmail.com. The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via I Liheslaturan Guåhan's live feed at http://www.guamlegislature.com/live_feed.htm. This ad is paid for with government funds.

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

JOSHUA F. TENORIO
Lt. Governor of Guam
I Segundo Na Maga'lahen Guåhan

GUAM ECONOMIC DEVELOPMENT AUTHORITY

MELANIE MENDIOLA
Chief Executive Officer/Administrator

ARTEMIO "RICKY" HERNANDEZ, M.D.
Chairperson

NOTICE OF A PUBLIC MEETING OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA)
December 4, 2019
TO ALL MEMBERS OF THE PUBLIC, PLEASE TAKE NOTICE that:

§1. Meeting: GEDA shall hold a public meeting on Thursday, December 12, 2019 at 9:00 AM at 590 South Marine Corps Drive, Suite 511, ITC Building, Tamuning, Guam.

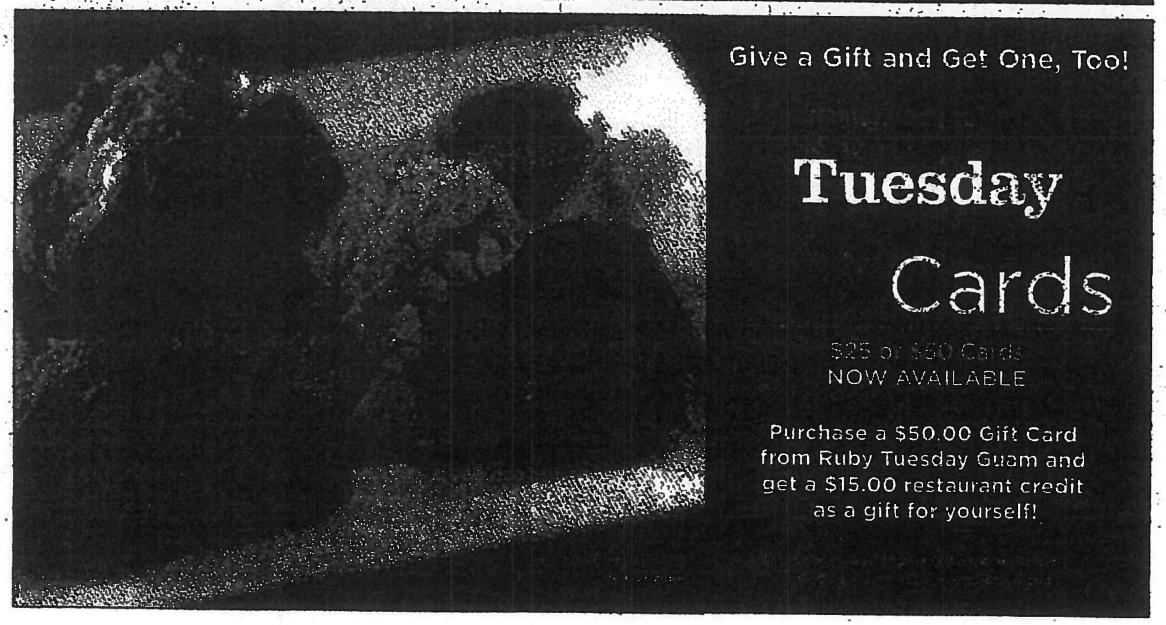
§2. Purpose of Meeting: The meeting is to provide for public comment on the application packet of the Special Real Estate Concession Agreement (SREC) for an additional two years pursuant to 12 GCA §66206.

§3. Compliance with ADA: People with disabilities that require special accommodations, auxiliary aids or services are hereby advised to contact GEDA at the address above or via phone at (671) 647-4327.

§4. Nature of Meeting: Such meeting shall be open to the public and conducted pursuant to the Open Government Law. Oral and written statements will be received from anyone wishing to testify, which will be incorporated into the record for the hearing.

590 S. Marine Corps Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

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Injuries reported as NZ volcano erupts

WELLINGTON (Reuters) - A volcano erupted in New Zealand on Monday, spewing a plume of ash thousands of feet into the air, with Prime Minister Jacinda Ardern saying tourists were among several people unaccounted for as emergency services mounted a rescue operation.

As many as 100 people were in the vicinity when the eruption began about 2:11 p.m. (0111 GMT) on White Island, about 30 miles from the east coast of North Island, authorities said, sending up smoke visible from the mainland.

"We believe 100 people were on or around the island," Prime Minister Jacinda Ardern told a news conference, adding that a rescue operation had begun, although it was too early to confirm any injuries or deaths.

"A number of people are reportedly injured and are now being transported to shore," she added. "It does appear to be a very significant issue...particularly the scale of people affected, at this stage."

Many of those affected could be tourists, she said.

"I'm not sure if these people were on the island or near it, but there was definitely one group out there and they definitely needed medical care," said Judy Turner, the mayor of the coastal town of Whakatne, near White Island.

"There were some injuries and the focus is on getting these injured people back safely and to get them to a hospital."

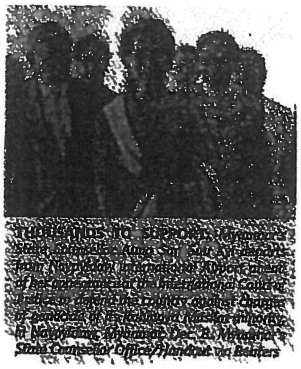
There seemed to be no danger for people in coastal areas farther away, she added.

The island's immediate surroundings were hazardous because of the eruption, the National Emergency Management Agency said in an statement, adding that falling ash might affect some areas.

The "short-lived eruption" threw an ash plume about 12,000 ft high, New Zealand's geoscience agency GNS Science said in a statement, but added there were no current signs of an escalation.

The White Island volcano is one of New Zealand's most active.

Myanmar's Suu Kyi readies for genocide hearings



State Counsellor Office/Handout via Reuters

YANGON (Reuters) - Myanmar leader and Nobel peace prize laureate Aung San Suu Kyi departed on Sunday for the U.N's top court in The Hague to defend the country against charges of genocide of its Rohingya Muslim minority.

Suu Kyi was pictured smiling as she walked through the airport in the nation's capital, Naypyitaw, flanked by officials, a day after thousands rallied in the city to support her and a prayer ceremony was held in her name.

Demonstrations are planned throughout the coming week, with hearings set for Dec. 10 to 12, and several dozen supporters are also bound for The Hague, in the Netherlands, to cheer Suu Kyi on.

"I believe in Mother Suu and love her," said Tin Aung Thein, the organiser of a group tour, told Reuters at the airport in Yangon. "I want (the world) to know the truth. The country has suffered a lot because of fake news."

Gambia, a tiny, mainly Muslim West African country, filed a lawsuit in November accusing Buddhist-majority Myanmar of genocide, the most serious international crime, against its Rohingya Muslim minority.

During three days of hearings, it will ask the 16-member panel of U.N judges at the International Criminal Court of Justice to impose "provisional measures" to protect the Rohingya before the case can be heard in full.

More than 730,000 Rohingya fled Myanmar in 2017 after a brutal military-led crackdown the U.N has said was executed with "genocidal intent" and included mass killings and rape.

Despite international condemnation over the campaign, Suu Kyi, whose government has defended the campaign as a legitimate response to attacks by Rohingya militants, remains overwhelmingly popular at home.

