

GUAM CODE ANNOTATED

TITLE 5

GOVERNMENT OPERATIONS

**UPDATED THROUGH P.L. 36-071
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DIVISION 1

**CHAPTER 1
OFFICE OF THE GOVERNOR**

- Article 1. Temporary Vacancies in Office.
- Article 2. Centralized Planning.
- Article 3. Bureau of Budget and Management Research.
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**ARTICLE 1
TEMPORARY VACANCIES IN OFFICE**

- § 1101. Temporary Vacancies, Order of Succession.
- § 1102. Permanent Vacancies; Succession.
- § 1103. Salary of *I Maga'låhen Guåhan*.
[Codified as 5 GCA § 1517]

§ 1101. Temporary Vacancies, Order of Succession.

(a) The order of succession, consisting of the officers who shall be eligible in the order named, to serve as Acting Governor upon the temporary disability or temporary absence of both the Governor and Lieutenant Governor shall be the Speaker or Acting Speaker of the Guam Legislature. While serving as Acting Governor, a person so authorized shall have all the powers of the Governor.

(b) The order of succession, consisting of the officers who shall be eligible in the order named, to serve as Acting Lieutenant Governor upon the temporary disability or temporary absence of the Governor [and] the Lieutenant Governor and the Speaker of the Guam Legislature shall be the Vice Speaker or the Acting Speaker. While serving as Acting Lieutenant Governor, a person

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so authorized shall have all the powers of Lieutenant Governor.

SOURCE: GC § 5000, as amended by P.L. 13-86:2 (Nov. 3, 1975).
Amended by P.L. 15-74:2 (Oct. 24, 1979).

NOTE: The original § 5000 enacted by P.L. 1-88 Nov. 29, 1952),
addressing the duties of the Secretary of Guam, was repealed by P.L. 13-
114:1 (Dec. 13, 1975).

COMMENT: In subsection (b), the word and is substituted by the
Compiler because the original or makes no sense in view of §8(e) of the
Organic Act. That §8(e) permits the laws of Guam to regulate succession
only when both the Governor and Lieutenant Governor are temporarily
absent or disabled. If only the Governor is absent or disabled, then the
Organic Act provides, in §8(a), that the Lieutenant Governor becomes
Acting Governor. Further, §8(c) of the Organic Act provides for the
situation when only the Lieutenant Governor is absent or disabled
temporarily. Therefore, this law can only cover the situation where both
Governor and Lieutenant Governor are temporarily absent or disabled.

§ 1102. Permanent Vacancies; Succession.

(a) In case of a permanent vacancy in the offices of both the
Governor and Lieutenant Governor, the Speaker of the Guam
Legislature shall, upon his resignation as Speaker, become the
Governor to hold office for the unexpired term and until he or his
successor shall have been duly elected and qualified at the next
regular election for Governor.

(b) If, by reason of death, resignation, removal from office,
inability or failure to qualify, there is no Speaker to act as
Governor under subsection (a) of this Section, then the Director
of the Department highest on the order of succession established
by § 1101 of this Article who is not under disability to discharge
the powers and duties of the Office of the Governor shall become
Governor. An individual who becomes Governor under this
subsection shall continue to serve until the expiration of the then
current term of the Governor. The taking of the oath of office by
an individual under this subsection shall constitute his resignation
from the office upon which his succession is based.

(c) During the period the individual serves as Governor under
this Section, his compensation shall be the same as that then
provided by law for the Governor.

SOURCE: Added GC § 5001 added by P.L. 13-86:3.

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COMMENT: When this § 1102 was enacted, the § 1102 provided that succession as Acting Governor would run to the Director of Administration, Director of the Bureau of Budget & Management Research and the Attorney General, in that order. Since the repeal and reenactment of § 1101, no department head is in line for temporary or permanent succession to the Office of Governor.

§ 1103. Salary of *I Maga'låhen Guåhan*.

[Codified as 5 GCA § 1517.]

SOURCE: Added as 5 GCA § 1103 by P.L. 34-009:3 (May 23, 2017), codified by the Compiler as 5 GCA § 1517, pursuant to the authority of 1 GCA § 1606.

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- § 1213. Master Plan Proposals.
- § 1214. Coordination of Effort.

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§ 1215. Severability.

2021 NOTE: P.L. 35-110:9 (Dec. 1, 2020) stated:

Unless otherwise indicated in this Act, “Council” shall be changed to “Bureau”; “Chairman” shall be changed to “Director”; “Comprehensive Development Plan,” “Guam Comprehensive Development Plan,” “Guam’s Comprehensive Development Plan,” and “Comprehensive Development Plan for Guam” shall be changed to “*Guåhan* 2050 Sustainability Plan” in Article 2 of Chapter 1, Title 5, Guam Code Annotated.

NOTE: This Chapter establishes the procedure for creating what has come to be known as the “*I-Tanot’a*” Land Use Plan.

§ 1200. Legislative Findings. The Legislature recognizes that since the early 1960’s, Guam has experienced population, economic and physical growth rates that are among the highest in the region; that Guam and her people have benefitted greatly from all levels of socio-economic and physical development which has thus far taken place but it is the desire of the people of Guam to sustain and encourage the development of the island in a manner that would foster greater economic opportunities and stability for Guam without adversely affecting the cultural, environmental, social and natural resources unique to the island; that without careful study of the types and scale of socio-economic development anticipated for Guam and her residents, there will continue to be an absence of foresight, direction and guidance present in the current and future stages of development needed by Guam to sustain the desired standards and quality of living for its people; that to fully enjoy the benefits that can and would be derived from Guam’s limited human and natural resources, development in Guam must be guided by a Comprehensive Development Plan that reflects the desires and aspirations of all who are guided by it; that a process for formulating Guam’s Comprehensive Development Plan shall be established which shall identify the roles, authorities, responsibilities and processes involved in the formulation of the plan;

That there is a pressing need to establish policies which

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reflect the people's aspirations with respect to the future development of Guam -policies which evolve from sound strategic planning initiatives; policies that take into account all diverse elements of community needs and desires; policies that would channel the deployment of resources to meet the following goals and objectives:

- (a) To upgrade the quality of life for Guam's people;
- (b) To create conditions and opportunities whereby people fully participate and benefit at every level of social and economic activity;
- (c) To maintain balance and equity between development and the environment in order to preserve the unique culture, traditions and beauty of the island;
- (d) To optimize the use of resources to meet present and future infrastructure and supra structure requirements of the people of Guam;
- (e) To develop and maintain infrastructure capacity at a level that could sustain future population, socio-economic and physical growth.

SOURCE: GC § 62010 reenacted by P.L. 20-147:1 (03/21/90). This entire Article was repealed and reenacted by P.L. 20-147:1 in the form of its prior Government Code Chapter II of Title LXV.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this section.

§ 1201. Legislative Intent.

- (a) It is the intent of the Legislature:
 - (1) to integrate its policy-making efforts with public and private interests engaged in physical, social and economic development planning for the island;
 - (2) to establish a process and mechanism through which duly adopted policies of Guam are linked with all elements of governmental and non-governmental development planning and implementation activity, the island having experienced the ill-effects of fragmented and disjointed

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development efforts resulting from the absence of both an integrated planning process and a Comprehensive Development Plan that contain rational parameters for Guam's growth;

(3) that all planning efforts that occur in Guam, be they private or public, adhere and conform to the adopted policies, goals and objectives set forth in Guam's Comprehensive Development Plan;

(4) to ensure that the people of Guam are not subjected to unbridled and unmanageable growth that would threaten the benefits, comforts and privileges to which each Guam resident is entitled; and

(5) that the formulation of the Guam Comprehensive Development Plan serve to guide the island's growth and development up to and through the Twenty-First Century.

The Legislature wishes to collectively draw input, participation and expertise from all segments of the community in the effort to establish comprehensive planning for Guam and to solicit the services of development planning experts from both the public and private sectors.

(b) In its desire to establish short-range and comprehensive long term development objectives for Guam, inclusive of but not limited to the areas of education, visitor industry, economic development, community development, health, transportation, communication, public safety, agriculture, taxation, culture, labor and human resources, recreation, environment, and political development, the Legislature hereby establishes strategies for initiating comprehensive planning for Guam and the formulation of the Guam Comprehensive Development Plan. These strategies shall be as follows:

(1) To determine the extent that Guam's land, water and human resources limit urban and rural development;

(2) To plan for the preservation of the natural charm and character of Guam within the framework of a growing population and modern technology;

(3) To establish specified areas of use within urban,

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suburban, rural, agriculture, conservation, industrial, and resort contexts;

(4) To provide a development pattern that enhances the comfort, convenience and economic welfare of the individual;

(5) To prepare land-use capability criteria as a basis for real property evaluation that equalize the divergent qualities of location;

(6) To reappraise the extent of public, private and Federal land tenure in Guam and provide guidelines for relocation of inefficient or inappropriate uses;

(7) To plan for the development and extension of necessary infrastructure and transportation facilities;

(8) To plan for a high quality environment essentially free from pollution and with adequate and well-kept open space throughout Guam's varying activity centers;

(9) To prepare criteria of substandard neighborhoods and identify areas that meet these criteria;

(10) To recommend creative legislation regulating Guam's use of land for the protection of future generations.

Nothing in this Chapter is intended to limit the scope of any element or the areas of concern cited herein. However, it is the intention of the Legislature to fully integrate all planning elements and concerns within a viable development planning mechanism.

SOURCE: GC § 62010 reenacted by P.L. 20-147.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler numbered subsections (a) and (b) and changed the hierarchy of subsections in subsections; (a) beginning with "Lowercase Roman Numerals" to "Numbers" and (b) beginning with "Lowercase Letters" to "Numbers" in this section.

§ 1202. Territorial Planning Council.

[(a) through (c) repealed.]

(d) Procedures. The Council shall, pursuant to the Administrative Adjudication Law, adopt rules, procedures, and regulations to govern its meetings, hearings, business and affairs.

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(e) Fees. Members of the Council who are not public officials shall be compensated Fifty Dollars (\$50) per meeting not to exceed One Hundred Dollars (\$100) per month.

(f) [Repealed by implication.]

Upon the termination of the Council, the remaining council funds as well as assets, equipment, copyrights, and any existing positions shall automatically be transferred to the Bureau of Statistics and Plans.

SOURCE: GC § 62012 reenacted by P.L. 20-147. Subsection (f) added by P.L. 23-128:III:32. P.L. 26-76:22 (uncodified) stated:

Repeal of GPC. All the powers, duties, responsibilities and jurisdiction of the former Guam Planning Council ('GPC') are hereby transferred to the Bureau of Statistics and Plans. All records, equipment, documents and otherwise any physical property in the possession of the GPC shall be transferred to the custody of the Bureau of Statistics and Plans. Any funds of any nature under the control of the GPC shall be transferred to the control of the Bureau of Statistics and Plans.

COMMENT: Since the powers, duties and responsibilities of the former Planning Council were transferred, not abolished, The Compiler has left those parts of this Article intact so that the Bureau of Plans & Statistics can refer here for its additional responsibilities.

AG OPINION: The Territorial Planning Council took over the functions of the old Central Planning Council created under the prior version of this Article. BOP 90-0628 (6/11/90)

§ 1203. Bureau of Statistics and Plans: Responsibilities and Authority.

The responsibilities and authority of the Bureau of Statistics and Plans shall be:

(a) Prepare Plan. To cause to be prepared, through the services of a consortium of both public and private experts possessing diverse planning experience and expertise, a *Guåhan* 2050 Sustainability Plan (Plan), which shall provide short and long-range guidance (between 2020 and 2050) for the social, economic, infrastructure, supra structure, and physical sustainable development of Guam, and which shall contain a statement of sustainable development objectives, standards and principles with respect to the most responsible

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use of land and resources within Guam for residential, recreational, agricultural, commercial, industrial, and other uses completely serviced by an access and circulation network and infrastructure consistent with proper protection and accountability to enhance the quality of the environment and preserve Guam's natural beauty and historical heritage.

(b) Assist Planning. To harmonize, improve and assist in implementing comprehensive planning activities at all levels of government.

(c) Ensure Consistency. To ensure that the current planning programs and projects are consistent with the Plan and the comprehensive program and financial plan, as set out in the Executive Budget Acts, and the policies enumerated in this Chapter.

(d) Rules. To adopt any necessary rules or regulations in accordance with the Administrative Adjudication Law and to exercise all other powers necessary and proper for the discharge of its responsibilities.

(e) Recommendations. To develop all elements of the Plan, as described in § 1210 of this Article, and to make detailed written recommendations to the Governor for approval, disapproval, revision, amendment or referral to specific agencies or groups for further study and review.

(f) Agreements. To enter into and carry out any agreement or agreements in connection with the provisions of this Article and to solicit assistance from public, private or federal sources as required in the development planning process and which are not inconsistent with or contrary to the laws of Guam.

(g) Quarterly Report. To deliver to the Legislature, no later than fifteen (15) days following the end of every quarter, a written report of the planning program and progress; and

(h) Annual Report. To deliver to the Governor no later than January 30 of each year a written report of the planning program and progress.

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SOURCE: GC § 62013 reenacted by P.L. 20-147. Amended by P.L. 35-110:3 (Dec. 1, 2020).

2021 NOTE: This provision was formerly entitled “Council Responsibilities and Authority” and was renamed by P.L. 35-110:3 (Dec. 1, 2020).

§ 1204. Support and Coordination for Comprehensive Planning.

All agencies, departments, boards, commissions and other instrumentalities of the government of Guam shall review their present statutory authority, administrative regulations and current planning policies and procedures to determine whether there is any duplication, any deficiencies or inconsistencies therein which prohibit or tend to prohibit integration, coordination and compliance with respect to the purposes and provisions of this Chapter and shall thereafter propose to the Bureau at a date determined by the Bureau such measures as may be necessary to bring their planning authority functions and programs into conformity with the intent, purposes, and procedures set forth in this Chapter. All master plans, development plans, long-range plans, and the like prepared by public agencies shall be submitted to the Bureau for processing as part of the comprehensive planning program. Emphasis will be placed on the continuing nature of the comprehensive plan program rather than a final completion of a single plan. The Bureau may assign, with concurrence of the director or other head of the agency involved, planning staffs or portions thereof of staff or line agencies who shall prepare portions of the plan under the supervision of the Bureau of Plans & Statistics.

SOURCE: GC § 62104 reenacted by P.L. 20-147.

2021 NOTE: P.L. 35-110:9 (Dec. 1, 2020) stated:

Unless otherwise indicated in this Act, “Council” shall be changed to “Bureau”; “Chairman” shall be changed to “Director”; “Comprehensive Development Plan,” “Guam Comprehensive Development Plan,” “Guam’s Comprehensive Development Plan,” and “Comprehensive Development Plan for Guam” shall be changed to “*Guåhan* 2050 Sustainability Plan” in Article 2 of Chapter 1, Title 5, Guam Code Annotated.

Pursuant to this provision, references in this section to “Council” have been changed to “Bureau.”

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§ 1205. Plan Review: Public Hearings.

The Plan or any of its elements prepared by the various public agencies or any private entity, shall be submitted to the Council for review. Within forty-five (45) days following receipt of any such element or elements by the Council, the Council shall hold one (1) or more public hearings thereon. Announcements of such hearings shall be printed in a newspaper of general circulation on Guam ten (10) days and one (1) day prior thereto. Summaries of the element or elements to be heard shall be prepared by the Council and submitted to appropriate news media.

2021 NOTE: P.L. 35-110:9 (Dec. 1, 2020) stated:

Unless otherwise indicated in this Act, “Council” shall be changed to “Bureau”; “Chairman” shall be changed to “Director”; “Comprehensive Development Plan,” “Guam Comprehensive Development Plan,” “Guam’s Comprehensive Development Plan,” and “Comprehensive Development Plan for Guam” shall be changed to “*Guåhan* 2050 Sustainability Plan” in Article 2 of Chapter 1, Title 5, Guam Code Annotated.

Pursuant to this provision, references in this section to “Council” have been changed to “Bureau.”

§ 1205.1. Plan Submission.

Within thirty (30) days after the hearing of the Plan or any of its elements, the Bureau shall submit to the Governor its recommendation thereon including a summary of testimony at the hearing(s).

SOURCE: Added as GC § 62015.1 by P.L. 20-147.

2021 NOTE: P.L. 35-110:9 (Dec. 1, 2020) stated:

Unless otherwise indicated in this Act, “Council” shall be changed to “Bureau”; “Chairman” shall be changed to “Director”; “Comprehensive Development Plan,” “Guam Comprehensive Development Plan,” “Guam’s Comprehensive Development Plan,” and “Comprehensive Development Plan for Guam” shall be changed to “*Guåhan* 2050 Sustainability Plan” in Article 2 of Chapter 1, Title 5, Guam Code Annotated.

Pursuant to this provision, references in this section to “Council” have been changed to “Bureau.”

§ 1205.2. Cooperation of Other Departments.

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Every department and agency of the government of Guam is hereby directed to render such assistance to the Council as the Council may require.

SOURCE: Added by GC § 62015 .2 by P.L. 20-147.

§ 1206. Plan Adoption.

Within ten (10) calendar days of approval by the Governor, the Plan or any of its elements shall be submitted to the Legislature for adoption. The Legislature shall review and approve or disapprove the Plan or any of its elements within one hundred eighty (180) calendar days of its receipt. In the event of failure by the Legislature to act within such one hundred eighty (180) calendar day period, the Plan or any of its elements so submitted shall be deemed approved.

SOURCE: GC § 62016 reenacted by P.L. 20-147. Amended by P.L. 35-110:4 (Dec. 1, 2020).

§ 1207. Bureau of Plans & Statistics.

There is created within the Office of the Governor, the Bureau of Plans & Statistics (the ‘Bureau’), which shall provide technical assistance, support and planning information to the Council and assist the Council in its effort to integrate and coordinate all levels of development planning throughout the government of Guam. The administrator of the Bureau, who shall be designated Director of Planning (the ‘Director’), shall be appointed by the Governor with the consent of the Legislature, and shall be a person who, as a result of training, experience and attainments, is exceptionally well-qualified to analyze and interpret development trends and information of all kinds, to appraise and coordinate planning programs and supervise the execution of the responsibilities of the Council in accordance with the policies set forth in this Chapter. The Director shall be responsible for the administration of this Chapter and shall supervise the staff of the Bureau which, in addition to its regular duties, shall serve the Council.

SOURCE: GC § 62017 reenacted by P.L. 20-147. Name change here and elsewhere by direction of P.L. 26-76:31(a).

§ 1208. Same: Staff Organization.

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The staff of the Bureau shall be organized into such divisions, sections, or units as are sufficient to appraise, coordinate and assist in the preparation of long-range planning programs for the social, economic, infrastructure, and supra structure development of Guam. Expertise, either singly or collectively, should be evident in such areas as community facilities, conservation, cultural development, demography, economics, education, environment, finance, infrastructure, land utilization, natural resources, transportation, urban and rural design, utilities, and visitor industry. Preparation of planning elements not the duty and function of staff and line agencies, shall be the responsibility of the staff of the Bureau.

SOURCE: GC § 62018 reenacted by P.L. 20-147.

§ 1209. Powers of the Bureau.

In the execution of its responsibilities under this Chapter, the Bureau is authorized to perform the following functions:

(a) Grants. To apply for and accept grants, loans, contributions, appropriations and assistance from the Federal government and from any other sources, public or private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the Federal laws as it may deem reasonable and appropriate and which are not inconsistent with the purposes of this Chapter and the laws of Guam;

(b) Contracts. To contract for any professional services if such work or services cannot satisfactorily be performed by its employees;

(c) Studies. To conduct, or cause to be conducted, investigations, studies, surveys, research and analysis relating to physical, human, social, and economic development of Guam and to publish the results thereof;

(d) Policies. To develop and recommend territorial policies to foster and promote the improvement of planning activity and development quality;

(e) Private Services. To utilize to the fullest extent possible, the services, facilities and information of public and

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private agencies and organizations and individuals in order that duplication of effort and expenses may be avoided;

(f) Appraise Plans. To review, appraise and make such use as it sees fit of all existing plans, inclusive of the 1978 Kabales Na Planu Para Guåhan, and those presently being prepared;

(g) Data Bank. To develop an information system and data bank for the continual collection and storage of public information needed or utilized in the development plan process; and

(h) Annual Report. To report to the Governor and the Legislature of its annual progress and of its fiscal year activities *no later than* January 30 of each year.