"I believe in Mother Suu forever," said Zaw Htet, a former political prisoner who joined the trip to The Hague.

GUAM VISITORS BUREAU

The **GUAM VISITORS BUREAU** would like to establish a list of candidates for the following positions:

1) Accountant II
Pay Range: $37,100 - $55,650

2) Accountant Technician III
Pay Range: $31,076 - $46,614

The job description and application for this position can be picked up at 401 Pale San Vitores Road, Tumon, Guam 96913.

Deadline to submit application is 5:00 p.m., Friday, December 24, 2019. Kindly address all correspondences to the attention of Director of Finance & Administration or email at josie.villanueva@visitguam.org.

Federal and local law requires verification of identity and eligibility of all new hires. GVB complies with the law on a non-discriminatory basis. Guam Visitors Bureau is an Equal Opportunity Employer.

/s/ Pilar Laguaña
President and CEO

This advertisement was paid for by the Tourist Attraction Fund.

GUAM VISITORS BUREAU I SETBISION BISITAN GUAHAN
401 Pale San Vitores Road I Tumon, Guam 96913 I (671) 646-5278 I (671) 646-8861 fax
guamvisitorsbureau.com I visitguam.com I info@visitguam.com

GUAM

THE EMERGENCY MEDICAL SERVICES

Commission Meeting,
Thursday, December 12, 2019
at 10:00 AM

at the Terlaje Professional Building, 194 Hernan Cortez Avenue, 2nd Floor, Suite 209 Health Professional Licensing Office Board Conference Room, Hagåtña, Guam.

For more information, please contact the Board Office at 735-7405-11. Persons with disabilities needing special accommodations may call the ADA Coordinator at 735-7172.

THE GUAM BOARD OF BARBERING & COSMETOLOGY

Regular Board Meeting
Tuesday, December 17, 2019
at 9:00 a.m.

in the Health Professional Licensing Office Board Conference Room at the Terlaje Professional Building, 194 Hernan Cortez Avenue, 2nd Floor Suite 209, Hagåtña, Guam.

For more information, please contact the Board office at 735-7405 thru 12. Persons with disabilities needing special accommodations may call at 735-7172 or the telecommunication device for the Hearing/Speech Impaired (TDD) at 649-1801.



LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lt. Governor of Guam

GUAM ECONOMIC DEVELOPMENT AUTHORITY

MELANIE MENDIOLA

ARTEMIO "BICKY" ILAGAN

NOTICE OF A PUBLIC MEETING OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY (GEDA)
December 10, 2019

TO ALL MEMBERS OF THE PUBLIC, PLEASE TAKE NOTICE that:

§1. Meeting: GEDA shall hold a public meeting on Thursday, December 12, 2019 at 9:00 AM at 590 South Marine Corps Drive, Suite 511, ITC Building, Tamuning, Guam.

§2. Purpose of Meeting: The meeting is primarily for public comment regarding GEDA's plan to extend the application period of the Special Hotel Certificate for an additional two years pursuant to 12 GCA §80202.

§3. Compliance with ADA: People with disabilities that require special accommodations or services are hereby advised to contact GEDA at [illegible].

§4. Nature of Meeting: Such meeting shall be open to the public and conducted pursuant to Government Law. Oral and written statements will be received and [illegible] will be incorporated into the record for the hearing.

590 S. Marine Corps Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

T 671.649.4201 Fax 649-6178
www.investguam.com

Governor of Guam
I Maga'Haga Guahan

JOSHUA F. TENORIO
Lt. Governor of Guam
Segundo Na Maga'Lahen Guahan

GUAM ECONOMIC DEVELOPMENT AUTHORITY
America in Asia
Aturidåd Inadilånton Ikunumihan Guahan

MELANIE MENDIOLA
Chief Executive Officer/Administrator
Åkto Ge'helo' Eksekutibu Ofisiåt

ARTEMIO "RICKY" HERNANDEZ, Ph.D.
Deputy Administrator
Sigundo Ge'helo'

December 11, 2019

MEMORANDUM

To: Ed Camacho, Business & Economic Development Division Manager

From: Melanie Mendiola, CEO/Administrator

Subject: Designation of Hearing Officer – Special Hotel QC Extension Public Hearing

Håfa Adai!

As you know, GEDA's public meeting to receive input regarding the extension of the Special Hotel Qualifying Certificate (QC) program for two years is scheduled for December 12, 2019 at 9:00 AM at the GEDA Conference Room. I hereby designate you, via this memorandum, to serve as hearing officer for the subject meeting on my behalf.

Thank you for your time and attention on this matter.

Sincerely,

Melanie Mendiola

590 S. Marine Corps, Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

T 671.647.4332 F 671.649.4146
www.investguam.com

GUAM VISITORS BUREAU
SETBISION BISITAN GUÅHAN

November 20, 2019

David J. John
Chairman of the Board
Guam Economic Development Authority
590 S. Marine Corps Dr.
Suite 511 ITC Building
Tamuning, Guam 96913

RE: Special Hotel Qualifying Certificate (QC) Program

Håfa Adai Chairman John,

Thank you for the letter you sent to the Guam Visitors Bureau (GVB) on November 7, 2019 regarding the Special Hotel Qualifying Certificate (QC) program under the Guam Economic Development Authority (GEDA). During our board meeting on November 14th, the GVB Board of Directors discussed GEDA's intent to officially extend the Special Hotel QC for the two-year period pursuant to the current law. We are all in agreement to officially support GEDA in extending the Special Hotel QC program.

GVB has worked hard the last several years to achieve the goals outlined in the Tourism 2020 strategic plan. We have seen measurable progress in the construction of additional hotel rooms as outlined in Tourism 2020. Guam's hotel room inventory is now at 8,617. While we haven't met our goal of over 10,000 rooms by 2020 due to challenges with a construction labor shortage, visa approval issues and properties going off-line, we continue to push forward.

The QC program has been an instrumental part of raising the image of Guam by making it attractive for investors to further develop and revitalize our hotel industry. We are in full support of GEDA helping us to develop our destination through this program and making Guam a better place to live, work and visit.

Si Yu'os Ma'åse' for your efforts.

Senseramente,

P. SONNY ADA
Board Chairman

GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

December 9, 2019

MELANIE MENDIOLA
CEO / Administrator
Guam Economic Development Authority
590 S Marine Corps Drive
Suite 511 ITC Building
Tamuning, Guam 96913

Dear Ms. Mendiola,

The economic opportunities afforded Guam since the birth of our tourism industry have been tremendous. As tourism grows, so do other sectors of our economy. We know that these past few years have presented unique challenges to our economy, chief among them the inability to procure the necessary temporary construction labor to maintain economic growth. Although we continue to work towards resolving this issue, Guam must continue to encourage and attract new development projects to ensure that Guam's economy remains strong.

We are aware of GEDA's intent to extend the application period for the Special Hotel Qualifying Certificate (QC) program for an additional two (2) years pursuant to the law. We support the extension of this program as it provides a valuable tax incentive to hotel developers. Guam just experienced its best year ever for visitor arrivals, with over 1.6 million visitors in FY2019. In order to continue this upward growth, it is vital that Guam have an adequate hotel room inventory, especially during peak seasons. The Special Hotel QC is an important tool towards realizing a more robust hotel industry.

The Special Hotel QC is the latest iteration of what has been an extremely successful incentive program. The QC program has been a crucial economic development tool since its inception. It was instrumental in the development of Tumon, the heart of our tourism industry, and provides incentives for a wide variety of eligible industries and business activities. The businesses that have been borne out of QCs have created millions of dollars in investment and created thousands of jobs for our local residents.

Thank you for allowing the Guam Chamber of Commerce to provide our input on this important program.

Sincerely,

CATHERINE CASTRO
President

372 West Soledad Avenue, Hagåtña • P.O. Box 283, Hagåtña, Guam 96932
Tel: (671) 472-6311/8001 • Website: www.GuamChamber.com.gu • Email: info@GuamChamber.com.gu

MELANIE MENDIOLA

JOSHUA F. TENORIO

GUAM ECONOMIC DEVELOPMENT AUTHORITY
America in Asia
Ataviåd Inadilånton Ikunumihan Guahan

ARTEMIO "RICKY" HERNANDEZ, Ph.D.

November 07, 2019

Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan
Ricardo J. Bordallo Complex
513 West Marine Corps Drive
Hagatña, Guam 96910

PLEASE ACKNOWLEDGE RECEIPT;

Received By: _____

Date: _____ Time: _____

Dear Governor Leon Guerrero:

Håfa Adai! As you are aware, the Guam Economic Development Authority (GEDA) has managed the Special Hotel Qualifying Certificate (QC) program for almost five years, since the enactment of Public Law 32-233 on December 31, 2014. The Special Hotel QC is geared towards providing targeted and measured tax incentives to developers that construct new hotels, add new hotel rooms to existing properties, or substantially renovate existing hotel rooms. The application period for the Special Hotel QC program is scheduled to sunset on December 31, 2019, five years after its enactment.

The Special Hotel QC directly supports the Guam Visitors Bureau's (GVB) "Tourism 2020" plan with the goal of constructing one thousand six hundred (1,600) new hotel rooms. Achieving this room target goal will allow Guam to accommodate approximately two million visitors a year. Since the program's establishment, three hundred forty (340) rooms have begun construction, with an additional five hundred (500) more rooms that may begin construction in 2020.

There has been and still remains significant interest in not only the Special Hotel QC, but also the potential to further develop the hotel and tourism industry in Guam. Unfortunately, that interest has been dampened by the temporary construction labor shortage and visa approval issues in Guam that occurred over the last few years. GEDA thanks your Administration's proactive measures to resolve these temporary labor issues, and we continue to offer our steadfast support to these efforts. The Board and management of GEDA maintain that the responsible development of new hotels and the revitalization of existing hotels is a crucial component of growing and strengthening our tourism industry and economy as a whole, and we continue to encourage these types of projects.

To that end, GEDA has begun to take the necessary steps to officially extend the Special Hotel QC for the two-year period authorized pursuant to the law. I have enclosed a copy of the Special Hotel QC law for your review. GEDA is also reaching out to GVB, the public at large and the Guam Legislature to ensure that any extension of this program is undertaken in accordance with the law.

590 S Marine Corps, Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

T 671.647.4332 F 671.649.4146
www.investguam.com

We respectfully seek your official support for our intent to extend the Special Hotel QC program. GEDA maintains that this particular QC is both measurable and appropriate, and provides potential developers an appropriate tax benefit while still ensuring that the government is being responsible in its allocation of QC tax benefits. More importantly, extending this program will ensure that the government of Guam will continue to have a viable incentive to entice and encourage much needed hotel development in Guam, which is especially crucial in light of GVB's tremendous success in making Fiscal Year 2019 the best year for tourism ever in Guam.

Thank you for your time and attention on this matter. The Board, along with the management and staff of GEDA stand ready to provide you with any and all information you may need in your consideration of this request.

Sincerely,

David J. John
Chairman of the Board

Enclosure

590 S. Marine Corps, Dr. Suite 511 ITC Building
Tamuning, GUAM 96913

T 671.647.4332 F 671.649.4146
www.investguam.com

GUAM ECONOMIC DEVELOPMENT AUTHORITY

LOURDES A. LEON GUERRERO
Governor of Guam
I Maga'Haga Guahan

JOSHUA F. TENORIO
Lt. Governor of Guam
I Segundo Na Maga'Lahen Guahan

GUAM ECONOMIC DEVELOPMENT AUTHORITY
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Aturidåd Inadilånton Ikunumihan Guahan

MELANIE MENDIOLA
Chief Executive Officer/Administrator
Åkto Ge'helo' Ekseketibu Ofisiåt

ARTEMIO "RICKY" HERNANDEZ, Ph.D.
Deputy Administrator
Sigundo Ge'helo'

November 19, 2019

35GL-19-1230
Speaker Tina Rose Muña Barnes
NOV 19 2019
Time 9:12 XAM ( )PM
Received By:

Honorable Tina Muña Barnes
Speaker
I Mina'Trentai Singko na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

Dear Speaker Muña Barnes:

Håfa Adai! The Guam Economic Development Authority (GEDA) has managed the Special Hotel Qualifying Certificate (QC) program for almost five years, since the enactment of Public Law 32-233 on December 31, 2014. The Special Hotel QC is geared towards providing targeted and measured tax incentives to developers that construct new hotels, add new hotel rooms to existing properties, or substantially renovate existing hotel rooms. The application period for the Special Hotel QC program is scheduled to sunset on December 31, 2019, five years after its enactment.

Pursuant to PL 32-233, the GEDA Board of Directors may extend the application period for the Special Hotel QC program for two (2) years through the adoption of a resolution prior to the sunset date. To that end, GEDA has begun to take the necessary steps to officially extend the Special Hotel QC for the two-year period authorized pursuant to the law.

GEDA, pursuant to the law, is working to obtain the input of the Guam Legislature, the Administration, the visitor industry and the public at large prior to the approval of any extension. As such, this letter serves as our official request for input from *I Mina'Trentai Singko na Liheslaturan Guåhan,* and hopefully its support as we move forward with extending the application period for this worthwhile incentive program.

The Special Hotel QC directly supports the Guam Visitors Bureau's (GVB) "Tourism 2020" plan with the goal of constructing one thousand six hundred (1,600) new hotel rooms. Achieving this room target goal will allow Guam to accommodate approximately two million visitors a year. Since the program's establishment, three hundred forty (340) rooms have begun construction, with an additional five hundred (500) more rooms that may begin construction in 2020.

There has been and still remains significant interest in not only the Special Hotel QC, but also the potential to further develop the hotel and tourism industry in Guam. Unfortunately, that interest has been dampened by the temporary construction labor shortage and visa approval

1230

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issues in Guam that occurred over the last few years. GEDA is hopeful that recent efforts by the government to resolve these temporary labor issues will be successful, and we continue to offer our steadfast support to these efforts.

The Board and management of GEDA maintain that the responsible development of new hotels and the revitalization of existing hotels is a crucial component of growing and strengthening our tourism industry and economy as a whole, and we continue to encourage these types of projects. The Special Hotel QC is a crucial component of the government of Guam's efforts to encourage hotel development in Guam.

We respectfully seek the Legislature's input and support for GEDA's plans to extend the Special Hotel QC program as authorized by law. GEDA maintains that this particular QC is both measurable and appropriate, and provides potential developers an appropriate tax benefit while still ensuring that the government is being responsible in its allocation of QC tax benefits. More importantly, extending this program will ensure that the government of Guam will continue to have a viable incentive to entice and encourage much needed hotel development in Guam, which is especially crucial in light of GVB's tremendous success in making Fiscal Year 2019 the best year for tourism ever in Guam.