(i) Statistics. To conduct research and to disseminate statistical findings relative to producing data needed for economic and social planning on Guam.

(j) Agriculture Data Collection. The Bureau shall separate data collected relative to the types and amounts of all produce imported into Guam, and report such data on a quarterly and annual basis. Such data shall be posted on the Bureau's website and the Department of Agriculture's website, to include the poundage of each type of produce. The Bureau shall also collect data on a quarterly basis on all government procurement of local produce by the Department of Education, the Department of Youth Affairs, the Department of Corrections, the Guam Memorial Hospital Authority, Government House, and any other government agencies involved in such procurement. This data should be made available to the media. Copies of the posting in printed format shall be made available at the Department of Agriculture's offices. All departments and agencies that handle documents containing information on the data required to be collected and published herein shall cooperate with the Bureau to ensure the completion of the reports as required herein.

SOURCE: GC § 62019 reenacted by P.L. 20-147. Subsection (i) added by P.L. 26-76:31 as part of the abolishing of the Department of Commerce.

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Subsection (j) added by P.L. 33-093:2 (Nov. 9, 2015). Subsection (h) amended by P.L. 35-110:5 (Dec. 1, 2020).

§ 1209.1 Additional Duties of the Bureau.

The Bureau shall carry out the following duties in addition to the functions specified in § 1209 of this Chapter:

(a) facilitate cooperation with the U.S. Bureau of the Census in collecting, compiling, analyzing, interpreting and disseminating information concerning demographics, agriculture, housing, manufacturing, businesses and government of Guam in such forms as to be most valuable to Guam's businesses and industries, and of other places; and to act as the principal receiver, depository and distributor of similar information provided by its national and international counterparts;

(b) assume lead agency functions for the South Pacific Commission and the Economic and Social Commission for Asia and the Pacific;

(c) conduct the census under the auspices of the U.S. Census Bureau;

(d) compile, collect, develop and publish quarterly scientific indices and economic indicators, including, but not limited to, economic growth, trade balances, exports and imports, consumer prices and other information relating to economic conditions;

(e) compile periodically a census of businesses and industries on Guam, and analyze and publish this information in such forms as to be most valuable to Guam's businesses and industries; and

(f) in the event sufficient funds are not available to the Bureau, to publish all of the material required by this Section; the information gathered shall be published, subject to the following priorities:

- (1) consumer prices;
- (2) exports and imports;
- (3) trade balances; and

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(4) all other information deemed essential to be published.

(g) Notwithstanding any other provision of law, all information, statistics, or data obtained pursuant to § 1209.1 (d) shall be held in full confidence and not subject to the open government law.

SOURCE: Added by P.L. 26-76:43. Subsection (g) added by P.L. 31-226:3 (June 15, 2012). Subsection (b)(1) added as uncodified law by P.L. 32-068:XII:23 (Sept. 11, 2013) and codified by the Compiler, stricken pursuant to P.L. 32-181:XIII:19 (Sept. 5, 2014).

2013 NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were added and/or altered to adhere to the Compiler's alpha-numeric scheme.

§ 1209.1.1. Guam Census Program.

(a) Program Operation and Funding. The Guam Census Program will be established by the Guam Bureau of Statistics and Plans. Funds from the U.S. Census Bureau will be used for the census operation, which includes staff salaries, overtime, office space, office equipment, office supplies, vehicle rental, travel, all forms of publicity, and all other related program costs.

(b) Bureau of Statistics and Plans Established Positions. The list of unclassified positions for the decennial census shall include:

- Local Census Office (LCO) Manager (Census)
- Assistant Manager for Administration (AMA) (Census)
- Assistant Manager for Office Operations (AMOO) (Census)
- Assistant Manager for Field Operations (AMFO) (Census)
- Partnership/Media Specialist (Census)
- Geographic Specialist (Census)
- Security Officer (Census)
- Administrative Assistant (Census)
- Access Controller (Census)
- Office Operations Supervisor (OOS) (Census)
- Field Operations Supervisor (FOS) (Census)

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Group Quarters Operations Supervisor (GQOS) (Census)

Crew Leader (Census)

Crew Leader Assistants (Census)

Enumerator (Census)

Clerk (Census)

Interpreter (Census)

For future decennial censuses, as new position(s) are created, changed or deleted by the Bureau in support of the census operations and activities, the Program shall notify *I Liheslaturan Guåhan* of such changes for action. All Program positions shall include “(Census)” after each position title.

(c) Unclassified Employment, Outside Employment of Government of Guam Employees and Retirees. Persons recruited for the Program will be hired as unclassified employees. Individuals employed with the government of Guam must obtain approval for outside employment from their respective department or agency head prior to employment with the Program pursuant to Title 4, Chapter 4, Article 1, § 4105(d)(4) of the Guam Code Annotated, and such work shall not conflict with or negatively impact the individual’s regular employment responsibilities, nor shall the employee be authorized any sick, annual, administrative or other leave to perform such census work. Prior to the employment of any government of Guam employees, every effort must be exhausted to ensure that the general community is provided with the initial opportunity to participate and support the conduct of the Census activities. Government of Guam retirees may participate in the Program without loss or suspension of annuity.

(d) Salaries and Benefits. The Bureau of Statistics and Plans shall establish the salary of all Program employees. The Bureau will provide funding for workers’ compensation, FICA, and overtime (OT) pay as necessary to complete field work, re-interviews, field follow-ups, canvassing and other related Program operations. Employees of the Program shall be in the unclassified position. Management staff of the Program, including the Local Census Office Manager, Assistant Manager

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for Administration, Assistant Manager for Office Operations, Assistant Manager for Field Operations, Partnership/Media Specialist, Geographic Specialist, Security Officer, and the Administrative Assistant, shall be entitled to annual and sick leave, and medical and dental insurance. All other census employees will be excluded from such coverage and other benefits, to include salary increment.

(e) Drug Screening, Police and Court Clearance Requirements. Prior to the employment of any individual with the Program, the individual must undergo and pass a mandatory drug screening in which the initial testing will be paid for by the Program subject to availability of funds. In addition, selected individuals must provide to the Program the most recent police and court clearances (both valid for one (1) month only) which will also be paid for by the Program subject to availability of funds.

SOURCE: Added by P.L. 30-058:2 (Nov. 16, 2009).

§ 1209.2. Information as Confidential.

(a) The Director shall have the sole authority to approve the contents of reports or data and the timing or release of information by the Bureau.

(b) Neither the Director nor any other officer or employee of the Authority, or the Office of *I Magsa'lahen Guåhan* may use the information furnished under the provisions of this Article for any purpose other than the statistical purposes for which it is supplied, or make any publication whereby the data furnished by any particular establishment or individual under this Article can be identified.

(c) Whoever, being the owner, official, agent, person in charge, or assistant person in charge, of any company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer or employee of the Bureau to answer completely and correctly to the best of that person's knowledge all questions pertinent to the duties of the Authority set forth in § 1209.1 of this Title, and relating to that person's company, business, institution, establishment or other organization, or to

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records or statistics in that person's official custody, contained in any census or other schedule prepared and submitted to that person under authority of this Article, shall be fined not more than Five Hundred Dollars (\$500.00), or imprisoned not more than sixty (60) days, or both; and if that person willfully gives a false answer to any such question, that person shall be fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than one (1) year, or both.

(d) Whoever, being an officer or an employee of the Bureau, publishes or communicates, without the written authority of the Director, any information coming into that person's possession by reason of that person's employment under the provisions of this Article shall be fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than one (1) year, or both.

SOURCE: Added by P.L. 26-76:44.

§ 1210. Content of the Plan.

The Plan shall be guided by, but not limited to, the United Nations (UN) Global Programme of Action for the Sustainable Development of Small Island Developing States (A/CONF.167/9) and the UN's Sustainable Development goals, each as determined applicable to *Guðhan*. It shall contain specific elements as follows:

(a) Land Use. A land-use element together with the appropriate zoning recommendations supporting distribution, location and the extent of uses of land for housing, business, industry, agriculture, recreation, education, public buildings, open space, conservation and other categories of public and private uses of land, which include islands, reef and lagoon areas, and the sea within the territorial waters, inclusive of a statement of the standards of population and building density and building intensity for the various districts and other areas covered by the Plan, and regulatory criteria governing the use, development and subdivision of land.

(b) Community Design. A community design element consisting of standards and principles governing the subdivision and development of land and showing

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recommended designs for community and neighborhood development and redevelopment, including sites for schools, parks, playgrounds, and other community uses.

(c) Transportation. A transportation element which would provide a comprehensive transportation and circulation system consisting of existing and proposed major routes, thoroughfares, highways, and collector streets; locations of rights-of-way, terminals, viaducts, and grade separation, port, harbor, aviation and mass transit lines, and related facilities, all of which are correlated with the land use element of the Plan. This element shall include necessary investments in improving and expanding public transportation, which directly affect overall employment and economic efficiency and productivity.

(d) Regulations. A regulatory element concerning parking facilities and building setback lines and the delineations of such systems on the land, a system of street naming, housing and building numbering, and such other matters as may be related to the improvement of circulation of traffic.

(e) Public Facilities. A public services and facilities element showing general plans for sewage, refuse disposal, drainage, and local utilities, and rights-of-way, easements, and facilities for them.

(f) Public Lands. A public lands element that provides an inventory of all government of Guam and federal lands, and plans for their maintenance, improvements, conservations, and potential uses for the benefit of the community.

(g) Public Buildings. A public buildings element identifying locations and arrangement of civic and community centers, public schools, libraries, police and fire stations, and other public buildings, including their architecture and the landscape treatment of their grounds.

(h) Housing. A housing element consisting of standards and plans for elimination of substandard dwelling

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conditions and homelessness, the improvement of housing, and the provision of adequate sites for housing.

(i) Redevelopment. A redevelopment element for the elimination of unsafe or blighted areas, community redevelopment and the revitalization of housing sites, business and industrial sites, public building sites, and for other purposes authorized by law.

(j) Conservation. A conservation element to guide the conservation, development, and utilization of natural resources, including forests, soils, rivers and other waters, harbors, fisheries, coral reefs, wildlife, threatened and endangered species, minerals, and other natural resources which, as sub-elements, may also incorporate the following:

- (1) reclamation or restoration of land and waters;
- (2) floodplain management and flood control;
- (3) prevention and control of pollution of streams and other waters;
- (4) regulations of the use of land in stream channels and conservation areas;
- (5) prevention, control, and correction of the erosion of soils, beaches, and shores;
- (6) protection of watersheds, rare natural communities, and habitats for threatened and endangered species; and
- (7) protection of coral reefs and productive seas in marine protected areas.

(k) Recreation. A recreation element establishing a comprehensive system of areas and public sites for recreation, including the following and, when appropriate, their locations and proposed development:

- (1) natural reservations;
- (2) parks;
- (3) parkways;

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- (4) beaches;
- (5) reefs and lagoons;
- (6) playgrounds;
- (7) historic and archaeological sites;
- (8) scenic and historic trails; and
- (9) other recreation areas.

(l) **Safety.** A safety element for the protection of the community from natural and human-made hazards, including features necessary for such protection such as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

(m) **Tourism.** A visitor industry element which will establish cooperation and coordination between the public and private sectors to provide for a shared vision and steady and regulated growth within the visitor industry, while developing the industry in a manner that will continue to provide new business and job opportunities and steady employment for the people of Guam, and which will enable Guam's people to obtain job training and education geared for upward job mobility within the industry; and this element shall support the *CHamoru* culture and cultural programs, as well as other community programs which contribute to enhancing Guam as a visitor destination.

(n) **Sustainable Development Policy.** A short and long-range socioeconomic development strategy to include policy, opportunities, and programs to address or alleviate problems concerning disparities based on socio-economic status, affordable and accessible health services, communicable and non-communicable diseases and health-related issues, labor planning, employment opportunity, education, elimination of poverty, law enforcement, welfare, substandard housing and homelessness, consumer protection, public revenue and expenditures, cultural heritage preservation, visitor industry, and the like, to include population characteristics and economic analysis with projections for each region and sub-

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region of the island. The policy shall also provide for renewable energy, zero waste and sustainable materials management, and a comprehensive approach to combating climate change through reduction of greenhouse emissions and our carbon footprint.

(o) Capital Improvements. A short and long-range capital improvements program and projects to be derived from public and private input and compiled from schedules of proposed capital improvements submitted to the Bureau of Statistics and Plans by each department, agency, division, board, commission, branch, and instrumentality of the government of Guam; and which shall provide recommendations and identify programs for the sustainable development of the island's port, highway, communication, and public transportation facilities, including, but not limited to, institutions of higher learning, health and welfare facilities, correctional institutions, elementary and secondary schools, electric power, water, telecommunications, sewer, solid waste, and other utility facilities.

(p) Preservation. A preservation element that has both short and long-range programs to ensure the maintenance, preservation, safeguarding, promotion, and continued identification of cultural and historical sites, to include natural resources and resource areas.

(q) Indigenous Connections and Rights. This element shall reflect indigenous *CHamoru* concepts of cultural and ancestral connections to Guam's heritage, land, sea, air, the environment, and all that is native and endemic within it. The continuation of the *CHamoru* culture and cultural identity are predicated on the recognition and protection of indigenous connections and rights to their homeland throughout the government of Guam.

(r) Community Mental Health, Physical Health and Well-being. An element that takes into consideration the many types of impacts that different developments and government actions can have on the mental and physical health and well-being of our community, especially, but not limited to, that of the indigenous *CHamoru* people.

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(s) Policy Statements. A statement of specific policies for at least each of the following general areas: socioeconomic and human resource development, natural resource development, environmental protection, historical and cultural preservation, public safety, housing and community development, education, land-use and population growth, the visitor industry, and other areas deemed appropriate by the Bureau of Statistics and Plans.

(t) Other Elements. Such additional elements dealing with other subjects, which in the judgment of the Bureau of Statistics and Plans relate to the physical development of Guam.

SOURCE: GC § 62020 reenacted by P.L. 20-147. Amended by P.L. 35-110:6 (Dec. 1, 2020).

§ 1211. Plan Implementation and Financing.

(a) The Plan shall contain a schedule of programs and projects to be implemented annually. Funding for such programs and projects shall be identified in the Plan by the project's or program's principal or administering government agency or instrumentality.

(b) Funding for programs or projects contained in the Plan which do not fall under the authority or responsibility of any particular instrumentality of the government of Guam may be met by annual appropriation of the Legislature.

(c) Upon approval by action or inaction of *I Liheslatura*, each governmental entity shall submit an annual report, inclusive of an executive summary, to the Office of Public Accountability (OPA) no later than January 30 of each year on its progress in achieving the objectives and goals as set out in the Plan. The OPA shall submit a compilation of the reports to *I Liheslatura* and publish the compiled report on its website no later than March 30 of each year.

SOURCE: GC § 62021 added by P.L. 20-147. Amended by P.L. 35-110:7 (Dec. 1, 2020).

§ 1212. Annual Budget.

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The Director of the Bureau prepare and submit the Bureau's first annual fiscal year budget to the Legislature within ninety (90) calendar days of the enactment of this Chapter, and thereafter shall submit its annual budgets prior to the end of each fiscal year. Such budget shall contain a financial breakdown of personnel, administrative and all operating costs to be incurred by the Bureau in the performance of provisions set forth in this Chapter. Said personnel expenditures shall be applied to the full staffing requirements of the Bureau as submitted to the Legislature by the Bureau.

SOURCE: GC § 62022 added by P.L. 20-147.

2021 NOTE: P.L. 35-110:9 (Dec. 1, 2020) stated:

Unless otherwise indicated in this Act, "Council" shall be changed to "Bureau"; "Chairman" shall be changed to "Director"; "Comprehensive Development Plan," "Guam Comprehensive Development Plan," "Guam's Comprehensive Development Plan," and "Comprehensive Development Plan for Guam" shall be changed to "*Guåhan* 2050 Sustainability Plan" in Article 2 of Chapter 1, Title 5, Guam Code Annotated.

Pursuant to this provision, references in this section to "Council" have been changed to "Bureau" and references to "Chairman" have been changed to "Director."

§ 1213. Master Plan Proposals.

The Bureau shall proceed to develop proposals consisting of a scope of work and cost estimates for all elements of the Plan. The Bureau shall incorporate in its annual budget submission to the Legislature the amount of financial resources needed to facilitate the objectives of this Chapter.

SOURCE: GC § 62023 added by P.L. 20-147.

2021 NOTE: P.L. 35-110:9 (Dec. 1, 2020) stated:

Unless otherwise indicated in this Act, "Council" shall be changed to "Bureau"; "Chairman" shall be changed to "Director"; "Comprehensive Development Plan," "Guam Comprehensive Development Plan," "Guam's Comprehensive Development Plan," and "Comprehensive Development Plan for Guam" shall be changed to "*Guåhan* 2050 Sustainability Plan" in Article 2 of Chapter 1, Title 5, Guam Code Annotated.

Pursuant to this provision, references in this section to "Council" have been changed to "Bureau."

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§ 1214. Coordination of Effort.

Any existing committee, commission, task force or body mandated to engage in planning for Guam, or for particular areas or jurisdictions within Guam, shall seek to ensure that such planning efforts are provided the appropriate financial, human, technical and support resources necessary to accomplish any mandates or requirements of law relative to development planning; provided, however, that such planning efforts are compliant and in accordance with the *Guåhan* 2050 Sustainability Plan.

For purposes of this Chapter, all plans prepared by any agency or instrumentality of the government of Guam shall be circulated to other agencies or instrumentalities affected by such plan and to the Bureau for review and finalization no later than sixty (60) days prior to submission of the plan to the Bureau..

SOURCE: GC § 62014 added by P.L. 20-147. Amended by P.L. 35-110:8 (Dec. 1, 2020).

§ 1215. Severability.

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or application, and to this end, the provisions of this Chapter are severable.

SOURCE: GC § 62021 amended and renumbered by P.L. 20-147.

ARTICLE 3

BUREAU OF BUDGET AND MANAGEMENT RESEARCH

- § 1301. Creation of Bureau of Budget and Management Research.
- § 1302. Duties and Responsibilities of the Bureau.
- § 1303. Management of Allotments.
- § 1303.1. Exemption from BBMR Allotment Release Control.
- § 1304. Audit Fees.

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§ 1301. Creation of Bureau of Budget and Management Research.

There is within the Office of the Governor of Guam, a Bureau of Budget and Management Research which shall be headed by a Director of Bureau of Budget and Management Research. The Director, Deputy Director and Private Secretary shall be members of the unclassified service of the government of Guam. All other positions in the Bureau of Budget and Management Research shall be in the classified service. The Director shall be appointed by the Governor with the advice and consent of the Legislature.

SOURCE: GC § 5005 added by P.L. 12-115; amended by P.L. 15-27:1.

§ 1302. Duties and Responsibilities of the Bureau.

In addition to the duties and responsibilities prescribed for the Bureau by any other provision of law, the Bureau shall also have the following duties and responsibilities:

(a) Conduct necessary operational planning and management research and studies to ensure that effective planning and management methods are utilized by departments and agencies of the government of Guam and otherwise to ensure that each public school student receives an adequate public education;

(b) Subject to the approval of *I Maga'lahi* (the Governor), prescribe a budget calendar for the guidance of all executive agencies and a system of quarterly allotments to insure that appropriations and non-appropriated funds are not exhausted beyond the fiscal period for which such appropriations and funds are made available; provided that such budget calendar and quarterly allotments are proportionately calculated so as to ensure that every public school student receives an adequate public education;

(c) To institute a system of form control; and

(d) Perform such other duties and responsibilities as may be prescribed by *I Maga'lahi* (the Governor) or by law.

SOURCE: GC § 5005.1 added by P.L. 12-115:2. Amended by P.L. 28-045:5, effective Oct. 1, 2005 in accordance with P.L.28-045:23.

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COMMENT: The original language in the first paragraph referred to Chapter III of Title X of the Government Code. However, these sections were repealed by P.L. 7-101 in 1964 and therefore the reference in this section to those laws has been eliminated. Also, the original reference was probably a misprint, as the referenced sections dealt with the Chief Medical Examiner and not the BBMR.

§ 1303. Management of Allotments.

In the release of monthly or quarterly allotments by the Bureau of Budget & Management Research from appropriation acts, the Director thereof shall base such allotments on anticipated cash receipts so that the obligations incurred pursuant to such release of periodic allotments shall have sufficient cash for their payment, provided that sufficient cash shall always be released to the Department of Education to provide an adequate public education to every public school student.

No agency shall contract or agree to spend any money for goods or services or in settlement of a lawsuit or claim in excess of the amount appropriated by the Legislature to that Agency for such goods, services, claim, or settlement, and BBMR shall not allot funds to that agency for the payment of any amount towards such goods, services, claim, or settlement if the total amount of the goods, services, claim, or settlement is more than the amount appropriated or amount allotted by BBMR. Any contract or agreement made in violation hereof shall be void. Any agency head or certifying officer who knowingly contracts or agrees to spend any money in excess of said allotments shall be guilty of a misdemeanor.

SOURCE: GC § 5005.2 added by P.L. 17-24:7. Amended by P.L. 28-045:6, effective Oct. 1, 2005 in accordance with P.L.28-045:23. Amended by P.L. 31-233:XII:12(b) (Sept. 7, 2012).

NOTE: Per P.L. 28-150:VI:1 (Sept. 30, 2006), this section “shall not apply to the Mayor’s Council of Guam, *I Liheslaturan Guåhan*, the Office of the Public Auditor, the Office of Finance and Budget, the Office of the Attorney General and the Judicial Branch. Said entities may draw against their respective appropriations in order to meet their respective obligations, as the need arises, in accordance with a drawdown schedule that such entities shall submit to the Department of Administration.”

2009 NOTE: Reference to Office of Public Auditor changed to Office of Public Accountability pursuant to P.L. 30-027:2 (June 16, 2009).

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P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 1303.1. Exemption from BBMR Allotment Release Control.

Section 1303 of this Chapter shall not apply to *I Liheslaturan Guåhan* (including the Office of Finance and Budget), the Public Defender Service Corporation, the Unified Judiciary of Guam, the Mayors Council of Guam, the Office of Public Accountability, the Office of the Attorney General, the Guam Memorial Hospital Authority, the Guam Visitors Bureau, the University of Guam, the Guam Community College, and the Guam Election Commission, Guam Ancestral Lands Commission, and the Chamorro Land Trust Commission. Said entities may draw against their respective appropriations as needed to meet their obligations in accordance with a drawdown schedule that said entities shall submit to the Director of Administration no later than October 31 of each fiscal year. If an entity fails to submit such drawdown schedule by October 31 of each fiscal year the Director of Administration may withhold a drawdown request for the current fiscal year until such time the entity submits its drawdown schedule for the entire fiscal year. The Director of Administration shall not, for any reason, withhold any amount appropriated by *I Liheslaturan Guåhan* to the Guam Election Commission.

SOURCE: Added by P.L. 33-066:XII:25 (Sept. 5, 2015). Amended by P.L. 35-099:XII:24(b) (Sept. 15, 2020); and P.L. 36-054:XII:48 (Sept. 11, 2021).

§ 1304. Audit Fees.

The Bureau of Budget and Management Research is authorized to use federal funds received as reimbursement for audit and program evaluation already performed on Federal Programs for purposes of recruitment, training and staff development within the Bureau. However, recruitment shall be subject to the availability of federal funds.

SOURCE: Section 41 of P.L. 18-15. Uncodified.

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**ARTICLE 4
ECONOMIC PLANNING COUNCIL**

- § 1401. Economic Planning Council.
- § 1402. Purpose of Council.
- § 1403. Logistic Support.
- § 1404. Council's Authority to Recommend.

§ 1401. Economic Planning Council.

There is within the Office of *I Maga'lahren Guåhan* an Economic Planning Council to be comprised of nine (9) members. Of the nine (9) members, four (4) members shall be selected by *I Maga'lahren Guåhan* from among those who head the following agencies: the Department of Agriculture ('DOA'), the Guam Economic Development and Commerce Authority, the Guam Housing and Urban Renewal Authority ('GHURA'), the Guam Housing Corporation ('GHC'), the Department of Labor ('DOL'), the DOL Division of Workforce Development and Training, the Bureau of Budget and Management Research ('BBMR'), the Department of Revenue and Taxation ('DRT'), the A. B. Won Pat Guam International Airport Authority ('GIAA'), the Port Authority of Guam ('PAG'), the Guam Community College ('GCC'), the University of Guam ('UOG'), the Guam Advisory Council of Vocational Rehabilitation, the Bureau of Statistics and Plans, and the Guam Visitors Bureau ('GVB').

In addition to the agency members, there shall be four (4) members from the business community and community-at-large chosen by *I Maga'lahren Guåhan* (the Governor) with the advice and consent of *I Liheslaturan Guåhan* (the Legislature). The ninth (9th) member of the Council shall be chosen by the other eight (8) members. The non-agency members shall receive the sum of Fifty Dollars (\$50.00) for each attendance at a meeting of the Council, not to exceed One Hundred Dollars (\$100.00) per month.

SOURCE: GC § 5250 added by P.L. 17-23. Amended by P.L. 26-76:40.

2015 NOTE: Pursuant to P.L. 33-061 (Aug. 24, 2015), codified as 22 GCA § 1301 *et seq.*, the reference to the Agency for Human Resources Development has been replaced with the Division of Workforce Development and Training of the Department of Labor.

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§ 1402. Purpose of Council.

The Council shall undertake an economic program of the territory for the purpose of formulating a short and long-range economic master plan for the territory which shall be approved by resolution. The Council shall monitor the approved progress of the program and report any actions of nonconforming and/or noncooperative governmental agencies to the Governor and the Legislature.

SOURCE: GC § 5251 added by P.L. 17-23.

COMMENT: The Legislature does not have the power to approve, with binding effect, by resolution any matter which will have the force and effect of law. See Attorney General Opinion PCF #85-1031; see also *INS v. Chada*, 103 S.Ct. 2754 (1983). To avoid any question of validity, and because this section does not mention the body required to adopt the resolution, the Compiler assumes that the body which must pass the resolution is the Council, itself.

§ 1403. Logistic Support.

The Governor is authorized to designate appropriate governmental agencies to provide office space, clerical and professional assistance to the Council.

SOURCE: GC § 5252 added by P.L. 17-23.

§ 1404. Council's Authority to Recommend.

The Council shall have the authority to recommend policy guidelines for any government agencies necessary to be in conformity to the economic program adopted by § 1402 of this Article.

SOURCE: GC § 5253 added by P.L. 17-23.

**ARTICLE 5
GENERAL PROVISIONS CONCERNING THE GOVERNOR**

- § 1501. Report to Accompany Proposed Legislation.
- § 1502. Transition in Office of Governor.
- § 1503. Authority of Governor to Issue General Obligation Bonds.

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- § 1504. Authority to Create Debt to Re-fund Highway Bonds.
- § 1505. Authority to Create Debt for Capital Improvement Projects.
- § 1506. Sister City Programs.
- § 1507. Annual Report.
- § 1508. Water System Revenue Bonds.
- § 1508.1. Water System Bonds of 2001.
- § 1509. Indemnity for Tiyan (former NAS) Liabilities.
- § 1510. Chamorro Names Used.
- § 1511. *I Maga'lahen Guåhan* [Governor] to Always Receive Bills.
- § 1512. Authorization to Issue Bonds for Deficit Financing.
- § 1512.1. [Same] Authorization to Issue Bonds for Deficit Financing.
- § 1512.2. Authorization to Enter Into Loan for Landfill Costs.
- § 1512.3. Authorization to Issue Bonds for Revenue Anticipation Financing.
- § 1512.4. Authorization to Issue Bonds to Finance New Landfill Cell Development for the Benefit of the Guam Solid Waste Authority.
- § 1512.5. Authorization of Refunding of Government of Guam Business Privilege Tax Bonds, Series 2011A, Government of Guam Business Privilege Tax Bonds, Series 2012B, and Government of Guam Business Privilege Tax Refunding Bonds, Series 2015D.
- § 1513. 2005 Revenue Road and Pothole Repair Bonds.
- § 1514. Authorization to Borrow For the Purpose of Acquiring, Constructing and Equipping an Educational Cultural Facility.
- § 1515. Authorization to Borrow for the Purpose of Acquiring, Constructing and Equipping an Educational Cultural Facility, a Community Cultural Center and Certain Other Projects That Benefit Guam's Tourism Industry and for the Purpose of Refunding the Outstanding Government of Guam Limited Obligation Infrastructure Improvement Bonds.
- § 1515.1. Authorization of One (1) or More Series of Hotel Occupancy Tax Revenue Bonds.
- § 1516. GARVEE Bonds Authorized.

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§ 1517. Salary of *I Maga'låhen Guåhan*.

2011 NOTE: P.L. 31-077:XII:40 (Sept. 20, 2011) added a new item (3) to subsection (i), Title 5, Chapter 1, Article 5, but did not include the intended section.

Item (3) provides:

“(3) Bond proceeds appropriated under item (1) of this Subsection shall be expended for purposes exclusive to and in support of item (1) and shall not be expended for purposes in item (2) of this Subsection or for any other purposes.”

§ 1501. Report to Accompany Proposed Legislation.

Whenever the Governor transmits to the Legislature proposed legislation pursuant to § 6(b) of the Organic Act of Guam, such proposed legislation shall be accompanied by a written report containing the following items:

(a) A narrative statement and the reasons why said legislation is necessary;

(b) What changes, if any, such proposed legislation will make in existing law, whether statutory or otherwise, if enacted; [and]

(c) A section-by-section analysis of the proposed legislation.

SOURCE: GC § 5008 added by P.L. 10-24.

NOTE: “And” has been added after subparagraph (b) to indicate that subparagraph (c) is the last of a series of connected paragraphs.

§ 1502. Transition in Office of Governor.

(a) For the period following the election of the Governor of Guam in November of every fourth year beginning in 1970, the then incumbent Governor, if not the successful candidate, shall assist the Governor-elect in preparing for his new duties until he assumes office in January of the year following his election. Such assistance by the incumbent Governor shall include but not be limited to making available to the Governor-elect or his designees office space, office supplies, clerical assistance, and logistical support from other governmental agencies necessary for site and

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facility preparation, transportation, and security in conjunction with the inaugural celebration. In addition, the incumbent Governor shall assist the Governor-elect in acquainting the latter with the operation of the government with the end in view that the transition between administrations will go smoothly and not interrupt the orderly transaction of public affairs. All expenses authorized by this subsection (a) shall be paid out of the current operations budget of the Executive Branch of the government notwithstanding any other provisions of law or regulations to the contrary.

(b) The Governor-elect is authorized to appoint a Committee which shall assist him during the transition period between his election and his assumption of office. The Committee shall comprise of such members as the Governor-elect shall deem necessary and shall be an operating agency of the government and remain such for a period not to exceed 30 days after the assumption of office by the Governor-elect. The Committee shall have such duties as the Governor-elect may deem necessary for an orderly transition between administrations which shall include, but not be limited to, the preparation of the Governor-elect's inaugural ceremony and celebration.

(c) Notwithstanding any provisions of law to the contrary, the Governor-elect, or delegates designated by him in writing, shall have exclusive authority to obligate or make commitments against any appropriation made to carry out the provisions of subsection (b) of this Section, and the Certifying Officer of the Department of Administration shall certify all obligations or expenditures made thereunder.

(d) The Chairman of the Committee, who shall be appointed by the Governor-elect, shall, not later than 30 days after the assumption of office by the Governor-elect, prepare and submit a written report to the Governor and the Legislature regarding the activities of the Committee, together with recommendations for improvement of transition between administrations as provided by the provisions of this Section.

(e) Notwithstanding any other provisions of law, in addition to utilizing government funds and in order to keep the use of public funds to a minimum, the Committee may accept monetary

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and in-kind donations for the purposes set out in this Section, and may deposit donations in a private bank account to be administered by the Committee. A report of the donations received and expenses paid shall be included in the report made pursuant to subsection (d) of this Section. All such donations, being made to an interim government agency, shall be tax deductible pursuant to § 170 of the Internal Revenue Code. Donations in excess of the amount needed to pay expenses of the Committee shall be the property of the Government of Guam and shall be deposited with the Treasury of Guam no later than thirty days after the assumption of office of the Governor-elect.

SOURCE: GC § 5010 added by P.L. 10-111; amended by P.L. 12-188. Subsection (e) added by P.L. 22-142:3(d) (12/13/94).

§ 1503. Authority of Governor to Issue General Obligation Bonds.

The Governor of Guam is authorized to borrow funds pursuant to by the issuance of General Obligation Bonds provided such bonds are issued pursuant to 12 GCA § 2103(k).

SOURCE: GC § 5011 added by P.L. 17-25:13.

§ 1504. Limited Obligation Highway Refunding Bonds.

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

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

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contain such terms and conditions as are consistent with this Section.

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

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

(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated the government of Guam waives immunity from any

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suit or action in contract on the bonds, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

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

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

(h) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds shall be used solely to refund all or a portion of the government of Guam Limited Obligation Highway Bonds, 1985 Series A, to implement the Capital Improvement Highway Projects enumerated in Subsection (j) of this Section, and to pay expenses relating to the authorization, sale and issuance of the bonds and the payment of the bonds being refunded, including, without limitation, printing costs, costs of reproducing

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documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds, escrow agent fees and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds and the payment of the bonds being refunded.

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

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

Project	Cost
(1) Reconstruction of Route 1 from Polaris Point Intersection to Route 2A (Commissary Junction near Naval Station)	\$ 6.0 Million
(2) Reconstruction of Route 2A from Commissary Junction to Namo River in Agat	\$ 4.0 Million
(3) Design and Reconstruction of of three (3) land highway including sidewalks on Route 30 (Camp Watkins Road) from its intersection with Route 1 (Marine Drive) to Guam Memorial Hospital including Farenholt Avenue and land acquisition required for the project	\$10.0 Million

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| (4) Design and Construction of Harmon Access Road including Land Acquisition (Road from Harmon Strip connecting to Route 16 at the Harmon Loop Intersection) | \$ 3.0 Million |
| (5) Land Acquisition for the Agat Umatac Project and for unacquired land on Route 1, land acquisition of unacquired Route 6 property, land acquisition Macheche Road, Bello Road, and Alegeta St. | \$ 4.0 Million |
| (6) Resurfacing of approximately 5 miles of Route 4 through Merizo including spot repair, minor drainage improvements and safety treatments as needed | \$ 3.0 Million |
| (7) Design and construction of San Ramon Hill roadway network encompassing Route 7, Senator Gibson Road, and Esperanza Street, including installation of underground drainage with sidewalks, spot repair as necessary, widening and installation of anti-skid wearing course | \$ 2.0 Million |
| (8) A sidewalk 6 feet in width on the South side of San Vitores Road from John F. Kennedy High School to the traffic circle | \$ 0.5 Million |
| (9) Planning, design and initial construction of bike/jogging paths island wide | \$ 1.0 Million |
| (10) The unused and unencumbered bond proceed balance; to the extent of any bond proceeds not required and unexpended for the projects listed in Items (1) through (9) of this Subsection (j); and the interest earned upon or any | |

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profits derived from the sale of bond investments cumulatively deposited and made a part of the Capital Projects Fund of the Territorial Highway Fund (aka Guam Highway Fund) of which the government of Guam is authorized to use and expend by legislative appropriation for capital improvement road and infrastructure projects.

GRAND TOTAL

\$33.5 Million

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

(k) Village Streets Fund. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Village Streets Fund ('VSF').

(1) The VSF shall be used exclusively for the purposes of payment to vendors for village road planning, design, construction, reconstruction, improvement, repair and maintenance services, supplies and equipment to be used for road repair and maintenance, the acquisition of rights of way, or to service debt payments of revenue bonds which may be issued to fund the construction, repair and maintenance of secondary and tertiary roads. All roads defined as 'major arterial', 'minor arterial' and 'major collector', as defined in the Highway System Classification Map of Guam, shall continue to be maintained by the Department of Public Works and are excluded from the proceeds of the VSF.

(2) Funds deposited into the VSF shall be subject to Legislative appropriation prior to expenditures from such fund and shall not be subject to any transfer authority.

SOURCE: Added by P.L. 19-002:1 (Apr. 20, 1987) as GC § 6128. Codified by Compiler as GC § 6130. Recodified by Compiler as 5 GCA § 1504. Entire section repealed and reenacted by P.L. 20-014:3 (June 8,

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1989) and P.L. 21-110:1 (June 1, 1992). Subsection (k) added by P.L. 23-128:25 (Dec. 12, 1996); repealed/reenacted by P.L. 25-164:III:20(b) (Sept. 26, 2000); amended by P.L. 26-077:12 and 13 (Mar. 24, 2002); amended by P.L. 28-068:IV:24 (Sept. 30, 2005). Item (j)(10) added by P.L. 28-068:II:IV:1k (Sept. 30, 2005).

2017 NOTE: Subitem designation(s) deleted/added pursuant to authority granted by 1 GCA § 1606.

§ 1505. Authority to Create Debt for Capital Improvement Projects.

(a) Authorization of Issuance of Limited Obligation Infrastructure Improvement Debts. The Governor of Guam is authorized to create a debt or debts of the government of Guam in aggregate principal amount not to exceed Twenty-Nine Million Dollars (\$29,000,000) for a maximum term of twenty (20) years for the purpose of implementing Capital Improvement Projects enumerated in subsection (i) of this section; provided, however, that

(1) the terms and conditions of the debts or debts shall be approved by the Legislature by statute; and

(2) the debt or debts shall not cause a violation of the debt limitation provisions of 48 U.S.C. §1423a.

(b) Loans, Indenture or Other Agreement. Such debt or debts may be created by a loan, indenture or other agreement executed by the Governor containing such terms as are consistent with this section.

(c) Valid and Binding Obligation. To the extent that the debt limitation provisions of 48 U.S.C. §1423a are not violated, any debt or debts authorized by this section shall constitute the valid and legally binding limited obligation of the government of Guam payable from and secured by a pledge of the revenues derived from the Tourist Attraction Fund. The validity of any such debt or debts shall not be affected by the validity or regularity of any proceedings for the implementation of Capital Improvement Projects funded by the debt or debts.

(d) Pledge of Revenues. All or any part of the revenues constituting the Tourist Attraction Fund created by § 19655 of this Code may be pledged to secure the repayment of any debt or debts

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created under this section and pay costs incurred in the creation of such debts. Any pledge made to secure the debt or debts shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the government of Guam, such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture by which such pledges are created need not be recorded. Revenues pledged for debt service are hereby continuously appropriated for such purpose.

(1) Revenues constituting the Tourist Attraction Fund shall be expended in accordance with the terms of the indenture pursuant to which the debt or debts will be issued so that

(A) The first priority shall be to meet all requirements of the repayment of debt or debts created in this section; and

(B) The second priority shall be to provide operating funds for the Guam Visitors Bureau at a level the Legislature deems appropriate.