Thank you for your time and attention on this matter. We respectfully request that the Legislature provide input by Monday, November 25, 2019. If you have any questions, or require additional information, please do not hesitate to contact me at 647-4332 or via email at mel.mendiola@investguam.com. You may also contact GEDA Business and Economic Development Manager Ed Camacho at the same number above or via email at ecamacho@investguam.com.

Sincerely,

Melanie Mendiola
CEO/Administrator

cc: Senators, 35th Guam Legislature

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Doc. No. 35GL-19-1230.

GUAM ECONOMIC DEVELOPMENT AUTHORITY

Doc. No. 35GL-20-1407.*

GUAM ECONOMIC DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS

Resolution Number 20-03

RELATIVE TO THE EXTENTION OF THE APPLICATION PERIOD FOR THE SPECIAL HOTEL QUALIFYING CERTIFICATE PROGRAM

WHEREAS, Public Law 32-233 established a new Special Hotel QC program that offered measured and targeted tax benefits to investors and developers that either construct a new hotel, or provide significant improvements to an existing hotel; and

WHEREAS, as a direct result of the Special Hotel QC program there are three hundred forty (340) rooms currently under construction and another five hundred (500) rooms that may begin construction in 2020; and

WHEREAS, the Special Hotel QC program directly supports the Guam Visitors Bureau's (GVB) Tourism 2020 strategic plan by constructing new and improved hotel rooms to accommodate our growing visitor market, with the ambitious goal of having one thousand six hundred (1,600) rooms committed to be built by the program's sunset in order to provide the accommodations needed for Guam to welcome 2 million visitors; and

WHEREAS, Guam recently experienced its best year ever in tourism, with over 1.6 million visitor arrivals in Fiscal Year 2019, with that upward trend expected to continue; and

WHEREAS, there remains a significant interest in not only the Special Hotel QC program but also the potential to further develop the hotel industry in Guam; and

WHEREAS, that interest has unfortunately been dampened by the temporary construction labor shortage and visa approval issues in Guam that occurred over the last few years; and

WHEREAS, the development of new hotels and the revitalization of existing hotels is a crucial component of growing and strengthening our tourism industry and economy as a whole; and

WHEREAS, the Special Hotel QC program is scheduled to expire on December 31, 2019, five (5) years after it was enacted into law; and

WHEREAS, the Guam Economic Development Authority (GEDA) Board of Directors and GEDA management desire to exercise the option to extend the Special Hotel QC program as allowed by 12 GCA §58206; and

WHEREAS, GEDA conducted a public meeting on this matter on December 12, 2019, and all information and comment obtained during this public meeting has been compiled in a duly prepared meeting report; and

WHEREAS, GEDA received a letter from the Guam Chamber of Commerce on December 9, 2019 indicating their support for the extension of the Special Hotel QC program; and

WHEREAS, GEDA has requested the support of the Guam Visitors Bureau in a letter sent to GVB Board Chairman Pedro "Sonny" Ada on November 7, 2019, with a subsequent indication of support to extend the Special Hotel QC program in a letter sent to GEDA on November 20, 2019; and

WHEREAS, GEDA has requested the support of the Honorable Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan*, in a letter sent to the Office of the Governor on November 7, 2019; and

WHEREAS, GEDA has also requested the support of *I Liheslaturan Guåhan* in a letter sent to the Honorable Tina Muna Barnes, Speaker of *I Mina'Trentai Singko na Liheslaturan Guåhan* on November 19, 2019 ; and

WHEREAS, GEDA has undertaken all the necessary steps to solicit the input of the Legislature, the Administration, the visitor industry and the community as a whole, and the GEDA Board of Directors has determined that the Special Hotel QC program is of economic value to the island of Guam and desires to utilize the discretion authorized to it in 12 GCA §58206 to extend the Special Hotel QC program for two years.

NOW THEREFORE BE IT:

RESOLVED, that the Board of Directors of the Guam Economic Development Authority hereby approves the extension of the Special Hotel Qualifying Certificate program for an additional two (2) year period from the expiration date

of December 31, 2019, pursuant to the authority granted to it in 12 GCA §58206; and be it further

RESOLVED, that the additional two (2) year period shall commence on January 1, 2020 and end on December 31, 2021; and be it further

RESOLVED, that the Chairman certify and the Secretary attest to the adoption of this resolution.

SO RESOLVED AND DULY AND REGULARLY ADOPTED this 31st day December, 2019.

David J. John
Chairman

ATTEST:

Gia B. Ramos
Secretary

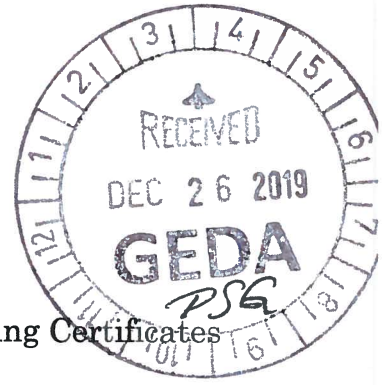
Office of the Attorney General of Guam

590 S. Marine Corps Drive, Suite 901 ♦ Tamuning, GU 96911
Phone 671.475.3324 extension 5015 ♦ **Fax** 671.477-4703 ♦ **Email** law@guamag.org

Hon. Leevin Taitano Camacho
Attorney General of Guam

December 18, 2019

INFORMATION AND GUIDANCE Ref.: GEDA 19-0147



TO: Chief Executive Officer/Administrator, Guam Economic Development Agency

VIA: Attorney General LC

FROM: Assistant Attorney General, Solicitors Division

SUBJECT: Organicity of Legislative Approval of First-Time Qualifying Certificates under the Qualifying Certificate Program

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This is in response to your request for assistance and guidance on the organicity of the requirement that first-time Qualifying Certificates (QC) be approved by the Legislature prior to approval by the Governor.

Question Presented

Does Public Law 35-36:XXIII:I:3 impermissibly encroach upon the executive functions of the Governor of Guam by requiring that the Guam Legislature approve any first-time Qualifying Certificates?

The answer is Yes. The Legislature has no authority to negotiate, review, or approve executive branch contracts. The provision of the General Budget Appropriations Act of 2020 requiring legislative approval of first-time Qualifying Certificate applications and contracts is inorganic and unenforceable.

Background

In an effort to address a $120 to $160 million shortfall anticipated to result in Fiscal Year 2019 from decreased tax revenues caused by the federal *Tax Cuts and Jobs Act*,[1] the Guam Legislature enacted P.L. 34-116, the General Appropriations Act of 2019, which contained a number of cost-cutting measures. Part of this effort included the

[1] U.S. Public Law No. 115-97.

enactment of a moratorium suspending any renewals or extensions of existing Qualifying Certificates.