(2) The Legislature shall continue to enact a budget for the operation of the Guam Visitors Bureau at any level which the Legislature deems appropriate.

(3) All revenues so pledged and appropriated which are not required pursuant to paragraphs (1) and (2) of this subsection (d) shall revert to the Tourist Attraction Fund.

(4) The Director of Administration shall transmit to the Legislature a copy of the trustee's monthly report on collections and disbursements of the funds it collects and disburses pursuant to this section within five (5) working days of the Director's receipt of such report. The preparation and filing of such a monthly report are mandatory.

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(e) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter VI of Title VII of the Government Code, the government of Guam waives immunity from any suit or action in contract on such debt, but does not waive sovereign immunity as to the personal liability of elected officials and full time employees of the government of Guam.

(f) Form of Debt or Debts; Covenants; Appointment of Trustee. The technical form and language of the debt or debts, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this § 6130, including covenants relating to the maintenance of revenues, shall be as specified in an indenture approved by the Governor, authorizing the issuance of the debt or debts. The indenture may appoint a trustee authorized to receive and hold in trust the proceeds of the debt or debts and revenues related thereto, to protect the rights of debt holders and to perform such other duties as may be specified in the indenture. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the debt or debts and the sale of the debt or debts.

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

(h) Use of Proceeds from the Sale of Debt or Debts. All Capital Improvement Projects to be funded from the provisions of this section must be reviewed and approved by the Governor prior to their implementation. Proceeds from the sale of the debt or debts shall be used solely to pay the costs of the Capital Improvement Projects described in subsection (i) of this section

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and to pay expenses related to the authorization, sale and issuance of the debt or debts, including without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the debt or debts.

(i) The Capital Improvement Projects to be funded from the implementation of this section, any deviation from which requires legislative concurrence, are:

(1) TUMON SEWAGE REVERSAL \$4,700,000

(Installation of sewer force main and gravity lines and modification of Tumon and Mamajano pump stations; project will reverse sewage flows from Tumon, Harmon, Barrigada and Liguana Terrace to the Northern District Sewer System.)

(2) COMPLETION OF SAN VITORES ROAD \$2,700,000

(\$2.2 million will be applied towards completion of physical improvements and \$500,000 will be utilized for remaining land acquisition.)

(3) AGAT-UMATAC HIGHWAY COMPLETION \$3,100,000

(Construction of Route 4 from Agat to Lalahita Memorial Park.)

(4) ASTUMBO SUBDIVISION INFRASTRUCTURE \$3,500,000

(Construction of roadways and water and sewer facilities to serve approximately 500 residential lots.)

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(5) GMHA POWER SYSTEM DESIGN \$800,000

(Secure the services of an electrical engineering firm to: determine the electrical generation needs of the Guam Memorial Hospital, taking into consideration present load requirements and load requirements of future expansion plans; design an uninterruptible emergency power supply system for the Hospital; prepare a request for proposals for:

(A) purchase and installation of the uninterruptible power supply system, inclusive of an automatic transfer witch,

(B) construction management of the installation of said uninterruptible power supply system, and

(C) a training program designed to educate and train Guam Memorial Hospital employees in the operation and maintenance of said uninterruptible power supply system. The Guam Memorial Hospital Authority shall secure the services of the electrical engineering firm provided for here through the standard procurement regulations and procedures of the government of Guam, provided, however, that the firm selected for the feasibility and design phases of this project shall not be eligible for consideration for the construction management contract nor shall said firm be involved in the actual purchase of said electrical generating equipment except

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for the provision of consulting services to the Guam Memorial Hospital during the

evaluation of submissions in response to the requests for proposals contained herein.)

(6) PUBLIC MARKET PROJECT **\$1,845,972**

(Design and construction of a new facility to accommodate a variety of public market functions. The facility shall be permanent no temporary structures and no tin roofs; and provided, however, that no funds for this improvement project shall be expended until the repair on the Sagan Dinana structure has commenced. Preference and priority for space in the Public Market shall be given to those who sell local marine, aquacultural and agricultural products and those who primarily sell products bearing the Guam Product Seal. The Governor and the Port Authority of Guam Board of Directors must concur that the final plans of the Public Market are aesthetically consistent with the development of the Agana Marina; Port Authority Board approval should be expressed through the adoption of a resolution.)

(7) HIGHWAY HAZARD ELIMINATION PROJECT **\$3,650,000**

(This project entails roadway spot repairs and anti-skid paving, installation of guardrails, pavement markers and other safety measures at various locations. Specific locations are as follows:

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(A) Route 4 from poultry farm to As Linguit / Pauliluc Bridges, Inarajan	\$250,000
(B) Route 4 between Umatac and Merizo villages	\$680,000
(C) Route 17 between Santa Rita and Yona along Cross Island Road	\$570,000
(D) Route 4A from Route 4 to Talofoto Village proper	\$400,000
(E) Route 9 in the vicinity of Agafa Gumas, Yigo	\$150,000
(F) Route 12, installation of 400 linear feet of guardrail in the vicinity of Santa Rita	\$30,000
(G) Macheche Road, replacement of anti-skid surface and installation of pavement markers near the Latte Heights Subdivision	\$350,000
(H) Gayinero Road, installation of 800 linear feet of guardrail in Yigo	\$50,000
(I) Ypao Road, installation of guard rails, pavement markers, spot repairs and anti-skid pavement	\$70,000
(J) Route 7 in the vicinity of Agana Heights between Route 1 intersection and Naval Hospital entrance	\$550,000
(K) Route 6 in the vicinity of Asan/ Piti and the Nimitz Hill area	\$500,000
(8) MERIZO FLOOD CONTROL (Installation of drainage improvements in the Barcinas and Cruz areas in Merizo.)	\$350,000
(9) INARAJAN BOAT LAUNCHING RAMP (Construction of new boat ramp in the	\$250,000

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Inarajan Village area.)

(10) MERIZO PIER EXPANSION \$200,000

(Replacement of existing pier to increase capacity and to restore shoreline eroded areas.)

(11) UMATAC SEA WALL \$60,000

(Restoration of approximately 200 linear feet of sea wall in Umatac Village proper.)

(12) UMATAC-MERIZO HIGHWAY DESIGN \$2,056

(Highway design along Route 4, Umatac to Merizo, for an upgraded two lane highway with a center lane. The project will include paved shoulders and adequate drainage.)

(13) MERIZO-INARAJAN HIGHWAY DESIGN \$1,680

(Highway design along Route 4, Merizo to Inarajan for an upgraded two lane highway with a center lane. The project will include paved shoulders and adequate drainage.)

(14) INARAJAN-TALOFOFO HIGHWAY DESIGN \$400,000

(Highway design of Route 4 from Inarajan to Talofoto for an upgraded two lane highway with a center lane. The project will include paved shoulders and adequate drainage.)

(15) TALOFOFO-YONA HIGHWAY DESIGN \$400,000

(Highway design of Route 4 from Talofoto to Yona for an upgraded two lane

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highway with a center lane. The

project will include paved shoulders and adequate drainage.)

(16) INARAJAN COMMUNITY CENTER UPGRADE	\$400,000
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(Repair and renovation of existing Inarajan Community Center)

(17) MALOJLOJ BASEBALL FIELD	\$520,000
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(Design and construction of baseball field in Malojloj)

(18) MONGMONG COMMUNITY CENTER CONSTRUCTION	\$300,000
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(Construction of new Mongmong Community Center)

(19) YIGO COMMUNITY CENTER UPGRADE	\$300,000
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(Repair and renovation of existing Yigo Community Center)

(20) EXTENSION OF CHALAN KANTON TUTUJAN TO ROUTE 7	\$1,400,000
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(21) CHAOT SEWER SYSTEM UPGRADE	\$817,618
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\$25,630,000

(j) Refunding Obligations. The Governor of Guam is authorized, with the specific authorization by statute of the Legislature, to create a debt of debts for the sole purpose of refunding all or a portion of the debt or debts authorized by subsection (a) of this § 6130.

(k) Except for Item (21), all unexpended, un-obligated and unencumbered balances of the appropriations in Subsection (i) of

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this Section as of September 30, 1999 shall be reprogrammed and re-appropriated as follows:

(1) ninety-nine percent (99%) to the Department of Education for the repair and renovation of public school buildings and structures, to be expended in the following priority:

(A) repair and reconstruction of C. L. Taitano Elementary School;

(B) match of Federal funds made available by Federal Emergency Management Agency, or other Federal entity, in order to maximize the ability of the Department of Education to repair, reconstruct or construct school buildings; and

(C) repair, reconstruction or construction of school buildings that have a direct impact of remedying structural deficiencies to ensure student and staff safety.

(2) one percent (1%) to the Guam Police Department for the renovation of its crime laboratory located in Tiyan.

SOURCE: GC § 6130 enacted by P.L. 19-5:144; subsections (a), (d) and (3) as amended by P.L. 19-18:1. Repealed and reenacted by P.L. 20-14:3. Items (6), (12) and (13) of Subsection (i) are amended and new Item (21) is added by P.L. 23-97:2. Subsection (k) added by P.L. 25-98:26.

NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (a), (d), and (i)(5), (7) and (k)(1) were altered to adhere to the Compiler's alpha-numeric scheme.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 1506. Sister City Programs.

(a) The Governor of Guam, on behalf of the government of Guam, is hereby authorized to enter into Sister City relationships between the territory of Guam and any city outside of Guam, provided, however, that any such relationship shall be approved by the Legislature by resolution.

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(b) Expenses by the government of Guam for such programs shall be paid out of the contingent funds appropriated for the Governor of Guam in the case of any expenditure incurred by the Executive Branch and out of the contingent funds appropriated for the Speaker of the Legislature in the case of expenditures incurred by the Guam Legislature.

SOURCE: GC § 5050 added by P.L. 13-6:5.

COMMENT: The Legislature does not have the power to regulate the Executive Branch by resolution. See Attorney General's Opinion PCF #85-1031. See also *INS v. Chada*, 103 S. Ct. 2754 (1983).

§ 1507. Annual Report.

Each head of a department, independent agency, board, or commission shall submit a detailed report by no later than December 31 of each year, unless otherwise provided by law, to the Governor and Legislature on the operation of his department, independent agency, board, or commission during the fiscal year concluded on the preceding September 30, and projecting the goals and objectives of the department, independent agency, board or commissions developed for the program budget report. Any department, independent agency, board or commission may issue such additional reports on its findings and recommendations as its operations require.

SOURCE: GC § 5150 added by P.L. 14-15:1; amended by P.L. 16-60:1.

COMMENT: Amendment made to reflect change in the government's fiscal year to correspond to the federal government's fiscal year, as required by § 30 of the Organic Act.

§ 1508. Water System Revenue Bonds.

(a) Authorization of Issuance of Water System Revenue Debt. The Governor of Guam is authorized to create a debt or debts of the government of Guam in aggregate principal amount not to exceed Fifty-Three Million Dollars (\$53,000,000) for a maximum term of twenty (20) years for the purpose of implementing the Water System Projects enumerated in subsection (k) of this § 1508; provided, however, that

(1) the terms and conditions of the debt or debts shall be approved by the Legislature by statute; and

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(2) any debt or debts shall not cause a violation of the debt limitation provisions of 48 U.S.C. §1423a.

(b) Certificate of Governor. The terms and conditions of the debt or debts shall be as determined by the Governor by the execution of one or more certificates upon or prior to the issuance of the debt or debts. Any such certificate may also authorize persons so designated to execute, on behalf of the government of Guam, any appropriate agreements or other documents relating to the debt or debts and the sale of the debt or debts. The certificates shall contain such terms and conditions as are consistent with this § 1508.

(c) Valid and Binding Obligation. To the extent that the debt limitation provisions of 48 U.S.C. §1423a are not violated, any debt or debts authorized by this § 1508 shall constitute the valid and legally binding limited obligation of the government of Guam payable from and secured by a pledge of the revenues described in subsections (d) and (e) of this § 1508. The validity of any such debt or debts shall not be affected by the validity or regularity of any proceedings for the implementation of Water System Projects funded by the debt or debts.

(d) Pledge of Water and Sewer System Revenues. All or any part of the revenues received or receivable by the government of Guam from the ownership or operation of any part of the water and sewer systems operated by the Public Utility Agency of Guam shall be deposited in the Public Utility Agency of Guam Fund pursuant to § 21208 of the Government Code, and shall be pledged subject to any prior or parity pledge to secure the repayment of any debt or debts created under this § 1508 and pay costs incurred in the creation of such debt or debts. Any pledge made to secure the debt or debts shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the government of Guam, such trustee, depository or custodian, irrespective of whether the parties

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have notice thereof. The certificate by which such pledges are created need not be recorded. Revenues for debt service pledged are hereby continuously appropriated for such purpose.

(e) Pledge of Section 30 Revenues. All or any part of the revenues derived by the government of Guam under Section 30 of the Organic Act may be pledged to secure the repayment of any debt or debts created under this § 1508 and pay costs incurred in the creation of such debts, subject to any previously created lien on or pledge of such revenues. Any pledge made to secure the debt or debts shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the government of Guam, such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate by which such pledge is created need not be recorded. All revenues pledged are hereby continuously appropriated for the purpose for which they have been pledged.

(f) Appropriation to Public Utility Agency of Guam. The Legislature shall continue to enact a budget for the operation of the Public Utility Agency of Guam at any level which the Legislature deems appropriate for the term of the debt prescribed in Section 4 of this Act.

(g) Waiver of Immunity. Notwithstanding any substantive or procedural provision of Chapter VI of Title VII of the Government Code, the government of Guam waives immunity from any suit or action in contract on such debt or debts, but does not waive sovereign immunity as to the personal liability of elected officials and full-time employees of the government of Guam.

(h) Form of Debt or Debts; Covenants; Appointment of Trustee. The technical form and language of the debt or debts, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms and conditions not inconsistent with

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this § 1508, including covenants relating to the maintenance and operation of the water and sewer systems operated by the Public Utility Agency of Guam, shall be as specified in a certificate approved by the Governor, authorizing the issuance of the debt or debts. The certificate may appoint a trustee authorized to receive and hold in trust the proceeds of the debt or debts and revenues related thereto, to protect the rights of debt holders and to perform such other duties as may be specified in the certificate. The Governor is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the debt or debts and the sale of the debt or debts.

(i) Authorization for Credit Enhancement. The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the debt or debts created under this § 1508. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal or interest on the debt or debts. Any such reimbursement obligation may be secured by a pledge of the revenues described in subsections (d) and (e) of this § 1508.

(j) Use of Proceeds from the Sale of Debt or Debts. All Water System Projects to be funded from the provisions of this § 1508 must be reviewed and approved by the Governor prior to their implementation. Proceeds from the sale of the debt or debts shall be used solely to pay and are hereby appropriated to pay the costs of the Water System Projects described in subsection (k) of this § 1508, and to pay expenses related to the authorization, sale and issuance of the debt or debts, including without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other costs, charges and fees in connection with the issuance, sale and delivery of the debt or debts.

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(k) Water System Projects. The following projects shall be funded as follows:

(1) Yigo/Dededo Source and Storage System Improvement	10,592,312
(2) Replacement of Water Distribution Lines in Agat/Santa Rita	5,311,288
(3) Agat/Santa Rita Sewer System, Part of Phase I and Total of Phase II	4,640,634
(4) Finegayan/Tumon Waterline-Water Transmission Line from Y-Sengsong Intersection South along Route 3, West along Route 1 past Harmon Loop Reservoir to Intersection with 14" Water Main	4,277,190
(5) Barrigada/Toto Waterline-Water Transmission Line along Route 8 from Route 10 Intersection to Canada-Toto Road	1,885,646
(6) Tumon/Tamuning Waterline-Water Transmission Line from Intersection of Route 1 and 14" Water Main (near Haruna Restaurant) South Westerly along Route 1 to Camp Watkins Road Intersection	2,431,184
(7) Agana/Asan/Piti Water System Improvement	7,140,000
(8) Agat/Umatac Water System Improvement	4,005,826
(9) Dededo Reservoir	3,484,540
(10) Macheche/Adacao Water Distribution Lines, Phase I	2,715,376

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(11) Northern Treatment Plant Improvements, including Digestors and Effluent Line (land segment)	2,800,000
(12) Chaot Wastewater Improvements	979,073
(13) BPM, Mangilao	642,649
(14) Lalo, Mangilao	340,000
(15) Carlos Heights	-0-
(16) Fujita Pump Station	1,000,000

(l) The Agat/Umatac Water System Improvement project shall incorporate the elimination of the bottleneck that currently exists in the transmission line before entering Umatac from Merizo and within the village.

(m) It is the policy and intent of the Legislature to ensure that all projects enumerated in subsection (k) are completed. In this respect, the Legislature gives its consent and authorization to allow the transfer of funds from such a project, which has a surplus, to a project with a shortfall, provided, however, that the Legislature be informed in writing prior to any transfer. If a project or projects are placed on hold by the Chief Officer of the Public Utility Agency of Guam due to an unanticipated circumstance, a transfer of funds from the project or projects enumerated in subsection (k) on hold to another project with a shortfall is authorized by the Legislature; provided, that prior to any transfer the Legislature be informed in writing [of] the reasons why such a project so enumerated in subsection (k) is on hold. This subsection shall take effect on January 3, 1995.

(n) Refunding Obligations. The Governor of Guam is authorized, with the specific authorization by statute of the Legislature, to create a debt or debts for the sole purpose of refunding all or a portion of the debt or debts authorized by subsection (a) of this § 1508.

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SOURCE: Added by P.L. 20-13:2 ad GC § 6132. Subsection (m) repealed/reenacted by P.L. 22-141 (12/14/94). Subsection (k) repealed and reenacted by P.L. 23-97:1(a).

2013 NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (a) were altered to adhere to the Compiler's alpha-numeric scheme.

§ 1508.1. Water System Bonds of 2001.

(a) Authorization of Issuance of Bonds. *I Maga'lahaen Guåhan* [Governor of Guam] is authorized to issue on behalf of the government of Guam an issue of bonds of the government which may be issued as part of a larger issue including bonds issued pursuant to Chapter 51, Title 12 of the Guam Code Annotated in an aggregate principal amount not to exceed Six Million Dollars (\$6,000,000) for a maximum term of ten (10) years and with a true interest cost not to exceed five and one-half percent (5.5%) per annum for the purpose of implementing the Water System Projects enumerated in Subsection (i) of this Section, provided, however, that any such issue of bonds shall not cause a violation of the debt limitation of 48 U.S.C. §1423a.

(b) Terms and Conditions Determined by Certificate or Indenture. The terms and conditions of the bonds shall be as determined by *I Maga'lahaen Guåhan* by the execution of one or more certificates or indentures authorizing the issuance of the bonds in substantially the form presented to *I Liheslaturan Guåhan* [Guam Legislature]. Any such certificate or indenture may also authorize persons so designated to execute, on behalf of the government of Guam, any appropriate agreements or other documents relating to the bonds and the sale of the bonds. The certificates or indentures shall contain such terms and conditions as are consistent with this Section.

(c) Valid and Binding Obligation. The bonds authorized by this Section shall constitute the valid and legally binding limited obligations of the government of Guam payable from and secured by a pledge of the revenues described in Subsection (d) of this Section. All officers charged by law with any duty in the collection of any revenues from which debt service on the bonds is payable shall do every lawful thing necessary to collect the money necessary for such purpose. The validity of any such bonds

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shall not be affected by the validity or regularity of any proceedings for the implementation of Water System Projects funded by the debt or debts.

(d) Pledge of Section 30 Revenues. All or any part of the revenues derived by the government of Guam under Section 30 of the Organic Act may be pledged to secure the repayment of any bonds issued pursuant to this Section and pay costs incurred in the creation of such debts, subject to any previously created lien on or pledge of such revenues. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the government of Guam, such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate or indenture by which such pledge is created need not be recorded. All revenues pledged are hereby continuously appropriated for the purpose for which they have been pledged.

(e) Waiver of Immunity; No Personal Liability. Notwithstanding any substantive or procedural provision of the Government Claims Act, Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds issued pursuant to this Section, but does not waive sovereign immunity as to the personal liability of elected officials and full-time employees of the government of Guam. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds issued under this Section, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(f) Form of Bonds; Covenants; Appointment of Trustee. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or

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mutilated bonds, negotiability, cancellation and other terms and conditions not inconsistent with this Section, shall be as specified in a certificate or indenture approved by *I Maga'lahaen Guåhan*, authorizing the issuance of the bonds. The certificate or indenture may appoint one or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and revenues related thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the certificate or indenture. *I Maga'lahaen Guåhan* [Governor of Guam] is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds.

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

(h) Use of Proceeds from the Sale of Bonds. Proceeds from the sale of the bonds shall be used solely to pay and are hereby appropriated to pay the costs of the Water System Projects described in Subsection (i) of this Section, to fund any necessary bond reserves, to pay past due accounts owed by the Guam Waterworks Authority to the Guam Power Authority; provided, such total amount paid from bond proceeds for this purpose shall not exceed Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000.00), and to pay expenses related to the authorization, sale and issuance of the bonds, including without limitation, printing costs, costs of reproducing documents, bond insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of bonds and other

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costs, charges and fees in connection with issuance, sale and delivery of the debt or debts.

(i) Water System Projects.

(1) The proceeds of the bonds issued pursuant to Section 1508.1 of this Act shall be expended upon the capital outlays listed in Exhibit A of Public Law Number 26-34, not to exceed Three Million Two Hundred Fifty Dollars (\$3,250,000). No proceeds received pursuant to this Section shall be expended without appropriation by *I Liheslaturan Guåhan* [Guam Legislature].

(2) [See NOTE below.]

(j) Policy and Intent. It is the policy and intent of *I Liheslaturan Guåhan* [Guam Legislature] to ensure that all projects enumerated in Subsection (i) are completed. In this respect, *I Liheslaturan Guåhan* [Guam Legislature] gives its consent and authorization to allow the transfer of funds from a project with a surplus to a project with a shortfall, provided, however, that *I Liheslaturan Guåhan* [Guam Legislature] shall approve all transfers. If a project or projects are placed on hold by the General Manager of Guam Waterworks Authority due to unanticipated circumstances, a transfer of funds from the project or projects enumerated in Subsection (i) on hold to another project with a shortfall is permitted; provided, that prior to any transfer *I Liheslaturan Guåhan* [Guam Legislature] shall approve all transfers.

(k) Approval of Guam Economic Development Authority Required. 12 GCA § 50103(k) provides that agencies and instrumentalities of the government of Guam shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority ('GEDA'). No issue of bonds authorized by this Section shall be sold until the Board of Directors of GEDA has adopted a resolution approving the sale of such bonds.

(l) Approval of Terms and Conditions. 12 GCA § 50103(k) also provides that GEDCA shall not sell any bonds without approval by *I Liheslaturan Guåhan* [Guam Legislature] of the terms and conditions of the issuance of the bonds. *I Liheslaturan*

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Guåhan [Guam Legislature] hereby approves the issuance, terms and conditions of the bonds authorized by this Section.

(m) Permitted Investments. The proceeds of bonds issued by the government pursuant to this Section, and any revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the certificate or indenture pursuant to which such bonds are issued.

(n) Local Sale of Bonds. GEDA shall undertake its best efforts to cause a portion of any bonds issued pursuant to this Section, to be offered for sale in Guam, as well as in other jurisdictions, if and to the extent that such offer and any sales resulting from such offer do not increase the cost to the government of Guam of issuing and repaying such bonds.

SOURCE: Added by P.L. 26-58. Subsections (h) and (i) amended by P.L. 26-81:4 & 5.

NOTE: Apparently as part of the above § 1508.1, P.L. 26-081:6 repealed and reenacted § 13 of P.L. 26-34, which was and remains uncodified. That amendment appears below:

(2) Section 13 of Public Law 26-34 is hereby repealed and re-enacted to read:

“Section 13. Revenue Reserves. (a) The revenue reserves of One Million Six Hundred Fifty-five Thousand Eight Hundred Seventy-nine Dollars (\$1,655,879), which is the difference between the FY2002 revenue forecast of Thirty-seven Million Seven Hundred Twelve Thousand One Hundred Nine Dollars (\$37,712,109) and the combined total of the authorization in Subsection (b) herein and the FY2002 funding authorization of Thirty-five Million Eight Hundred Thirty-nine Thousand Five Hundred Sixty-four Dollars (\$35,839,564) shall be deposited in the “GWA Budget Reserve Account”.

(b) Notwithstanding any other provision of this Act or the Exhibits, Two Hundred Sixteen Thousand Six Hundred Sixty-six Dollars (\$216,666.00) of the Fiscal Year 2002 revenues shall be used as payment on the One Million Three Hundred Thousand Dollars (\$1,300,000) in debt service owed in Fiscal Year 2002 for the IBM / J.D. Edwards loan. The Board of Directors shall make its best efforts to refinance this debt for a term not to exceed sixty (60) months, and shall inform I

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Liheslaturan Guåhan [Guam Legislature] of its efforts
and the status of the refinancing every twenty (20) days.”

§ 1509. Indemnity for Tiyan (former NAS) Liabilities.

Whenever the government of Guam, upon signature of the Governor, indemnifies the United States government pursuant to execution of a license, lease, or other agreement to occupy and use land and facilities at the former Naval Air Station (NAS), now known as Tiyan, the government of Guam shall indemnify and hold harmless the government of the United States and agencies thereof for any loss to the government of the United States resulting from any liability in tort for wrongful death or personal injury claims up to an amount equal to the extent that the Federal Tort Claims Act declares liability for the government of the United States and its agencies for the land and facilities so licensed, leased, or subject to agreement, and for the time period applicable to the license, lease, or agreement. This liability for indemnification and to hold harmless shall not extend to any existing environmental problems or hazards covered by CERCLA 120 (h). The Governor is authorized to enter into such an indemnification agreement pursuant to this section. Except for indemnification claims against the government of Guam by the government of the United States and its agencies, the government of Guam shall not be liable for any tort claim arising out of its use and occupation of land and facilities at the former Naval Air Station (NAS), now known as Tiyan, in excess of the liability limits set forth in the Government Claims Act, Chapter 6 of Title 5, Guam Code Annotated.

SOURCE: Added by P.L. 23-1.

§ 1510. Uniform Use of “Governor” and “Lieutenant Governor.”

(a) Name of Governor. The Governor of Guam, created by the Organic Act of Guam, *shall* be known and designated as, ‘*I Maga’låhen Guåhan*.’ It is further designated that when referring to the Governor, the name in the CHamoru language, ‘*I Maga’låhi*’ *shall* be used.

(b) Name of Lieutenant Governor. The Lieutenant Governor of Guam, created by the Organic Act of Guam, *shall* be

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designated as, '*I Sigundo Maga'låhen Guåhan.*' It is further designated that when referring to the Lieutenant Governor, the name in the *CHamoru* language, '*I Sigundo Maga'låhi*' shall be used.

(c) Applicability. All references in this Code and the laws, rules, regulations, public documents, contracts, agreements or official recordings of public acts or transactions of Guam to 'Governor of Guam' shall be understood to refer to '*I Maga'låhen Guåhan.*' All references in this Code and the laws, rules, regulations, public documents, contracts, agreements or official recordings of public acts or transactions of Guam to 'Governor' shall be understood to refer to '*I Maga'låhi.*' All references in this Code and the laws, rules, regulations, public documents, contracts, agreements or official recordings of public acts or transactions of Guam to 'Lieutenant Governor of Guam' shall be understood to refer to '*I Sigundo Maga'låhen Guåhan.*' All references in this Code and the laws, rules, regulations, public documents, contracts, agreements or official recordings of public acts or transactions of Guam to 'Lieutenant Governor' shall be understood to refer to '*I Sigundo Maga'låhi.*'

(d) Gender. When '*I Maga'låhen Guåhan*' is a female, the proper term to be used shall be '*I Maga'hågan Guåhan.*' Similarly, in such circumstance, references to '*I Maga'låhi*' shall be changed to '*I Maga'håga.*' When '*I Sigundo Maga'låhen Guåhan*' is a female the proper term to be used shall be '*I Sigundo Maga'hågan Guåhan.*' Similarly, in such circumstance, references to '*I Sigundo Maga'låhi*' shall be changed to '*I Sigundo Maga'håga.*'

(e) Acting Capacity. In circumstances in which '*I Maga'låhi*' or '*I Sigundo Maga'låhi*' is in an acting capacity, such nomenclature shall be preceded by '*Akto.*'

(f) Material Difference. This Section shall control whenever there is found to exist a material difference.

SOURCE: Added by P.L. 24-175:1. Amended by P.L. 35-14:1 (May 7, 2019).

2016 NOTE: P.L. 33-066:XII:36 refers to this provision; however, because the public law lacks express amendatory language, no change was made to the statute.

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§ 1511. *I Maga'lahaen Guåhan* [Governor] to Always Receive Bills.

I Maga'lahaen Guåhan [The Governor] shall receive bills transmitted from *I Liheslaturan Guåhan* [the Legislature] for his review and action at any time, including after regular government working hours and on weekends and holidays. *I Maga'lahaen Guåhan* [The Governor] shall provide for a process in which transmission can be effectuated during and after regular government working hours by *I Liheslaturan Guåhan* [the Legislature] by delivering to the Speaker of *I Liheslaturan Guåhan* [the Legislature], within thirty (30) days of enactment of this law, written notice of the procedures. Until such time as notice is provided to the Speaker of *I Liheslaturan Guåhan* under this Section, *I Liheslaturan Guåhan* shall deliver to the Office of *I Maga'lahaen Guåhan* bills for *I Maga'lahaen Guåhan*'s review and action during regular government working hours; and if *I Maga'lahaen Guåhan* is unavailable after regular government working hours, to the security personnel at Government House located in Agana Heights. *I Maga'lahaen Guåhan* shall be deemed unavailable after regular government working hours when any security personnel at Government House advise the Clerk of *I Liheslaturan Guåhan*, either in writing or orally, that *I Maga'lahaen Guåhan* cannot immediately receive the legislation.

SOURCE: Added by P.L. 25-37:2 and renumbered to § 1511 by Compiler since § 1510 had been added by the previous Legislature.

§ 1512. Authorization to Issue Bonds for Deficit Financing.

[Repealed].

SOURCE: Added by P.L. 27-19:2 as § 1520. Since the last section in this Article is § 1511, the Compiler has renumbered this section. Repealed by P.L. 29-002:VI:31 (May 18, 2007).

§ 1512.1. Authorization to Issue Bonds for Deficit Financing.

(a) Authorization of Issuance of Bonds. *I Maga'lahaen Guåhan* is authorized to issue one or more series of bonds of the Government of Guam as provided in this Section, in an aggregate principal amount not to exceed the amount necessary to provide Two Hundred Forty-six Million Eight Hundred Twenty Thousand Eight Hundred Fifty-six Dollars (\$246,820,856) for the payment

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of authorized expenses listed in Subsection (i) hereof, to fund necessary reserves and to pay expenses incurred in connection with the issuance of such bonds not already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; provided, however, that bonds may not be issued in an amount that would cause a violation of the debt limitation provisions of 48 U.S.C. §1423a (§ 11 of the Organic Act of Guam).

(b) Terms and Conditions Determined by Certificate or Indenture. The terms and conditions of the bonds shall be as determined by *I Maga'lahaen Guåhan*, and approved by *I Liheslaturan Guåhan*, by the execution of a certificate or indenture authorizing the issuance of the bonds prior to the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Section, and that the bonds shall mature not later than November 15, 2039 and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the bond holders that does not exceed ten percent (10%) per annum.

(c) (1) Valid and Binding. The bonds authorized by this Section shall constitute the valid and legally binding general or limited obligations of the government of Guam. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the bonds and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds. There are hereby appropriated from the General Fund such sums as may be necessary in each year to equal the amount of money necessary to pay the principal and interest on such bonds. The certificate or indenture shall require interest only payments for Fiscal Years 2009 and 2010 and shall not require bond principal payments until after such Fiscal Years. All officers charged by law with any duty in the collection of the revenues of the government from which debt service on the bonds will be payable shall do every lawful thing necessary to collect such sum. The validity of any such

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bonds shall not be affected by the validity or regularity of any proceedings for the payment of the General Fund expenses paid or to be paid with the proceeds of the bonds.

(2) Pledge of Section 30 Revenues. All or any part of the revenues derived by the government of Guam under Section 30 of the Organic Act may be pledged to secure the repayment of any bonds issued pursuant to this Section and pay costs incurred in the creation of such debts, subject to any previously created lien on or pledge of such revenues. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the government of Guam, such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate or indenture by which such pledge is created need not be recorded. All revenues pledged are hereby continuously appropriated for the purpose for which they have been pledged.

(d) Additional Bonds. This Section does not prohibit the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with or subordinate to the bonds authorized by this Section on such terms as are created by the indenture or certificate pursuant to which the bonds are issued.

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

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

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

(h) Authorization for Credit Enhancement. *I Maga'lahaen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may obligate the government to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances they make to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or other financial institutions for costs and expenses incurred in connection with any such advance. Any such reimbursement obligation and any other obligations of the government under such contracts or agreements shall be general obligations of the government of Guam. Any such reimbursement obligation and any other obligations of the government under such contracts or agreements shall be treated,

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under § 11 of the Organic Act, as creating an obligation issued to refund the bonds.

(i) Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) pay the General Fund expenses described below in this Subsection; (ii) establish necessary reserves; (iii) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; and (iv) fund capitalized interest on the bonds for a period ending not later than thirty (30) months after their issuance. The General Fund expenses authorized to be paid with the proceeds of the bonds are as follows and shall be paid in the following order of priority:

- | | |
|--|----------------|
| (1) Cost of Living Adjustment (COLA) to discharge finally and permanently the obligations of the government incurred pursuant to the settlement agreement entered into between the Government of Guam and the COLA Class as ordered by the Judgment in Rios v. Camacho, Superior Court Case No. SP0206-93: | \$92,000,000; |
| (2) 2008 and prior year individual tax refunds including interest shall be paid first. Any remaining proceeds shall be used to pay 2008 and prior year corporate tax refunds including interest: | \$112,000,000; |
| (3) Health Care Capital Improvement Projects at the Guam Memorial Hospital: | \$11,000,000; |

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(4) amounts past due as contributions to the Government of Guam Retirement Fund, including interest, if any, thereon, on behalf of the following:

(A) Guam Memorial Hospital:	\$10,953,216
(B) Department of Education:	\$10,867,640
Total	\$236,820,856

Payments made pursuant to this Subsection shall apply to any other appropriations for the same items and shall not constitute double appropriations.

(j) Permitted Investments. The bond proceeds and any revenues generated by said bonds shall be invested only in those investments permitted by the certificate or indenture pursuant to which such bonds are issued.

(k) Approval by Guam Economic Development and Commerce Authority. No bonds authorized by this Section shall be sold until the Board of Directors of GEDCA has approved the sale by resolution.

(l) Approval of Voters Not Required. The issuance of bonds pursuant to this Section shall not be subject to the approval of the voters of Guam.

(m) Approval of Bonds. *I Liheslaturan Guåhan*, pursuant to § 50103 (k), Title 12 Guam Code Annotated, hereby approves the issuance and sale by the government of Guam of bonds for the purposes and in the principal amounts mandated by § 1512.1, Title 5 Guam Code Annotated; provided that the bonds are issued and sold subject to the terms, conditions, requirements and limitations mandated therein.

(n) Approval of Form of Certificate of Issuance. The bonds shall be issued pursuant to an certificate of issuance in substantially the form of the certificate of issuance presented to this Legislature, as evidenced by the attached “Exhibit A” made part of this Act, subject to such modifications to and changes in such certificate of issuance as *I Maga’lahen Guåhan* may approve

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consistent with §1512.1, Title 5 Guam Code Annotated and subject to the terms, conditions, requirements and limitations therein.

SOURCE: Added by P.L. 29-019:X:1 (Sept. 29, 2007). Amended by P.L. 29-113:VI:16 (Sept. 30, 2008). Subsection (i) amended by P.L. 29-116:1 (Nov. 25, 2008), P.L. 30-007:14 (Apr. 2, 2009). Subsection (c) amended by P.L. 29-124:2 (Dec. 15, 2008), P.L. 30-007:13 (Apr. 2, 2009). Subsection (b) amended by P.L. 30-007:15 (Apr. 2, 2009); amended by P.L. 30-024:2 (June 10, 2009). Subsection (i)(2) amended by P.L. 30-042:1 (July 1, 2009).

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with “Lowercase Roman Numerals” to “Numbers” in subsections (c) and (i).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 1512.2. Authorization to Enter Into Loan for Landfill Costs.

(a) Authorization to Borrow. *I Maga’lahen Guåhan* is authorized to borrow on behalf of the government of Guam as provided in this Section from one (1) or more banks or other financial institutions an amount not to exceed the amount necessary to provide Twenty Million Dollars (\$20,000,000) for the purpose of financing costs of a new landfill.

(b) Terms and Conditions. The terms and conditions of the loan shall be as determined by *I Maga’lahen Guåhan* by the execution of a loan agreement; provided, however, that the loan:

(1) shall be subject to prepayment from the proceeds of the first revenue bonds issued for the landfill, which proceeds may be pledged for that purpose;

(2) may be secured by Compact Impact funds;

(3) may be a general obligation of the government of Guam;

(4) may also be secured by a pledge of Section 30 Revenues, which shall be subordinate to and not on parity with the bonds authorized under 5 GCA [§] 1512.1(c);

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(5) shall, if not paid with the proceeds of revenue bonds, have annual principal payments over the twenty (20) year or less period commencing one (1) year after its funding date;

(6) shall bear interest at such fixed or variable rate or rates as may be negotiated by *I Maga'lahaen Guåhan* in the best interests of the government, such interest rate shall not exceed eight percent (8%) and shall be computed on a three hundred sixty-five (365) day calendar year upon the actual amount extended to the government;

(7) prepaid charges shall not be levied by the bank or entity for opening a loan or line of credit;

(8) interest derived from the financial agreement shall be exempt from taxation by the government of Guam;

(9) the debt service on the loan shall be paid from the solid waste tipping fees; and

(10) the lender may require that an amount not exceeding the monthly debt service be paid from the solid waste tipping fees into a trust account to satisfy debt service payment as a condition of the loan.

(c) Approval by Guam Economic Development Authority. No loan authorized by this Section shall be entered into until the Board of Directors of GEDA has approved the loan by resolution.

(d) Approval of Voters Not Required. The loan shall not be subject to the approval of the voters of Guam.

(e) Approval of Loan. *I Liheslaturan Guåhan*, pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby approves a borrowing by the government of Guam for the purposes and in the principal amount authorized by this Section provided that the loan is entered into subject to the terms and conditions mandated in this Section.

(f) Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam hereby waives immunity from any suit or action in contract on the Loan, but does not waive sovereign

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immunity as to the personal liability of elected or appointed officials and employees of the government of Guam.

SOURCE: Added by P.L. 29-116:2 (Nov. 25, 2008). Subsection (b) amended by P.L. 29-124:1 (Dec. 15, 2008). Subsection (f) added by P.L. 29-129:4 (Dec. 31, 2008).

2013 NOTE: Section symbol added by Compiler in subsection (b)(4) pursuant to 1 GCA § 1606.

§ 1512.3. Authorization to Issue Bonds for Revenue Anticipation Financing.