In addition to the moratorium, P.L. 34-116:XIII:I:8 also required that any "new first-time" QC applications be approved by the Legislature prior to approval by the Governor. P.L. 34-116 expired by its own terms on September 30, 2019.[2] However, the identical language and provision has been included and continued in the FY 2020 General Appropriations Act through P.L. 35-36:XIII:I:3 which reads:

> **Suspension of Renewals or Extensions of Qualifying Certificates.** Notwithstanding any other provision of law, rule, or regulation, there shall be a suspension of all renewals and extensions of Qualifying Certificates. The Guam Economic Development Authority *shall not* issue, approve, or grant any renewals or extensions of any Qualifying Certificates. Nothing herein shall affect the consideration of new first-time applications for a Qualifying Certificate that are duly submitted pursuant to applicable Guam laws and regulations. *Notwithstanding any other provision of law, rule, or regulation, any new first-time applications for Qualifying Certificates shall be approved by I Liheslaturan Guåhan prior to the approval by I Maga'hågan Guåhan.*[3]

Discussion

1. The requirement that the Legislature approve first-time Qualifying Certificate applications impermissibly infringes on the Governor's authority to approve executive branch contracts.

It is settled that the Governor and the Governor alone has Organic Act authority to approve contracts. The Guam Supreme Court has held that the negotiation, approval, and execution of contracts is an executive power reserved exclusively to the Governor of Guam under Section 1422 of the Organic Act which grants the Governor the power to supervise and control the executive branch. In the case of *In re Request of Governor Carl T.C. Gutierrez, Relative to the Organicity and Constitutionality of Public Law 26-35*, 2002 Guam 1, the 26th Guam Legislature passed a series of measures that

[2] P.L. 34-116:1 ("Except as otherwise provided by this Act, the appropriations made by this Act shall be available to pay for Fiscal Year 2019 obligations incurred on or after October 1, 2018 but not later than September 30, 2019.")

[3] P.L. 35-36:XIII:I:3 at p. 138 (FY2020); P.L. 34-116:XIII:I:8 at p. 173 (FY2019).

collectively comprised the FY2002 budget.[4] One of the measures, P.L. 26-55:11, concerned the terms of a lease for office space to be used by the Department of Law's Family Division. The provision ordered the Family Division to terminate its existing lease agreement and enter into a new agreement containing specific terms and conditions.

Upon review of P.L. 26-55:11, the Supreme Court declared that the Legislature's insertion of itself into the negotiation and approval of contracts and leases violated the doctrine of separation of powers because it usurped the Governor's Organic Act authority to oversee the executive branch without articulating any overriding constitutional need, and therefore was inorganic and unconstitutional:

> The provisions of [P.L. 26-55:11] that dictate terms of the lease are. . . problematic. In *Chaffin v. Ark. Game & Fish Comm'n*, 757 S.W.2d 950 (Ark. 1988), the court was presented with a constitutional challenge to an appropriations bill. Specifically, the challenged legislation prohibited the Fish and Game Commission from entering into contracts for professional and consultant services which either extend more than 20 working days, or exceed $5,000.00, without first seeking the advice of the legislature. After receiving a contract, a committee of the Legislative Council reviews the contract and stamps it favorable or unfavorable. Although the stamp of approval or disapproval was not binding on the agency, the court found that "the 'advice' offered by the [legislative] committee to an agency is tantamount to a legislative order on how to execute a contract." *The court held the requirement that the agency submit its contracts for legislative advice to be in violation of the separation of powers doctrine, and therefore unconstitutional.*
>
> The instant case is analogous to *Chaffin*, and supports a finding of a more egregious violation of the separation of powers doctrine. In the instant case, the Legislature has not merely reserved for itself the power to give "advice" on the specifics of the contract; rather, the Legislature has dictated the exact terms of the contract. As *Chaffin* instructs, *it is the executive's function to determine how to execute a contract. The execution of a contract necessarily includes determining the terms of the contract.* By determining the terms of the lease, the Legislature has engaged in a clear executive function.

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[4] The FY2002 budget law was originally enacted as P.L. 26-35. The law was subsequently amended by Public Laws 26-36, 26-47, 26-49, and 26-55.

In re Request of Governor Gutierrez, 2002 Guam 1 ¶¶ 53-54, 66 (internal citations omitted) (emphasis added).

Just as the executive branch cannot exercise legislative power, the Legislature cannot exercise executive power. By law, all contracts of whatever nature are considered executed upon approval by the Governor without regard to approval by the Legislature. 5 GCA § 2260. A Qualifying Certificate is a legally binding contract between the government and the QC beneficiary. According to 12 GCA § 58101,

> *A **Qualifying Certificate is a contract*** valid for a given period of time, executed by the Governor upon recommendation of the Authority, between the government of Guam and the Beneficiary, which has qualified for certain tax rebates or tax abatements or for both in return for meeting certain employment, investment, and other requirements.

By requiring that new first-time applications for a QC receive approval of the Legislature before they can be executed by the Governor, the law is "in violation of the separation of powers doctrine, and therefore unconstitutional." *In re Request of Governor Gutierrez*, 2002 Guam 1 ¶ 53.

This Office has also opined that requiring legislative approval of contracts made by the executive branch is an inorganic intrusion into the exclusive powers of that branch of government. *See Legality of Section 2 of P.L. 30-227; Legislative Final Approval of Group Health Care Contract*, Guam Atty. Gen. Op. No. DOA 11-0397 (June 20, 2011). In 2010, Public Law 30-227:2 was enacted to require that proposals for the annual Government of Guam group health insurance contract be forwarded to the Legislature for final approval prior to execution by the Governor. Based upon the Supreme Court's holding in the *Gutierrez* case cited above, we determined that approval of executive branch contracts was not a valid exercise of legislative authority and that P.L. 30-227:2 was "inorganic as a violation of the separation of powers doctrine to the extent that it interposes the legislature into the approval and decision-making process of the development, negotiation and execution of the group healthcare contract." For reference, a copy of our opinion, which includes a more detailed and developed analysis of the separation of powers doctrine in relation to the Organic Act of Guam, is attached.

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Conclusion

The Guam Supreme Court has made it clear that the Legislature may not dictate when and under what circumstances the Governor and the executive branch can or cannot negotiate and execute a contract. By requiring that Qualifying Certificates (whether first-time or renewal) obtain legislative approval prior to the Governor's approval, P.L. 35-36:XIII:I:3 infringes upon the Governor's Organic Act authority and is therefore inorganic and unenforceable.[5]

SANDRA CRUZ MILLER
Assistant Attorney General

Enclosure

[5] An inorganic law is *void ab initio* and unenforceable. *Nelson v. Ada*, 1988 WL 242618, at *3 (D. Guam App. Div. June 8, 1988); *aff'd*, 878 F.2d 277 (9th Cir. 1989).

Leonardo M. Rapadas
Attorney General

Phillip J. Tydingco
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

June 20, 2011

ATTORNEY GENERAL OPINION **Ref.** DOA 11-0397

TO: Director, Department of Administration

FROM: Attorney General of Guam

SUBJECT: **Legality of Section 2 of P.L. 30-227; Legislative Final Approval of Group Health Care Contract**

On December 30, 2010 Public Law 30-227, the Healthcare Insurance Transparency Act of 2010, became law. The law added subsections (1), (2) and (3) to 4 GCA §4302 (c). Subsection (2) states:

> (2) The negotiating team upon selection and review of the best available proposals by participating healthcare respondents/providers which reflect the most economical and beneficial healthcare insurance proposal plan for Government of Guam employees and retirees, shall forward the accepted proposals to *I Maga'lahen Guåhan* for consideration, and to *I Liheslaturan Guåhan* for final approval no later than July 31, and prior to the annual Legislative Sessions wherein the upcoming Fiscal Year Budget for the Government of Guam is before *I Liheslaturan Guåhan* for consideration; ...