(a) Authorization of Issuance of Bonds. *I Maga'lahaen Guåhan* is authorized to issue four (4) series of bonds of the government of Guam, as provided in this Section, in an aggregate principal amount *not to exceed* Three Hundred Forty-Three Million Seven Hundred Thousand Dollars (\$343,700,000) plus such principal amount as may be necessary for the purposes of the refunding of Government of Guam General Obligation Bonds, 1993 Series A, as provided in and subject to the conditions of Paragraph (3) of this Subsection (a), and plus such principal amount as may be necessary for the purposes of the refunding of Government of Guam General Obligation Bonds, 2007 Series A and Government of Guam General Obligation Bonds, 2009 Series A, as provided in and subject to the conditions of Paragraph (4) of this Subsection (a), to provide the following:

(1) For the first bond series, in the following order of priority:

(A) up to One Hundred Ninety-Eight Million Dollars (\$198,000,000) for payment of unpaid income tax refunds plus interest to include for 2010 and prior;

(i) Set-aside for Tax Refunds for Humanitarian Purposes. Of the total amount of proceeds available to issue tax refund payments, the sum of Twenty Million Dollars (\$20,000,000) *shall* be set aside and appropriated to the Department of Revenue and Taxation for the purpose of paying tax refunds for humanitarian purposes. The provisions of this Section *shall* supplement other guiding provisions of law

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regarding the processing of emergency tax refund payments. Requests submitted for the following humanitarian purposes *shall* qualify to be processed from this Twenty Million Dollars (\$20,000,000) set-aside:

(aa) off-island medical treatment, inclusive of the need to purchase medication; or death of a family member, within two (2) degrees of consanguinity;

(bb) delinquent billing payments owed to the Guam Power Authority, the Guam Waterworks Authority, the Guam Housing and Urban Renewal Authority, and the Judiciary of Guam, which have become delinquent due to financial hardships;

(cc) delinquent loan payments owed to the Guam Housing and Urban Renewal Authority, which have become delinquent due to financial hardships; and

(dd) delinquent loan payments owed to legally qualified and licensed lenders, which have become delinquent due to financial hardships. For the purposes of this Section, a request for tax refunds *shall* be submitted by the taxpayer to the Director of Revenue and Taxation. All such requests are subject to the review and approval of the Director.

(ii) Twenty Million Dollars (\$20,000,000) for the payment of cost of living allowance to certain retired government of Guam employees pursuant to the case known as *Rios v. Camacho*;

(iii) Twenty-Six Million Four Hundred Thousand Dollars (\$26,400,000) for payments owed to the Government of Guam Retirement Fund for the Guam Department of Education and the Guam Memorial Hospital Authority principal and

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interest pursuant to Public Law 28-38, as amended by Public Law 31-74; and

(iv) if no alternate source of funding is available, for the payment of health insurance premiums for Fiscal Year 2012.

(2) For the second bond series:

(A) no less than Twenty-Five Million One Hundred Thousand Dollars (\$25,100,000) for payments owed to the Government of Guam Retirement Fund for the Guam Department of Education, the Guam Memorial Hospital Authority, and the Health Insurance Bailout Agreement of FY 2011 principal and interest pursuant to Public Law 28-38, as amended by Public Law 31-74, such that the sums owed to the GGRF by the government of Guam pursuant to Public Law 28-38, as amended, *shall* be extinguished in its entirety;

(B) the remaining balance of bond proceeds such that the debt to the GGRF identified in Item (2)(A) of this Subsection (a) is paid, *shall* be used, in any amount, for any of the following:

(i) the design, construction, re-construction, rehabilitation, maintenance, renovation of government of Guam or Guam Department of Education-owned school facilities, and/or the procurement and preventive maintenance of school buses. A “school facility” *shall* mean school campus facilities, including any structure or structures, together with all ancillary facilities, including parking facilities, utilities, infrastructure and equipment associated with providing the educational or related services required by the Guam Department of Education, and may include an existing school facility being rehabilitated; and/or

(ii) the payment of unpaid income tax refunds for tax year 2011; and/or

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(iii) if no alternate source of funding is available, the payment of health insurance premiums for Fiscal Year 2012.

(3) For the third bond series, to fund an escrow to pay principal, interest and redemption price of Government of Guam General Obligation Bonds, 1993 Series A and to pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; provided, however, that bonds may *not* be issued for this purpose unless

(A) all obligation of the government to pay debt service on, and the redemption price of, the bonds being refunded *shall* be discharged concurrently with the issuance of the refunding bonds;

(B) thereafter, the refunded bonds *shall* be payable solely from and secured solely by the escrow established for such purpose;

(C) the present value of debt service on the refunding bonds *shall* be at least two percent (2%) less than the present value of debt service on the bonds being refunded, inclusive of all fees, for bond counsel and bond underwriters and other costs of issuance; and

(D) the issuance of the refunding bonds *shall not* result in any increase in the aggregate amount of the government's outstanding "public indebtedness" as that term is used in 48 U.S.C. §1423a (§ 11 of the Organic Act of Guam).

(4) For the fourth bond series, to fund an escrow or otherwise to pay principal, interest and redemption price of all or a portion of the Government of Guam General Obligation Bonds, 2007 Series A and the Government of Guam General Obligation Bonds, 2009 Series A, to capitalize

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interest on the refunding Business Privilege Tax Bonds in an amount to ensure the General Fund is made whole in the current or following fiscal year due to timing of debt service requirements but in an amount not to exceed one percent (1%) of refunding proceeds, and to pay expenses relating to the authorization, sale, and issuance of the bonds, including without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; provided, however, that bonds may *not* be issued for this purpose unless

(A) all obligation of the government to pay debt service on, and the redemption price of, the bonds being refunded *shall* be discharged concurrently with the issuance of the refunding bonds;

(B) thereafter, the refunded bonds *shall* be payable solely from and secured solely by the escrow established for such purpose; and

(C) the present value of debt service on the refunding bonds *shall* be at least two percent (2%) less than the present value of debt service on the bonds being refunded, inclusive of all fees, for bond counsel and bond underwriters and other costs of issuance.

(5) For the first and second bond series, such amount as may be needed to capitalize and pay from bond proceeds interest on the bonds due, accruing or required to be set aside in Fiscal Years 2012 and 2013.

(6) Expenses incurred in connection with the issuance of such bonds not already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; provided, however, that bonds may *not* be issued in an amount that would cause a violation of the debt limitation

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provisions of 48 U.S.C. §1423a (§ 11 of the Organic Act of Guam).

(7) *I Maga'lahaen Guåhan shall* utilize the 2011 Real Property Tax Assessment Roll as certified by the Board of Equalization in accordance with § 24518 of Chapter 24, Title 11, Guam Code Annotated, in calculating the amount available for future debt obligation under the Debt Limit (Ceiling) for the bond issuance authorized in this Subsection.

(b) Terms and Conditions Determined by Certificate or Indenture. The terms and conditions of the bonds shall be as approved by *I Liheslaturan Guåhan*, and as determined by *I Maga'lahaen Guåhan* by the execution of a certificate or indenture authorizing the issuance of the bonds, prior to the issuance of the bonds; provided, however, that such terms and conditions *shall* be consistent with this Section; that the first and second series of the bonds *shall* mature *not later than* thirty-five (35) years after their date of issuance, *shall* bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders that does *not* exceed six and one half percent (6.5%) per annum, *shall* require interest only payments for Fiscal Years 2012, 2013 and 2014, and *shall not* require bond principal payments until after such fiscal years; that the third series of the bonds *shall* mature *not later than* December 31, 2018, and *shall* bear interest at such rates and be sold for such price or prices as shall result in the present value of debt service on the third series of the bonds being at least two percent (2%) less than the present value of debt service on the bonds being refunded, using the yield on the third series of the bonds as the discount rate; and that the fourth series of the bonds *shall* mature *not later than* November 15, 2039, *shall not* be used to fund any new money projects, and *shall* bear interest at such rates and be sold for such price or prices as shall result in the present value of debt service on the fourth series of the bonds being at least two percent (2%) less than the present value of debt service on the bonds being refunded, using the yield on the fourth series of the bonds as the discount rate.

(1) Use of Funds Saved From Fourth Series. Beginning Fiscal Year 2016, the savings achieved by the government of Guam to the General Fund at or above the

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target referenced in Subsection (a) due to the refunding of the Government of Guam General Obligation Bonds, 2007 Series A and the Government of Guam General Obligation Bonds, 2009 Series A by the fourth series of bonds, an amount equal to the resulting reduction in debt service payments relating to the refunded Government of Guam General Obligation Bonds, 2007 Series A and the Government of Guam General Obligation Bonds, 2009 Series A, shall, to the extent practical, be allocated from the General Fund and subject to an appropriation by *I Liheslaturan Guåhan* toward capital improvements relating to the Guam Memorial Hospital Authority and other health related matters. The Bureau of Budget and Management Research (BBMR) shall be tasked to track and manage the savings achieved by this fourth series refunding and allocate such savings pursuant to this Subsection, and reflect the savings and allocation in the executive branch submission of its budget request to *I Liheslaturan Guåhan* each fiscal year. The funds allocated herein shall be in addition to the annual budget allocation and budgeted appropriation levels provided to the Guam Memorial Hospital Authority.

(c) Valid and Binding General or Limited Obligations. The certificate or indenture pursuant to which the bonds authorized by this Section are issued shall provide that the bonds constitute the valid and legally binding general or limited obligations of the government of Guam payable from the sources described in the certificate or indenture. If and to the extent that the bonds are general obligation bonds,

(1) the government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the bonds and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds; and

(2) there are hereby appropriated from the General Fund such sums as may be necessary in each year, in addition to the amounts appropriated under Subsection (d)(2) of this

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Section to equal the amount of money necessary to pay the principal and interest on such bonds.

All officers charged by law with any duty in the collection of the revenues of the government from which debt service on the bonds will be payable shall do every lawful thing necessary to collect such sum. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the payment of the expenses paid or to be paid with the proceeds of the bonds.

(e) Cost-Benefit Analysis.

(1) *I Maga'lahi* (the Governor) Authorized to Pledge Revenues. *I Maga'lahi* (the Governor) shall perform or cause to be performed expert independent financial and cost-benefit analysis to determine the more favorable financing for the government using the pledge, either business privilege tax revenues or General Obligation full faith and credit, for the repayment of the bond of which he is authorized to pledge. Such financial and cost-benefit analysis shall be performed by an independent, external party that does not have any financial interest in the bond financing or any connection to any party who may have a financial interest in the bond financing. The analysis shall include, but not be limited to, the following:

(A) impact upon existing General Obligation bondholders and/or lines of credit;

(B) cost of funds differential between a General Obligation and a Limited Obligation bond structure;

(C) likelihood of investment grade rating on a Limited Obligation bond structure;

(D) ability to issue future General Obligation debt in the capital markets;

(E) indenture provisions that may limit government of Guam flexibility; and

(F) additional security requirements that may impact or reduce net proceeds or affect government of Guam liquidity (i.e. reserve funds, coverage

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requirements, other covenants)

I Maga'lahaen Guåhan shall first consult with the University of Guam to identify finance and economics professionals (professors or researchers), if any, within the University of Guam School of Business and Public Administration that hold the relevant experience and expertise necessary to perform the independent financial and cost-benefit analysis, to conduct the said analysis before seeking other potential providers. The University of Guam shall disclose the name(s) of all the faculty, staff or contracted individuals involved in the independent financial and cost-benefit analysis. The University of Guam shall have ten (10) days from the enactment of this Act, to inform *I Maga'lahaen Guåhan* whether it agrees to provide the analysis.

Before any marketing of Limited Obligation bonds backed by a pledge of business privilege tax or General Obligation bonds can occur, the expert independent financial and cost-benefit analysis required in this Subsection shall be provided to the Speaker of *I Liheslaturan Guåhan*.

Up to Twenty Five Thousand Dollars (\$25,000) is appropriated from the operating fund balance, or its equivalent, of the Guam Economic Development Authority for the independent financial and cost-benefit analysis required in accordance with this Subsection.

(2) Pledge of Business Privilege Tax Revenues. The certificate or indenture pursuant to which the bonds authorized by this Section are issued may provide that the tax revenues derived from the levy of up to three (3) percentage points, out of the total number of percentage points levied from time to time, of the business privilege tax levied pursuant to Article 2 of Chapter 26 of Title 11, Guam Code Annotated, or any successor thereto, are pledged to secure the repayment of any bonds issued under this Section and to pay costs incurred in the issuance or administration of the bonds and any required reserves. Any such pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the

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government of Guam or by any trustee, depository or custodian shall be deposited in a separate account entitled the “RAF Revenue Fund” and shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate or indenture by which such pledge is created need not be recorded, and shall direct the distribution and disbursement of revenues from the RAF Revenue Fund following their deposit therein. All such taxes to the extent so pledged are hereby continuously appropriated for such purpose. So long as any bonds issued pursuant to § 1512.3, Title 5, Guam Code Annotated, remain outstanding, the government of Guam may not reduce the rate of levy and collection of the pledged business privilege tax below three percent (3%), nor may the government of Guam reduce the services, products or activities to which the pledged business privilege tax applies, nor may the government of Guam upwardly adjust any exception or exclusion to, or otherwise impair, the pledged business privilege tax.

(3) In the event the independent financial and cost-benefit analysis conclude that the pledge of the more favorable financing option for the repayment of the bond is credit-negative to any and all existing or authorized General Obligation bonds or lines of credit, the authorization of the bond issue shall be contingent upon final legislative approval of the financing terms including, but not limited to, the bond structure, security, indenture and covenants. *I Maga’lahi* (the Governor) shall request such approval from *I Liheslaturan Guåhan* prior to the sale of bonds in the market but after the credit rating on the bonds is secured and affirmation of the current General Obligation rating and outlook is received.

(f) Additional Bonds. This Section does not prohibit the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government that are general obligations of the government. This Section does not prohibit the

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government of Guam from issuing, after appropriate enabling legislation, other obligations of the government that are secured by pledged business privilege tax revenues on a parity with or subordinate to the bonds authorized by this Section on such terms as are provided by the certificate or indenture pursuant to which the bonds are issued. Such certificate or indenture may also provide that the aggregate principal amount of all bonds outstanding on a parity with the bonds authorized pursuant to this Section with respect to pledged business privilege tax revenues shall not exceed Three Hundred Forty Three Million Seven Hundred Thousand Dollars (\$343,700,000). Notwithstanding anything to the contrary in this Subsection (e), the certificate or indenture pursuant to which the bonds are issued shall provide that such limitation shall not apply to additional bonds issued for the sole purpose of refunding outstanding bonds authorized under by this Section, paying costs of issuance and funding any required debt service reserves associated therewith, and may otherwise provide for the raising of such limitation under such circumstances as may be specified therein.

(g) Waiver of Immunity; Submission to Jurisdiction. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds or any other agreement or facility entered into in connection with the bonds, but does not waive immunity as to the personal liability of elected officials and employees of the government of Guam. Any such suit or action shall be brought in the District Court of Guam.

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

(i) Form of Bonds; Covenants; Appointment of Fiduciaries. The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying

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agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection and application of revenues, shall be as specified in the certificate or indenture executed by *I Maga'lahaen Guåhan* authorizing issuance of the bonds. Said certificate or indenture shall appoint one or more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds, the revenues and other moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. *I Maga'lahaen Guåhan* is also authorized to execute any appropriate agreements, certificates or other instruments relating to the bonds and the sale of bonds.

(j) Authorization for Credit Enhancement. *I Maga'lahaen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may obligate the government to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances they make to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or other financial institutions for costs and expenses incurred in connection with any such advance. Any such reimbursement obligation and any other obligations of the government of Guam under such contracts or agreements shall be limited obligations of the government of Guam payable from and secured by the revenues as provided by the certificate or indenture. Any such reimbursement obligation and any other obligations of the government of Guam under such contracts or agreements shall be treated, under § 11 of the Organic Act, as creating an obligation issued to refund the bonds.

(k) Use of Proceeds from the Sale of the Bonds.

(1) The proceeds from the sale of the first bond series shall be used and are hereby appropriated to

(A) pay unpaid income tax refunds and pay cost of living allowance to certain retired government of Guam employees pursuant to the case known as *Rios v.*

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Camacho; payments owed to the government of Guam Retirement Fund for the Guam Department of Education and the Guam Memorial Hospital Authority principal and interest pursuant to Public Law 28-38, as amended by Public Law 31-74; and, if no alternate source of funding is available, pay health insurance premiums for Fiscal Year 2012;

(B) fund capitalized interest due, accruing or required to be set aside on the bonds prior to the end of Fiscal Year 2013; and

(C) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

(2) The proceeds from the sale of the second bond series shall be used and are hereby appropriated to

(A) pay monies owed to the government of Guam Retirement Fund for the Guam Department of Education, the Guam Memorial Hospital Authority, and the Health Insurance Bailout Agreement of FY 2011 principal and interest pursuant to Public Law 28-38, as amended by Public Law 31-74, such that the sums owed to the GGRF by the government of Guam pursuant to Public Law 28-38, as amended, shall be extinguished in its entirety; pay for the design, construction, reconstruction, rehabilitation, maintenance of School Facilities, and/or procurement and preventive maintenance of school buses; pay unpaid income tax refunds for tax year 2011; and/or, if no alternate source of funding is available, pay health insurance premiums for Fiscal Year 2012;

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(B) fund capitalized interest due, accruing or required to be set aside on the bonds prior to the end of Fiscal Year 2012, 2013, and 2014; and

(C) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

(3) The proceeds from the sale of the third bond series shall be used and are hereby appropriated to

(A) fund an escrow to pay principal, interest and redemption price of Government of Guam General Obligation Bonds, 1993 Series A; and

(B) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

(4) The proceeds from the sale of the fourth bond series *shall* be used and are hereby appropriated to

(A) fund an escrow to pay principal, interest and redemption price of Government of Guam General Obligation Bonds, 2007 Series A and Government of Guam General Obligation Bonds, 2009 Series A, or otherwise to pay in full such 2007 Bonds and 2009 Bonds;

(B) fund capitalized interest on the refunding Business Privilege Tax Bonds in an amount to ensure

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the General Fund is made whole in the current or following fiscal year due to timing of debt service requirements, but in an amount not to exceed one percent (1%) of refunding proceeds; and

(C) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

The Guam Economic Development Authority (GEDA) *shall* receive *no more than* Four Hundred Thousand Dollars (\$400,000) as a bond service fee relative to the issuance of the bonds authorized by this Section. The fee to be paid to GEDA *shall* be from the savings made available to the General Fund resulting from the refunding of the Government of Guam General Obligation Bonds, 2007 Series A and the Government of Guam General Obligation Bonds, 2009 Series A.

(l) Permitted Investments. The bond proceeds and any revenues pledged to secure the payment of the bonds are authorized to be, and shall only be, invested in those investments permitted by the certificate or indenture pursuant to which such bonds are issued. Permitted investments shall include investment agreements, forward purchase agreements or similar structured contracts as further described in the certificate or indenture authorizing the issuance of the bonds.

(m) Approval by Guam Economic Development Authority. No bonds authorized by this Section shall be sold until the Board of Directors of GEDA has approved the sale by resolution.

(n) Approval of Voters Not Required. The issuance of bonds pursuant to this Section shall not be subject to the approval of the voters of Guam.

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(o) Approval of Bonds. *I Liheslaturan Guåhan*, pursuant to Subsection (b) of this section and § 50103(k), Title 12, Guam Code Annotated, hereby approves the issuance and sale by the government of Guam of the bonds for the purposes and in the aggregate principal amount authorized by § 1512.3, Title 5, Guam Code Annotated; provided that such bonds are issued and sold subject to the terms, conditions, requirements and limitations mandated therein.

(p) Deposit of Bond Proceeds to:

(1) Pay Income Tax Refunds. The portion of the bond proceeds authorized by this Section to pay income tax refunds shall be transferred immediately after receipt thereof by the bond trustee into the Income Tax Reserve Fund and shall be considered separate and apart from any required deposits in Title 11, Guam Code Annotated, Chapters 50 and 51, and shall not be credited toward any required deposits in Title 11, Guam Code Annotated, Chapters 50 and 51.

(2) Pay for any Design, Construction, Repair, Renovation, Rehabilitation, Maintenance for any School Facility and/or procurement and preventive maintenance of school buses. The portion of the bond proceeds authorized by this Section to pay for any Design, Construction, Repair, Renovation, Rehabilitation, Maintenance for any School Facility and/or procurement and preventive maintenance of school buses shall be transferred immediately after receipt thereof by the bond trustee into the Adequate Education Trust Account created in Public Law 31-40. Notwithstanding any other provision of law, the bond proceeds deposited into the Adequate Education Trust Account shall be available to pay for the Design, Construction, Repair, Renovation, Rehabilitation, Maintenance for any School Facility and/or procurement and preventive maintenance of school buses as approved by the Guam Education Board.

(q) Bond Proceeds Not Subject to Transfer Authority. The proceeds of the bonds authorized by this Section shall not be subject to any transfer authority of *I Maga'lahaen Guåhan*.

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(r) Conflicts Prohibited. No Covered Person, as such term is defined below, shall be eligible to provide or be paid for, in whole or in part, any services related to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds authorized in this Act and for any design, construction, repair, renovation, rehabilitation, maintenance contracts for any School Facility and/or procurement and preventive maintenance of school buses; that are authorized to be paid for with the bond proceeds in this Act. For the purposes of this Section, the term "Covered Person" shall mean any:

(1) elected or appointed official of the government of Guam, unclassified managers of the Guam Economic Development Authority (GEDA), members of the GEDA Board of Directors, and members of *I Liheslaturan Guåhan* who hold office at the time of the approval and issuance of the bonds and bond indentures authorized by this Act;

(2) advisors or consultants of *I Liheslaturan Guåhan* who are advising or working with *I Liheslaturan Guåhan* with respect to the approval and issuance of the bonds and bond indentures authorized by this Act;

(3) person or spouse of such person related by consanguinity of the third degree, which for the purposes of this Act shall include spouses, all children, parents, grandchildren, siblings, grandparents, great-grandchildren, nieces, nephews, uncles, aunts, and great-grandparents, to any person described in Subsections (a) and (b) of this Section.

(s) Reporting Requirements by all appointed trustees, co-trustees or other fiduciaries. For the second bond series proceeds, the Department of Administration (DOA) shall submit a written request to withdraw bond proceeds to all appointed trustees, co-trustees or other fiduciaries (trustee). The written request shall unequivocally state the purpose of said withdrawal

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specific to the authorized use mandated or selected pursuant to § 1512.3(a)(2) of Article 5, Chapter 1, Title 5, Guam Code Annotated. The trustee shall provide a copy of all documents submitted by the DOA to withdraw funds to *I Maga'lahañ Guåhan* and to the Speaker of *I Liheslaturan Guåhan* five (5) days prior to the disbursement of request funds.

SOURCE: Added by P.L. 31-076:1 (Sept. 19, 2011). Subsection (a)(4) added by P.L. 31-078:3 (Sept. 24, 2011). Subsection (c) amended by P.L. 31-078:2 (Sept. 24, 2011). Subsection (a) amended by P.L. 31-196:2 (Mar. 28, 2012), amended by P.L. 31-276:2 (Dec. 28, 2012), and P.L. 33-060:2 (July 31, 2015). Subsection (e) amended by P.L. 31-196:3 (Mar. 28, 2012). Subsection (j) amended by P.L. 31-196:4 (Mar. 28, 2012). Subsection (o) amended by P.L. 31-196:5 (Mar. 28, 2012). Subsection (q) amended by P.L. 31-196:6 (Mar. 28, 2012). Subsection (r) added by P.L. 31-196:7 (Mar. 28, 2012). Subsection (b) amended by P.L. 31-276:3 (Dec. 28, 2012), and P.L. 33-060:3 (July 31, 2015). Subsection (j)(3) added by P.L. 31-276:4 (Dec. 28, 2012). Subsection (b)(1) added by P.L. 33-060:4 (July 31, 2015). Subsection (j)(4) added by P.L. 33-060:5 (July 31, 2015).

2015 NOTE: The reference to § 1512.3(2) in subsection (r), added by P.L. 31-196:7 (Mar. 28, 2012), appears to be a manifest error. The correct reference is to § 1512.3(a)(2). This correction was made pursuant to 1 GCA § 1606.

Subsection designations were altered to adhere to the Compiler's alphanumeric scheme pursuant to 1 GCA § 1606.

§ 1512.4. Authorization to Issue Bonds to Finance New Landfill Cell Development for the Benefit of the Guam Solid Waste Authority.

(a) Definitions. The following terms wherever used or referred to in this Section or in any indenture or certificate entered into pursuant hereto (except to the extent modified therein in accordance with this Section) *shall* have the following meanings, respectively, unless a different meaning appears from the context:

(1) *Authority* means the Guam Solid Waste Authority, or its successors and assigns.

(2) *Pledged Revenue* means any revenue of the System pledged to the payment of bonds or the obligations of the Authority with respect thereto.

(3) *Revenue of the System* means all lawfully available gross income and other amounts received by or on behalf of

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the Authority as revenues of any kind from the ownership or operation of any part of the System, including all rates, fees and charges received by the Authority, and all proceeds of insurance or grants covering business interruption loss (and related losses and expenses) relating to the System, and all other income and revenue howsoever derived by the Authority from the ownership or operation of, or arising from, the System, together with all interest, profits or other income derived from the investment of amounts in the Solid Waste Operations Fund, to be deposited to the Solid Waste Operations Fund in accordance with 10 GCA § 51A833.

(4) *Solid Waste Operations Fund* means the fund by that name established pursuant to 10 GCA § 51A301.

(5) *System* means the solid waste management system, now or hereafter existing, owned and/or operated by the Authority or its contractors, agents or subcontractors, including, but not limited to, landfills (whether closed or open), transfer stations, recycling facilities, collection trucks, appurtenant equipment such as scales, ground water monitoring equipment and pollution control equipment, and administrative facilities supporting the provision of solid waste management services, including facilities for payroll, billing and collections.

(b) Authorization of Issuance of Bonds. *I Maga'hågan Guåhan* is authorized to issue one (1) or more series of bonds of the government of Guam from time to time as provided in this Section, in an aggregate principal amount not to exceed Thirty Million Dollars (\$30,000,000) to finance the construction of a new cell for the *Layon* Landfill for the benefit of the Guam Solid Waste Authority (Authority), including construction management services and related costs (the *Layon* Landfill Cell Project), and, in addition, to fund any necessary reserves and pay any expenses incurred in connection with the issuance of such bonds not already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; provided, however, that bonds may not be issued in an amount that would cause a violation of the debt limitation

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provisions of 48 USC § 1423a (§ 11 of the Organic Act of Guam).

(c) Terms and Conditions Determined by Certificate or Indenture. The terms and conditions of the bonds *shall* be as determined by *I Maga'hågan Guåhan* by the execution of a certificate or indenture authorizing the issuance of the bonds upon or prior to the issuance of the bonds; provided, however, that such terms and conditions *shall* be consistent with this Section, and that the bonds *shall* mature not later than the date twelve and one-half (12.5) years after their date of issuance and such bonds *shall* bear interest at such rates and be sold for such price or prices as *shall* result in a yield to the bondholders not exceeding six percent (6.0%) per annum.

(d) Source of and Security for Payment.

(1) The bonds or the Authority's obligations with respect thereto *shall* be secured by a first lien pledge of any or all of the Pledged Revenues as may be further specified in the certificate or the indenture described in Subsection (c) of this Section or an agreement between the Authority and the government. Such pledge made hereunder *shall* be valid and binding from the time the bonds are issued.

(2) The Pledged Revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and *shall* be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge *shall* be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Authority or such trustee, depository or custodian, irrespective of whether the parties have notice thereof.

(A) The indenture or certificate or agreement by which the bonds are issued or such pledge is created need not be recorded.

(B) Any such pledge shall be a first lien, and shall not be subordinate to any other use of Pledged Revenues.

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(3) All bonds issued pursuant to this Section or obligations of the Authority with respect thereto, may be secured by a statutory lien on the Pledged Revenues.

(A) This lien *shall* arise automatically without the need for any action or authorization by *I Maga'hågan Guåhan*, the government of Guam, the Authority, or any other person or entity.

(B) Such lien *shall* be valid and binding from the time such bonds are issued.

(C) The Pledged Revenues *shall* immediately be subject to such lien, and the lien *shall* automatically attach to the Pledged Revenues and be effective, binding, and enforceable against the Authority, its successors, assignees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(D) Pledged Revenues that are not required to make payments on the bonds shall automatically, and without the need for any further action, be released from such lien and shall be available for appropriation for any other lawful purpose of the System. The statutory lien described in this Subsection shall not be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute.

(E) The Pledged Revenues received by the government of Guam or by any trustee, depository or custodian shall be deposited in accordance with the provisions of the applicable indenture.

(4) In addition to the statutory lien provided for in this Subsection, all or any part of the Pledged Revenues may be pledged, if and to the extent determined by *I Maga'hågan Guåhan*, to secure the payment of any bonds or any obligation of the Authority with respect thereto.

(A) Any such pledge *shall* be valid and binding against all parties in accordance with its terms and have

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priority against all parties in accordance with its terms from the time the pledge is made, and property so pledged *shall* immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act.

(B) The pledge *shall not* be subject to Division 9 of Title 13, Guam Code Annotated or any successor statute.

(C) The indenture or certificate or agreement by which such pledge is created need not be recorded.

(D) All Pledged Revenue so pledged is hereby appropriated for the purpose for which it has been pledged. Indebtedness issued by the government pursuant to this Section and that is payable from Pledged Revenue may not be issued in an amount that would cause a violation of the debt limitation provisions of Section 11 of the Organic Act.

(5) The Authority may contract with the government of Guam for the purposes of effectuating this pledge of Pledged Revenues to secure the bonds or the Authority's obligations with respect thereto and to agree to other covenants and conditions that may be required to issue the bonds.

(e) Valid and Binding. Such bonds may alternatively or additionally be secured by a pledge by the government of Guam of its full faith and credit for the punctual payment of both principal of and interest on the bonds and covenants that there *shall* be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds, in the event Pledged Revenues are insufficient to support the payment thereof, all as specified in a certificate or an indenture described in Subsection (c) hereof.

(1) The bonds authorized by this Section *shall* constitute the valid and binding general and/or limited obligations of the government of Guam, additionally secured by a pledge of the Pledged Revenues described in Subsection (d) of this Section, all as further specified below in such Subsection.

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(2) The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the bonds and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the bonds.

(3) There are hereby appropriated from the General Fund such sums as may be necessary in each year in addition to the amounts appropriated under Subsection (f) of this Section to equal the amount of money necessary to pay the principal and interest on such bonds.

(4) All officers charged by law with any duty in the collection of the revenues of the government from which debt service on the bonds will be payable *shall* do every lawful thing necessary to collect such sum.

(5) The validity of any such bonds *shall not* be affected by the validity or regularity of any proceedings for the payment of the General Fund expenses paid or to be paid with the proceeds of the bonds.

(f) Appropriation of Revenues. All revenues are hereby appropriated for the purposes of paying the principal and interest on the bonds issued pursuant to this Section. Revenues released from the lien of the indenture or certificate pursuant to which the bonds are issued *shall* be available for appropriation by *I Liheslaturan Guåhan* for any other lawful purpose.

(g) (1) Additional Bonds. Nothing in this Section shall be construed to prevent the Authority from issuing, after appropriate enabling legislation, other obligations secured by Pledged Revenues on a parity with or subordinate to the bonds or the Authority's obligations with respect thereto authorized by this Section on such terms as may be provided by the indenture or certificate pursuant to which the bonds are issued.

(2) Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government

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secured by the general obligation of the government on a parity with or subordinate to the bonds authorized by this Section on such terms as may be provided by the indenture or certificate pursuant to which the bonds are issued.

(h) Waiver of Immunity; Submission to Jurisdiction. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam. The government hereby submits to jurisdiction of the Federal District Court for the District of Guam for purposes of any such suit or action in contract on the bonds.

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

(j) Form of Bonds; Covenants; Appointment of Fiduciaries.

(1) The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection of Pledged Revenues, *shall* be as specified in the certificate or indenture executed by *I Maga'hågan Guåhan* authorizing the issuance of the bonds.

(2) The certificate or indenture *shall* appoint one (1) or more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds, the Pledged Revenues and other moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. *I Maga'hågan Guåhan* is also authorized to execute, on behalf of the

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government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of bonds.

(k) Authorization for Credit Enhancement. *I Maga'hågan Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as she determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section, if and only if such contracts or agreements reduce the cost of the debt by more than the cost of credit enhancement.

(1) Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or other financial institutions for costs and expenses incurred in connection with any such advance.

(2) Any such reimbursement obligation and any other obligations of the government under such contracts or agreements shall be general obligations of the government of Guam and *shall* additionally be secured by a pledge of Pledged Revenues, and any such advance, if necessary, *shall* be treated for Organic Act purposes as creating an obligation issued to refund the bonds.

(l) Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds *shall* be used and are hereby appropriated to:

(1) finance the Layon Landfill Cell Project;

(2) establish any necessary reserves in connection with the foregoing project;

(3) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit

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ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; and

(4) fund capitalized interest on the bonds for a period not longer than thirty (30) months from the date of issuance of such bonds.

(m) Permitted Investments. The proceeds of the bonds, and any Pledged Revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the certificate or indenture pursuant to which such bonds are issued.

(n) Approval by the Guam Economic Development Authority. 12 GCA § 50103(k) provides that agencies and instrumentalities of the government of Guam *shall* issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority (GEDA). No issue of bonds authorized by this Section shall be sold until the Board of Directors of GEDA has adopted a resolution approving the sale of such issue.

(o) Approval of Voters Not Required. Notwithstanding 17 GCA §§ 17311 and 17312, the issuance of the bonds authorized by this Section *shall not* be required to be subject to the approval of, or placed before, the voters of Guam.

(p) Alternate Authority for Loan. *I Maga'hågan Guåhan* is authorized to borrow on behalf of the government of Guam as provided in this Subsection from one (1) or more banks, banking syndicates, commercial lending institutions, or investment funds an amount not to exceed the amount necessary to provide Thirty Million Dollars (\$30,000,000) for the purpose of financing the *Layon* Landfill Cell Project and related costs, including reserves, as a short-term construction loan for a period of not to exceed twenty-four (24) months, or a long-term loan for a period not to exceed twelve and one-half (12.5) years.

(1) The terms and conditions of any such loan shall be as determined by *I Maga'hågan Guåhan* by the execution of a loan agreement; provided, however, that the loan (A) *shall* be subject to prepayment from the proceeds of the bonds authorized by Subsection (b) of this Section; (B) may be secured in a substantially similar manner to the bonds

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authorized by Subsection (b) of this Section; (C) *shall*, if not paid with the proceeds of revenue bonds, have annual principal payments over the five (5) year period commencing one (1) year after its funding date; and (D) *shall* bear interest at such fixed or variable rate or rates as may be negotiated by *I Maga'hågan Guåhan* in the best interests of the government.

(2) No loan authorized by this Section *shall* be entered into until the Board of Directors of GEDA has approved the loan by resolution.

(3) The loan shall not be subject to the approval of the voters of Guam.

(4) *I Liheslaturan Guåhan*, pursuant to 12 GCA § 50103(k), hereby approves a borrowing by the government of Guam for the purposes and in the principal amount authorized by this Section; provided, that the loan is entered into subject to the terms and conditions mandated in this Section.

(q) Approval of Guam Public Utilities Commission Not Required. Notwithstanding 12 GCA § 12106, neither the issuance of the bonds nor the loan authorized by this Section shall be subject to the approval of the Guam Public Utilities Commission.

SOURCE: Added by P.L. 35-021:1 (May 20, 2019).

2019 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 1512.5. Authorization of Refunding of Government of Guam Business Privilege Tax Bonds, Series 2011A, Government of Guam Business Privilege Tax Bonds, Series 2012B, and Government of Guam Business Privilege Tax Refunding Bonds, Series 2015D.

(a) Authorization of Issuance of Bonds. Pursuant to § 50103(k) of Title 12, Guam Code Annotated, *I Maga'hågan Guåhan* is authorized to issue one or more series of tax-exempt or taxable bonds of the government of Guam from time to time, including, but not limited to, on a forward basis, for the purpose of refunding all or a portion of the government of Guam's

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outstanding Business Privilege Tax Bonds, Series 2011A (2011A Bonds), its Business Privilege Tax Bonds, Series 2012B (2012B Bonds), and/or its Business Privilege Tax Refunding Bonds, Series 2015D (2015D Bonds) and, together with the 2011A Bonds and the 2012B Bonds (Prior Bonds), in accordance with the following requirements, limitations, terms and conditions:

(1) All obligations of the government to pay debt service on, and the redemption price of, the Prior Bonds refunded shall be discharged concurrently with the issuance of the refunding bonds. Thereafter, such Prior Bonds shall be payable solely from and secured solely by an escrow established for such purpose in accordance with the government's existing bond indenture or otherwise shall be redeemed on the closing date of the refunding bonds.

(2) The debt service savings resulting from the issuance of the refunding bonds shall be not less than an amount equal to two percent (2%) of the principal amount of the Prior Bonds refunded, inclusive of all charges and fees for bond counsel and bond underwriters and other costs of issuance in connection with the issuance, sell and delivery of the bonds. Debt service savings is defined for this purpose to be the amount by which the present value of debt service on the Prior Bonds exceeds the present value of debt service on the refunding bonds, using the yield on the refunding bonds as the discount rate for purposes of calculating present value. This provision shall not apply to the refunding of Prior Bonds for the primary purpose of providing cash flow relief to the government.

(3) Such refunding bonds shall have a principal amount or principal amounts sufficient to provide funds for the payment of all or a portion of the Prior Bonds refunded, and in addition, for the payment of all expenses incident to the calling, retiring or paying of such Prior Bonds and the issuance of such refunding bonds, including:

(A) the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold;

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(B) any amount necessary to be made available for the payment of interest upon such refunding bonds from the date of sale thereof to the date of payment of the Prior Bonds or to the date upon which the Prior Bonds will be paid pursuant to the call thereof or agreement with the holders thereof;

(C) the premium, if any, necessary to be paid in order to call or retire the Prior Bonds and the interest accruing thereon to the date of the call or retirement; and

(D) any additional amount needed to provide for a deposit to the debt service reserve in connection with the issuance of the refunding bonds.

(4) The issuance of the refunding bonds shall not result in any increase in the aggregate amount of the government's outstanding "public indebtedness" as that term is used in 48 USC 1423a (§11 of the Organic Act of Guam).

(5) The refunding bonds shall have a final maturity not later than the final maturity of the Prior Bonds; provided, however, that this provision shall not apply to the refunding of Prior Bonds for the primary purpose of providing cash flow relief to the government.

(b) Terms and Conditions Determined by Certificate or Indenture. The terms and conditions of the bonds shall be as determined by *I Maga'hågan Guåhan* by the execution of a certificate or indenture authorizing the issuance of the bonds upon or prior to the issuance of the bonds.

(c) Pledge of Business Privilege Tax Revenues.

(1) All bonds authorized by Subsection (a) of this Section, as may be amended from time to time (BPT Bonds), shall be secured by a statutory lien on all tax revenues derived from the levy of the first three (3) percentage points, out of the total number of percentage points levied from time to time, of the business privilege tax levied pursuant to Article 2 of Chapter 26, Title 11, Guam Code Annotated, or any successor thereto (pledged business privilege tax revenues).