In your April 28, 2011 memorandum to the Attorney General, you ask:

1. Based on current language of Section 2, P.L. 30-227, when the accepted proposals are submitted to the Governor for consideration does he still have the authority to reject proposals if final approval is now with the Guam Legislature?

2. Based on the current language of Section 2, P.L. 30-227, if final approval of proposals is now with the Guam Legislature, who will sign the health insurance contract, the Governor of Guam or the Speaker of the Guam Legislature?

3. Are the requirements of section 2, P.L. 30-227 an encroachment of the executive functions of the Governor of Guam?

An answer to the third question will be dispositive of all of the questions. Section 2 of P.L. 30-227 is not particularly clear. The most likely intent is to require the 'final approval' of the legislature to the terms and conditions of a contract for group life insurance for government employees and retirees prior to the Governor entering into such a contract. It may also be the intent of section 2 to give to the legislature final authority to approve a group health insurance proposal prior to the initiation of contract negotiations with the offeror. In either case, the effect of section 2 of 4 GCA 4302(c) is to grant to the legislature executive powers accorded to the Governor by the Organic Act of Guam. As such, 4 GCA §4392(c) (2) is a violation of the separation of powers doctrine and is, therefore, inorganic and unenforceable.

Discussion

Since at least the 10th Guam Legislature, the government of Guam has been authorized to provide group health insurance for its employees, retirees and their families. The Governor is authorized to enter into contracts and reject proposals for group health insurance. In addition, the Guam Legislature and the Superior Court of Guam are authorized to either consent or not consent to join the executive branch in the contract for group health insurance. The group insurance law for government employees and retirees states:

> (a) *I Maga'lahi* (the Governor) is authorized to enter contracts and reject proposals, with the written concurrence of the Speaker of *I Liheslaturan Guåhan* (the Guam Legislature) or the Presiding Judge of the Superior Court of Guam whose consents may be withheld in their sole discretion, with one(1) or more insurance companies, authorized to do business on Guam, for group insurance, including, but *not limited to,* hospitalization, medical care, life and accident, for all employees *or* separate groups of employees of the government of Guam. *If* the Legislative *or* Judicial Branches of government elect to enter into separate contracts for their employees as authorized in § 4301 (c), *I Maga'lahi* shall obtain the written concurrence of the Branch electing to remain with the Executive Branch before the group insurance contract is entered into *or* a proposal rejected.
> ...

4 GCA §4301 (a).[1] In practice, the Governor of Guam has negotiated and entered into contracts for group health and group life insurance for government employees in all three branches.[2] There has been no concurrence sought or received from either the legislative or judicial branches of government prior to entering into these group insurance contracts, nor has either the

[1] P.L. 24-143:19 added the provisions requiring written concurrence of the Speaker and or the Presiding Judge to a group insurance contract to be entered into by the Governor. P.L. 24-143 was vetoed by the Governor. One reason given for the veto was the violation of the separation of powers doctrine of the Organic Act of Guam by Section 19. The veto was overridden by the Legislature and P.L. 24-143 became law.

[2] As an example, in May 2011, the Governor entered into a three year contract for group life insurance for all three branches of government, and for retirees. The Governor did not seek, nor did the legislative or the judicial branch provide, concurrence for this contract.

legislative branch or the judicial branch opted out, to seek its own group health or group life insurance, as permitted by law. 4 GCA §4301(c).

Separation of Powers and the Organic Act of Guam

There is a thorough review of the separation of powers doctrine, which is clearly established by the Organic Act of Guam and of the case law that has interpreted and applied that doctrine to cases on Guam, found at the recent Opinion of the Attorney General, issued to the Honorable Edward J.B. Calvo, Governor of Guam, concerning the organicity of the Guam First Commission. See, Organicity of *I Kumision Guahan Fine'nana* (Guam First Commission); P.L. 29-128, codified at 1 GCA§2401 *et seq.*, Op. Att'y Gen. No. AG 09-0170 (Feb. 25, 2011).

The statutory and case history set out in the Attorney General opinion is relevant to this analysis, is relied upon, and need not be repeated here. "Under the Organic Act, the government of Guam is comprised of three separate but co-equal branches of government." *In re Request of Governor Gutierrez, Relative to the Organicity and Constitutionality of Public Law 26-35*, 2002 Guam 1 ¶ 32; *Hamlet v. Charfauros*, 1999 Guam 18 ¶ 9; *Taisipic v. Marion*, 1996 Guam 9 ¶ 26.

> The separation of powers doctrine exists to "prevent[] the abuses that can flow from centralization of power." *Mo. Coalition for Env't v. Joint Comm. on Admin. Rules*, 948 S.W. 2d 125, 132 (Mo. 1997) (en banc) (citation omitted); see also *Book v. State Office Bldg. Comm'n*, 238 Ind. 120, 149 N.E. 2d 273, 293 (1958) (recognizing that the purpose of separating the powers of each branch is "to preclude a commingling of these essentially different powers of the government in the same hands") (citation omitted). The concentration of the separately delineated powers in the hands of one branch "may justly be pronounced the very definition of tyranny." *Beckert v. Warren*, 497 Pa. 137, 439 A.2d 638, 642 (1981).

In re Request of Governor Gutierrez, 2002 Guam 1 ¶ 33.

The Organic Act authority of the Guam Legislature is set forth at 48 U.S.C. § 1423a, which provides: "The legislative power of Guam shall extend to all rightful subjects of legislation not inconsistent with the provisions of this chapter and the laws of the United States applicable to Guam ..." As well, the Governor's powers are provided for. The Organic Act states: "The executive power of Guam shall be vested in an executive officer whose official title shall be the 'Governor of Guam'." 48 U.S.C. § 1422.

> The Governor shall have general supervision and control of all departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam. ... He shall be responsible for the faithful execution of the laws of Guam and the laws of the United States applicable to Guam.

48 U.S.C. §1422.

Quoting the Supreme Court of Guam:

> We recognize that, under the separation of powers doctrine, one branch of government is prohibited from either delegating its enumerated powers to another branch of the government or aggrandizing its powers by reserving for itself the powers given to another branch. (citations omitted) At least one court has noted that "the *taking* of power is more prone to abuse and therefore warrants an especially careful scrutiny." *Communications Workers*, 617 A.2d 223 at 232 (emphasis added). Even absent a finding that one branch has usurped a power exclusively reserved for another branch, a separation of powers violation may be found if "one branch unduly interferes with another branch so that the other branch cannot effectively exercise its constitutionally assigned powers." *Armadillo Bail Bonds v. State*, 802 S.W.2d 237, 239 (Tex.Crim.App. 1990)(citations omitted); see *Perez*, 1999 Guam 2 at 17.

In re Request of Governor Gutierrez, 2002 Guam 1 ¶ 35 (indicated citations omitted; footnote omitted; emphasis supplied by the court).

The development, negotiation and execution of contracts for executive departments and agencies of the government of Guam are executive functions that are carried out by the Governor pursuant to his Organic Act powers. In *Santos v. Calvo*, 1982 WL 30790 (D.Guam A.D. 1982), the District Court of Guam Appellate Division considered an appeal by the Governor of Guam from a Superior Court decision granting Senator Santos an injunction to prevent the Governor from entering into and executing an agreement to make severance payments to the Attorney General in exchange for the Attorney General resigning from his position. In granting the injunction, the trial court relied on a provision of Guam law: "No officer of the government of Guam including the Governor of Guam, shall: ... (3) Involve the government of Guam in any contract or other obligation, for the payment of money for any purpose, in advance of an appropriation made for such purpose." Senator Santos contended that the law prohibited the severance pay agreement because there was no specific appropriation authorizing this severance pay agreement and, therefore, the Governor exceeded his statutory authority.

The Appellate Division disagreed. It found that the legislature had appropriated funds. The court held that whereas the legislature has plenary power over appropriations, and may attach conditions on the expenditure of appropriated funds, the legislature cannot extend that power to exercising authority over how the executive branch should administer its appropriated funds.

> In the present case, Santos is essentially attempting to give the legislature the power to determine how the executive branch should spend its appropriated funds. Such an authorization would greatly hinder the Governor in carrying out his duty to supervise and control the executive branch as required by 48 U.S.C. § 1422.

> The few state court decisions that have dealt with this issue have held that the executive branch is responsible for the administration of appropriations. (citations omitted)

Id., 1982 WL 30790 *4 *5. The court held that it would be an unconstitutional exercise of executive powers for the legislature to attempt to retain authority to oversee the expenditure of funds once appropriated.

> Thus, the legislature has plenary or absolute power over appropriations, and it may attach conditions upon the expenditure of appropriated funds. *See MacManus v. Love*, 179 Colo. 218, 499 P.2d 609, 610 (Colo.1972); *State ex rel. Meyer v. State Board of Equalization and Assessment*, 185 Neb. 490, 176 N.W.2d 920, 926 (Neb.1970). The doctrine of separation of powers, however, restricts the power of the legislature to legislative functions. As a general rule, the legislature cannot exercise executive power, and the executive branch cannot exercise legislative power. *Springer v. Philippine Islands*, 277 U.S. 189, 202 (1928). Legislative power extends to making laws, but not to enforcing them. *Id.* In a recent opinion, the United States Supreme Court recognized that although total separation of the three branches is never mandatory, the separation of powers is a "vital check against tyranny;" each branch should avoid assuming the "constitutional field of another branch." *Buckley v. Valeo*, 424 U.S. 1, 121-22 (1976).

Id., 1982 WL 30790 *3

The Guam Supreme Court has addressed directly the question of whether the legislature can insert itself into the development, negotiation and execution of contracts, and has held that to do so is a violation of the separation of powers doctrine. In *In re Request of Governor Gutierrez*, 2002 Guam 1, the Governor sought a declaratory judgment, invoking the Guam Supreme Court's original jurisdiction, requesting the Court "to declare specific provisions of Public Laws 26-35, 26-36, 26-47, 26-49, and Bill No. 205 void under both the Organic Act of Guam and the Constitution of the United States." *Id.*, 2002 Guam 1 ¶ 1. The Governor raised "four separation of powers challenges in the Budget Bill, each of which allege that the Legislature has either reserved for itself powers specifically given to the Governor in the Organic Act or interfered with the Governor's ability to perform his constitutional functions." *Id.*, 2002 Guam 1 ¶ 23.

Of interest here was the legislature's attempt in Bill 205 to dictate the terms of a lease of office space for the Family Division of the Department of Law. The Court applied the framework for analysis of separation of powers challenges adopted in *People of Guam v. Perez*, 1999 Guam 2. *Perez* involved a challenge to a provision of the Family Violence Act which permitted the court in its discretion and on motion of the defendant, to reduce a charge of family violence from felony to a misdemeanor. In *Perez*, the Guam Supreme Court adopted the United States Supreme Court's framework for analyzing claims that the doctrine of separation of powers has been violated:

The United States Supreme Court set forth a framework for evaluating separation of powers challenges:

> In determining whether the Act disrupts the proper balance between the coordinate branches, the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions. Only where the potential for disruption is present must we determine whether the impact is justified by an overriding need to promote objectives within the constitutional authority of Congress.
>
> *Nixon v. Administrator of General Services*, 433 U.S. 425, 443, 97 S.Ct. 2777, 2790, 53 L.Ed.2d 867 (1977)(citations omitted). Thus, two separate elements must be evaluated: (1) whether the statutory provision prevents the accomplishment of constitutional functions and (2) if so, whether the disruptive impact is justified by any overriding constitutional need.

People of Guam v. Perez, 1999 Guam 2 ¶ 17.

In its analysis of Bill 205, the Court in *In re Request of Governor Gutierrez* held that to dictate the terms of a lease for the rental of office space for the Attorney General was inorganic. It stated:

> The provisions of Budget Bill that dictate terms of the lease are more problematic. In *Chaffin v. Ark. Game & Fish Comm'n*, 296 Ark. 431, 757 S.W.2d 950 (1988), the court was presented with a constitutional challenge to an appropriation bill. Specifically, the challenged legislation prohibited the Fish and Game Commission from entering into contracts for professional and consultant services which either extend more than 20 working days, or exceed $5,000.00, without first seeking the advice of the legislature. *Chaffin*, 757 S.W.2d at 956. After receiving a contract, a committee of the Legislative Council reviews the contract and stamps it favorable or unfavorable. *Id.* Although the stamp of approval or disapproval was not binding on the agency, the court found that "the 'advice' offered by the [legislative] committee to an agency is tantamount to a legislative order on how to execute a contract." *Id.* The court held the requirement that the agency submit its contracts for legislative advice to be in violation of the separation of powers doctrine, and therefore unconstitutional. *Id.*
>
> The instant case is analogous to *Chaffin*, and supports a finding of a more egregious violation of the separation of powers doctrine. In the instant case, the Legislature has not merely reserved for itself the power to give "advice" on the specifics of a contract; rather, the Legislature has dictated the exact terms of the contract. As *Chaffin* instructs, it is the executive's function to determine how to execute a contract. *See id.* At 956-57. The execution of a contract necessarily includes determining the terms of the contract. By determining the terms of the lease, the Legislature has engaged in a clear executive function.

Id., 2002 Guam 1 ¶¶ 53, 54. (footnote omitted; editorial brackets in original). The Court, in applying the two step analysis required by *Perez*, found the legislature's attempt to dictate the terms of a lease in a legislative enactment a clear usurpation of the executive function of developing, negotiating and executing a contract for an executive agency. After determining that the Bill did prevent the accomplishment of an executive function, the Court turned to an analysis of whether the disruptive impact of the Bill had an overriding need justified by functions and roles of the legislature.

> Section 11(c) of Bill 405 would be constitutionally proper if the "legislative action ... [was] necessary to further a statutory scheme requiring cooperation between the two branches, and such action offers no substantial potential to interfere with exclusive executive functions or alter the statute's purposes...." *Communications Workers*, 617 A.2d at 232-33.

Id., 2002 Guam 1 ¶ 55. The Court found that the purpose of section 11(c) was to further fiscal policy and that this policy could be achieved by a direct appropriation without the need for the legislature to dictate specifications for rental space and other contract terms. The provision was found to be a violation of the separation of powers between the executive and legislative branches under the two-step analysis of *Perez*.

An Analysis of the Healthcare Insurance Transparency Act of 2010; specifically P.L. 30-227:2; 4 GCA §4302(c)(2).

The process for the acquisition of group health insurance entails the following steps:

1. The Department of Administration ("DOA") develops a Request For Proposals, receiving input from the Negotiating Team and professional support from an actuary consultant who takes the lead role in development of the specifications and the presentation of the required data and supportive information (As provided in group insurance law).
2. The Request For Proposal ("RFP") is published and a formal process ensues in which prospective offerors ask questions about the RFP and DOA and its consultant provide answers to all of the prospective offerors (As provided in procurement law).
3. As necessary, amendments to the RFP are published to all prospective offerors (Procurement law).
4. Offerors submit formal proposals on or before the due date for submission of proposals (Procurement law).
5. The consultant studies all submitted proposals and prepares a report for the Negotiating Team (Group insurance law).
6. The Negotiating Team, with the report on the proposals prepared by the consultant, and with direct input from the consultant during the evaluation process, evaluates and ranks the proposals from best to last. The Negotiating Team makes a recommendation to the Director of Administration on the rankings of the proposals, and the final ranking is determined and approved (Procurement law).

7. The Negotiating Team negotiates with one or more proposers until final agreements are reached on one or more group health contracts for government employees and retirees (Procurement law and group insurance law).
8. A briefing memorandum is sent to the Governor who ultimately approves the negotiated deal made with one or more contractors (Procurement law).
9. A contract is drawn up and the Governor, on behalf of the executive branch and the other branches of the government to be covered (traditionally both the legislative and the judicial branches of government have joined with the executive branch), executes the contract with the health care contractor. (Procurement law and group insurance law).

Into this established process, subsection 2 of §4302(c)(2) adds the following requirement:

> The negotiating team ... shall forward the accepted proposals to *I Maga'lahen Guahan* for consideration, and to *I Liheslaturan Guåhan* for final approval no later than July 31, and prior to the annual Legislative Sessions wherein the upcoming Fiscal Year Budget for the Government of Guam is before *I Liheslaturan Guåhan* for consideration;

It is noted that the Governor is permitted to "consider" the accepted proposals, but the Legislature is to provide "final approval". As stated above, it is not entirely clear at what stage the "final approval" of the legislature, as mandated by §4302(c)(2), is required. This final approval takes place at either step #6 or step #8.

Both step #6 and #8 are integral parts of the development, negotiation, and execution of the health care contract.[3] By virtue of the powers granted to the Governor by the Organic Act, he is responsible for the development, negotiation, and execution of contracts for the executive branch of government. *In re Request of Governor Gutierrez*, 2002 Guam 1.[4] After the enactment of P.L. 30-227:2, the Governor would be relegated to the role of considering, and the Legislature would be promoted to the role approving.

The insertion of required legislative approval at a key stage of the contract development process prevents the accomplishment of an exclusively executive function accorded to the Governor under the Organic Act of Guam. *Id.* Thus, the first prong of the two prong analysis established by *People of Guam v. Perez*, 1999 Guam 2, for determining a separation of powers violation is met.

The second prong of the *Perez* analysis is to assess whether the disruptive impact caused by the imposition of the legislature into the executive function is justified by any overriding constitutional need. P. L. 30-227 at section 1, states legislative findings and intent:

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[3] Note that both the legislative branch and the judicial branch of government can withdraw from the process undertaken by the Governor and develop, negotiate and execute a contract for group health insurance for their respective branches. 4 GCA §4301(c).

[4] However, the legislative and judicial branches, if each has not opted out of the process, are provided an important role in this process. Each branch appoints members to the Negotiating Team. 4 GCA §4302(c).

> The Government of Guam will be burdened with expending monies, as much as $17 Million Dollars, for an underfunded obligation, which is in direct contravention of accepted program budgeting and financial management standards for GovGuam.
>
> It is the intent of *I Liheslaturan Guahan*, through the "HealthCare Insurance Transparency Act of 2010", to ensure the healthcare insurance negotiations reflect the most economical and beneficial health plans that provide the requisite medical care needs and services for Government of Guam employees, retirees and their families. As well, through this Act, the obligation of the approved health care insurance benefit *shall* be known prior to the annual "Open Enrollment" period as the process is brought into the standards of conformance with the annual Budget Act process of the island.

It is understood that the legislature wishes to provide economical and beneficial health plans to government employees and retirees. As well, it is necessary that the legislature know the potential cost of the group health insurance plan prior to undertaking the annual budget act process for the succeeding year. The potential cost of the group health plan does need to be known by the legislature on or about July 31st in order to be considered and accommodated in the annual budget process. These are understood to be the stated legislative intentions for the enactment of 4 GCA §4302(c)(2).

Accomplishing these legislative intentions does not require the ability to approve either the proposals before negotiations, or approve contract terms after negotiations. The legislature already has numerous means by which to accomplish these legislative goals. A few are stated here.

1. A representative of the legislature serves on the Negotiating Team that actually negotiates the contract for the executive branch. §4302(c).
2. Two legislators have been added to the Negotiating Team, as ex-officio, non-voting members. P.L. 31-24, amending §4302(c).
3. §4302(c) (2) sets a July 31 deadline for final approval of one or more health care proposals. Providing the details of the final approval to the legislature by July 31, and prior to the annual budget act process does not create an interference with executive functions.
4. The extent of the government financial commitment to group health care coverage for employees and retirees is determined. §4301(b).
5. The group health insurance statutes, at 4 GCA §§ 4301 and 4302, have been amended numerous times to provide clarity on health care benefits that are to be provided in the annual benefits package. Ample direction is provided to the executive in the existing statutes. §4301(e), (f) and (h), and §4302(d), (f) and (h) and (i).
6. Existing and recently enacted provisions of the group health care laws are directed at and intended to increase both the number of offerors who will participate in the process of offering health insurance programs to the government of Guam, to increase the

competitiveness of the process, and, as a result decrease the cost of the end product. See, as an example, P.L. 30-93:3, requiring companies currently offering insurance to provided detailed claims utilization and cost information annually and quarterly so that this information can (1) be provided to prospective offerors in subsequent years, making it easier to for prospective offerors to understand the group to be insured and anticipate the cost of providing insurance to that group, and (2) provided to the Negotiating Team so that the government and its consultant can negotiate better and more economical terms. §4302(a), (b), (c) and (g).

With this much direction and limitation already provided in the group insurance laws, giving the executive ample guidance in acquiring group health care, there can be no legitimate justification for the legislature to interpose itself into the process of developing, negotiating and executing the actual healthcare contract. It may be argued that in the past, and particularly with regard to the fiscal 2011 group healthcare contract, the legislature did not have ample information about the cost of healthcare in a timely manner to successfully complete the budget and appropriation process. Involvement of legislative representatives in the negotiating process going forward will resolve this issue.

The disruptive imposition of the legislature into the executive function of contract development, negotiation and execution is not justified by any overriding constitutional need. *In re Request of Governor Gutierrez*, 2002 Guam 1; *People of Guam v. Perez*, 1999 Guam 2.

Conclusion

Public Law 30-227:2, as codified at 4 GCA §4302(c) (2), is inorganic as a violation of the separation of powers doctrine to the extent that it interposes the legislature into the approval and decision-making process of the development, negotiation and execution of the group healthcare contract by giving it authority to approve either (1) which proposals are to be chosen, leading to negotiating of a healthcare contract, or (2) the terms and conditions of the group healthcare contract. By virtue of the Organic Act of Guam these responsibilities are executive functions that properly belong with the Governor.

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