(2) This lien shall arise automatically without the need

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for any action or authorization by *I Maga'hågan Guåhan*, the government of Guam, or any other person or entity. Such lien shall be valid and binding from the time such BPT Bonds are issued. The pledged business privilege tax revenues shall immediately be subject to such lien, and the lien shall automatically attach to the pledged business privilege tax revenues and be effective, binding, and enforceable against *I Maga'hågan Guåhan*, the government of Guam, their successors, assignees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. Pledged business privilege tax revenues received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account entitled the "BPT Revenue Fund."

(3) Pledged business privilege tax revenues that are not required to make payments on the BPT Bonds shall automatically, and without the need for any further action, be released from such lien and shall be available for appropriation for any other lawful purpose of the government. The statutory lien described in this Subsection shall not be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute.

(d) In addition to the statutory lien provided for in Subsection (c) of this Section, all or any part of the pledged business privilege tax revenues may be pledged, if and to the extent determined by *I Maga'hågan Guåhan*, to secure the payment of any BPT Bonds issued pursuant to that certain indenture, dated as of December 1, 2011, by and among the government of Guam, the Bank of Guam, as trustee, and the U.S. Bank National Association, as co-trustee, as amended or supplemented from time to time in accordance with its terms (BPT Indenture).

(1) Any such pledge shall be valid and binding against all parties in accordance with its terms and have priority against all parties in accordance with its terms from the time the pledge is made, and property so pledged shall immediately be subject to the lien of the pledge without the

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need for physical delivery, recordation, filing, or other further act. The pledge shall not be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute.

(2) The BPT Indenture by which such pledge is created need not be recorded and shall direct the distribution and disbursement of revenues from the BPT Revenue Fund following their deposit therein. All such taxes to the extent so pledged are hereby continuously appropriated for such purpose. So long as any bonds issued pursuant to the BPT Indenture, including, but not limited to, those authorized under Subsection (a) of this Section, as may be amended from time to time, remain outstanding, the government of Guam may not reduce the rate of levy and collection of the pledged business privilege tax below three percent (3%), nor may the government of Guam reduce the services, products or activities to which the pledged business privilege tax applies, nor may the government of Guam upwardly adjust any exception or exclusion to, or otherwise impair, the pledged business privilege tax.

(e) Valid and Binding. The bonds authorized by this Section shall constitute the valid and binding limited obligations of the government of Guam, secured by a pledge of the pledged business privilege tax revenues described in Subsection (c) of this Section, all as further specified below in such Subsection. All officers charged by law with any duty in the collection of the revenues of the government from which debt service on the bonds will be payable shall do every lawful thing necessary to collect such sum.

(f) Appropriation of Revenues. All revenues are hereby appropriated for the purposes of paying the principal and interest on the bonds issued pursuant to this Section. Revenues released from the lien of the indenture or certificate pursuant to which the bonds are issued shall be subject to appropriation by *I Liheslaturan Guåhan* for any other lawful purpose. Up to Five Million Dollars (\$5,000,000) of said revenues shall be appropriated to the Department of Public Health and Social Services in FY 2021 and FY 2022 for the sole purpose of providing temporary assistance in the form of grants which shall be distributed to local non-profit organizations that provide food

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and commodities for homeless individuals, unemployed individuals, children, and low-income families. These funds shall not lapse and shall be available to DPHSS until fully expended; provided, that this appropriation of revenues shall not take effect if federal funds, to include funds from the American Rescue Plan Act of 2021, are expended for substantially similar purposes stated in this Subsection by the end of FY 2021.

(g) Additional Bonds. Nothing in this Section shall be construed to prevent the government from issuing, after appropriate enabling legislation, other obligations secured by pledged business privilege tax revenues on a parity with or subordinate to the bonds or the government's obligations with respect thereto authorized by this Section on such terms as may be provided by the indenture or certificate pursuant to which the bonds are issued. Nothing in this Section shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, other obligations of the government secured by the general obligation of the government on a parity with or subordinate to the bonds authorized by this Section on such terms as may be provided by the indenture or certificate pursuant to which the bonds are issued.

(h) Waiver of Immunity; Submission to Jurisdiction. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the bonds but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam. The government of Guam hereby submits to the jurisdiction of the U.S. District Court for the District of Guam for purposes of any such suit or action in contract on the bonds.

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

(j) Form of Bonds; Covenants; Appointment of

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Fiduciaries.

(1) The technical form and language of the bonds, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection of pledged business privilege tax revenues, shall be as specified in the certificate or indenture executed by *I Maga'hågan Guåhan* authorizing the issuance of the bonds.

(2) The certificate or indenture shall appoint one or more trustees, co-trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds, the pledged business privilege tax revenues and other moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. *I Maga'hågan Guåhan* is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of bonds.

(k) Authorization for Credit Enhancement. *I Maga'hågan Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as she determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section, if and only if such contracts or agreements reduce the cost of the debt by more than the cost of credit enhancement. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or other financial institutions for costs and expenses incurred in connection with any such advance. Any such reimbursement obligation and any other obligations of the government under such contracts or agreements shall be general obligations of the government of Guam and shall additionally be secured by a pledge of, pledged business privilege tax revenues, and any such advance, if necessary, shall be treated for Organic

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Act purposes as creating an obligation issued to refund the bonds.

(l) Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to:

(1) fund an escrow to pay principal, interest and redemption price of Government of Guam Business Privilege Tax Bonds, Series 2011A, Government of Guam Business Privilege Tax Bonds, Series 2012B, and Government of Guam Business Privilege Tax Refunding Bonds, Series 2015D, or otherwise to pay in full such 2011A Bonds, 2012B Bonds or 2015D Bonds;

(2) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; and

(3) fund capitalized interest on the bonds for a period not longer than twelve (12) months from the date of issuance of such bonds.

(m) Permitted Investments. The proceeds of the bonds, and any pledged business privilege tax revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the certificate or indenture pursuant to which such bonds are issued.

(n) Approval by Guam Economic Development Authority. § 50103(k), Title 12, Guam Code Annotated, provides that agencies and instrumentalities of the government of Guam shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority (GEDA). No issue of bonds authorized by this Section shall be sold until the Board of Directors of GEDA has adopted a resolution approving the sale of such issue.

(o) Approval of Voters Not Required. Notwithstanding any

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law to the contrary, the issuance of the bonds authorized by this Section shall not be required to be subject to the approval of, or placed before, the voters of Guam.

SOURCE: Added by P.L. 36-009:1 (Apr. 1, 2021).

2021 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 1513. 2005 Revenue Road and Pothole Repair Bonds.

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

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

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

(d) Pledge of Revenues; Not a General Obligation. There is established the Road and Pothole Repair Fund, hereinafter known as the 'RPRF'. Notwithstanding the provisions of Section 7161, 16 GCA, all fees deposited and maintained in the Street Light Fund shall be transferred and henceforth, deposited and maintained in the RPRF. All revenues contained in the RPRF may be pledged to secure the repayment of any bonds issued under this Section and to pay costs incurred in the issuance or administration

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of the bonds. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture or agreement by which such pledge is created need not be recorded. All such fees and penalties, to the extent so pledged, are hereby continuously appropriated for such purpose. Any annual balances in the RPRF not required for annual debt service, on an annual basis, or such other use as detailed in the indenture may be reverted to the Abandoned Vehicle/Streetlight Fund. The bonds shall not be, and shall state on their face that they are not, general obligations of the government of Guam.

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

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

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and payment of the bonds being refunded. The indenture shall be subject to the approval of *I Liheslaturan Guåhan*.

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

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

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

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

(1) Repair of potholes not determined to be caused by

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the Guam Waterworks Authority or its contractors, the Guam Power Authority or its contractors, or any autonomous agency of the government of Guam or its contractors, as determined by the Director of Public Works. The Director of Public Works shall prioritize the order in which potholes shall be repaired, taking into account usage of the effected road or highway, severity of the pothole and risk to public safety.

SUBTOTAL
 \$11,000,000.00

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

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
	Agana Heights		
1	Tutujan Drive/Chalan Canton Tutujan	0.12	\$36,000.00
2	Joseph Cruz/Chalan Macajna	0.19	\$57,000.00
3	Fonte Drive	0.08	\$24,000.00
4	Vicente Salomon Drive	0.06	\$18,000.00
5	Niyog Drive	0.12	\$36,000.00
6	Patnetos Drive	0.08	\$24,000.00
7	Francisco Javier Avenue	0.08	\$24,000.00
8	Dadik Lane	0.06	\$18,000.00
9	Chargualaf Drive	0.06	\$18,000.00
	Municipality Subtotals:	0.85	\$255,000.00
	Agat		
1	Erskin Drive	0.31	\$93,000.00
2	San Vicente Avenue	0.25	\$75,000.00
3	Calle De Los Marteres	0.16	\$48,000.00
4	Father Follard Street	0.25	\$75,000.00
5	Duenas Street	0.17	\$51,000.00
6	San Rogue Street	0.31	\$93,000.00

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

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

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
17	Chalan Kalo - Judge Sablan Street	0.20	\$60,000.00
	Municipality Subtotals:	10.66	\$4,238,000.00
	Dededo		
1	Castro Street (1/2 of road with CLTC)	0.30	\$90,000.00
2	South Caldiola (CLTC)	0.60	\$180,000.00
3	Adora Street (CLTC)	0.30	\$90,000.00
4	Stamp Road (CLTC)	0.80	\$240,000.00
5	East/West Liguana Avenue	0.40	\$120,000.00
6	West Nandez Avenue (CLTC)	0.50	\$150,000.00
7	Chalan Koda	1.00	\$300,000.00
8	Never Mind Road (CLTC)	0.60	\$180,000.00
9	North Ukudo Street	0.60	\$180,000.00
10	Algeta Street	1.00	\$300,000.00
11	Y-Sengsong Road area		
	Chalan I Natibu .05, Atbot de Fuego Street .04	0.90	\$270,000.00
12	Machanaonao area		
	Chalan Disipulu .3, Chalan Kareta .4, Kayon Cocora .3, Kayon Dalalai .5, Radha Bhojwani Court .4	1.90	\$570,000.00
13	Machanao area		
	Bisaya Road .2, Jalloria Street .3, Chalan Encio .3, Cactus Lane .2, Chalan Espinosa .2, Lucky Road .2	1.40	\$420,000.00
14	Santa Lourdes Street	0.20	\$60,000.00
15	Hegao Loop	0.10	\$30,000.00
	Municipality Subtotals:	10.60	\$3,180,000.00
	Hagatna		
1	East/West Obrien Drive	1.50	\$450,000.00

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CH. 1 OFFICE OF THE GOVERNOR

Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
2	Chalan Santo Papa	0.20	\$60,000.00
3	Archbishop Flores Street	0.30	\$90,000.00
4	Aspinall Avenue	0.80	\$240,000.00
5	Hessler Place	0.20	\$60,000.00
6	Hernan Cortez Avenue	0.20	\$60,000.00
7	West Soledad Avenue	0.20	\$60,000.00
8	Santa Cruz Lane	0.20	\$60,000.00
9	Olaiz Street	0.20	\$60,000.00
10	Bradley Place	0.20	\$60,000.00
11	Dulce Nombre Maria Street	0.20	\$60,000.00
12	Murry Boulevard	0.20	\$60,000.00
13	Tenth Street	0.20	\$60,000.00
14	Ninth Street	0.20	\$60,000.00
15	Eighth Street	0.20	\$60,000.00
16	Seventh Street	0.20	\$60,000.00
17	Sixth Street	0.20	\$60,000.00
18	Anecito Street	0.20	\$60,000.00
19	Fifth Street	0.20	\$60,000.00
20	Padre Palomo Street	0.20	\$60,000.00
21	Castillo Drive	0.20	\$60,000.00
22	Father Duenas Avenue	0.20	\$60,000.00
23	Seaton Boulevard	0.20	\$60,000.00
	Municipality Subtotals:	6.60	\$1,980,000.00
	Inarajan		
1	Ija Subdivision (All roads)	2.00	\$1,500,000.00
2	Y-Peca Lane	0.05	\$15,000.00
3	Y-Peca Lane road re-alignment (existing road on private property)	0.06	\$42,000.00
4	Tun Santiago North Paulino Street	0.12	\$36,000.00

5 GCA GOVERNMENT OPERATIONS
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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
5	Tun Jose L. San Nicolas Street	0.48	\$144,000.00
6	Barcinas Drive	0.05	\$15,000.00
7	Tun Jesus Crisostomo	0.10	\$30,000.00
8	Chalan Chandia	0.10	\$30,000.00
9	Tinaga Lane	0.07	\$21,000.00
10	Chalan Guefan	0.20	\$60,000.00
11	Papaya Lane	0.06	\$18,000.00
12	Cepeda Drive	0.07	\$21,000.00
13	Chalan Laman	0.05	\$15,000.00
14	Friholes Street	0.03	\$9,000.00
15	Roy Meno Street	0.04	\$12,000.00
16	Bear Rock Lane	0.06	\$18,000.00
17	Ben Diego Road	0.06	\$18,000.00
18	Malojloj Well Drive	0.10	\$30,000.00
19	Tun Enemicio & Regina Diego Drive	0.05	\$15,000.00
	Municipality Subtotals:	3.75	\$2,049,000.00
	Mangilao		
1	Farfan Street	1.50	\$450,000.00
2	Spanish Road	1.00	\$300,000.00
3	Sengsong Street	1.00	\$300,000.00
4	Kinney Drive / Arriola Court	2.00	\$600,000.00
5	Sabana Maagas	2.00	\$600,000.00
6	Santos Road	1.50	\$450,000.00
7	Apiag Road	0.75	\$225,000.00
8	Lemon Lane	1.00	\$300,000.00
9	Suni Lane	1.00	\$300,000.00
10	Juan Muna-Mamis Street	0.05	\$15,000.00
11	Sietbro Road	0.30	\$90,000.00
12	Koko Lane	0.50	\$150,000.00

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
13	Washington Drive	2.00	\$600,000.00
14	Baza Lane	0.75	\$225,000.00
15	Cadena Lane	0.50	\$150,000.00
16	Lalo Street	1.00	\$300,000.00
17	Tum Ramon Street	0.75	\$225,000.00
18	Mandarin Street	1.50	\$450,000.00
19	Costa Lane	0.75	\$225,000.00
20	Bilmar Court	1.00	\$300,000.00
21	Dimas Street	0.50	\$150,000.00
	Municipality Subtotals:	21.35	\$6,405,000.00
	Merizo		
1	Joseph A. Cruz Avenue (Pigua)	1.00	\$300,000.00
2	Benny T. Espinosa Avenue (Geus)	0.50	\$150,000.00
3	Jesus Quinene Road	1.00	\$300,000.00
4	Geronimo Tainatongo Street	0.14	\$42,000.00
5	Pedro Tainatongo Street	0.05	\$15,000.00
6	Jose Baza Street	0.08	\$24,000.00
7	Chalan J. Lujan	0.05	\$15,000.00
8	Vicente Quitugua Street	0.05	\$15,000.00
9	Chuck McJohn Street	0.05	\$15,000.00
10	Fred B. Quinene Road	0.12	\$36,000.00
	Municipality Subtotals:	3.04	\$912,000.00
	Mongmong/Toto/Maite		
1	Clara Road (Reconstruction)	0.80	\$1,500,000.00
2	North Old George Washington Road	0.30	\$90,000.00
3	J. A. Camacho Street	0.40	\$120,000.00
4	South Old George Washington Road	0.20	\$60,000.00
5	Biang Street/Casimero St. (Anti-skid paving)	0.22	\$44,000.00

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
6	Tuba Street	0.20	\$60,000.00
7	Torres Street	0.30	\$90,000.00
8	Balaku Street	0.30	\$90,000.00
9	Taluba Street	0.30	\$90,000.00
10	Aragon Street (Anti-skid paving)	0.11	\$21,000.00
11	Manibusan Street	0.50	\$150,000.00
12	Robat Street	0.50	\$150,000.00
13	South Peperu Street	0.60	\$180,000.00
14	Bihu Street	0.30	\$90,000.00
15	Duendes Street	0.30	\$90,000.00
16	Martinez Lane	0.10	\$30,000.00
	Municipality Subtotals:	5.43	\$2,855,000.00
	Piti		
1	Ocean Street	0.17	\$51,000.00
2	Chalan Soling	0.12	\$36,000.00
3	Chalan Sabana	0.17	\$51,000.00
4	Masso Court	0.15	\$45,000.00
5	Edward Lane	0.17	\$51,000.00
6	Jesus Alig Drive	0.17	\$51,000.00
7	Ocean Summit Drive	0.22	\$66,000.00
8	Ocean Summit Drive (100 ft. of existing coral rd. is on private property, roads need re-alignment)	0.02	\$75,000.00
9	Turner Road	1.00	\$300,000.00
10	Juan Isabel Street	0.05	\$15,000.00
11	J.C. Santos Street	0.10	\$30,000.00
12	Assumption Drive	0.08	\$24,000.00
13	Scharff Street	0.05	\$15,000.00
14	Manga Street	0.12	\$36,000.00
	Municipality Subtotals:	2.59	\$846,000.00

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
	Santa Rita		
1	Joaquin Diaz Drive (Route 17)	0.05	\$15,000.00
2	Cross Island Road Atenta	0.06	\$18,000.00
3	Felix T. Dysdasco Drive	0.08	\$24,000.00
4	Vicente Borja Drive	0.10	\$30,000.00
5	Juan Cruz Drive	0.24	\$72,000.00
6	Pale Medina Street	0.07	\$21,000.00
7	Sgt. E. Cruz Street	0.23	\$69,000.00
8	Namo Falls Road	0.18	\$54,000.00
9	Blas Dela Cruz Street	0.26	\$78,000.00
10	Aga Drive	0.21	\$63,000.00
11	Sgt. E. Cruz Street	0.21	\$63,000.00
12	Pahong Drive	0.13	\$39,000.00
13	Lalangita Drive	0.14	\$42,000.00
14	Pale Ferdinand Way	0.53	\$159,000.00
15	Joaquin D. Perez Drive	0.50	\$150,000.00
16	Pale Duenas Haya	0.48	\$144,000.00
17	Pale Eugenio Haya	0.10	\$30,000.00
18	Pale Eugenio Lago	0.11	\$33,000.00
19	Juan P. Sarmiento Street	0.48	\$144,000.00
20	Vicente D. Lizama Drive	0.10	\$30,000.00
	Municipality Subtotals:	4.26	\$1,278,000.00
	Sinajana		
1	Afame Road	0.50	\$150,000.00
2	Daso Road	0.30	\$90,000.00
3	Spring Lane	0.20	\$60,000.00
4	Nungi Street	0.20	\$60,000.00
5	Unnamed Street (Intersecting Nungi Street)	0.10	\$30,000.00
6	NW Spring Lane	0.10	\$30,000.00

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
7	Alvarez Road	0.10	\$30,000.00
8	Agana Spring / Lucio Road	1.00	\$300,000.00
9	Pale Kieran Drive (Anti-skid paving)	0.60	\$120,000.00
	Municipality Subtotals:	3.10	\$870,000.00
	Talofofo		
1	Route 4A, San Miguel Street-Ernest Santos Street	0.30	\$90,000.00
2	Route 4A-Jose P. Cruz Street	0.43	\$129,000.00
3	West Johnny Taitague	0.08	\$24,000.00
4	Mariano Blas Street	0.08	\$24,000.00
5	Ipan, Talofofo Perez Hts .25 , Cruz Hts .76, Pacha-Don Dei Dr .40, Paulino Hts (North-South) .53, Padua Lane .25	2.19	\$657,000.00
6	Cabrera Lane	0.10	\$30,000.00
7	Nauta Lane	0.08	\$24,000.00
8	Ralph P. Santos Street	0.12	\$36,000.00
9	Ralph Benavente Street	0.10	\$30,000.00
10	Dave Gorton Street	0.30	\$90,000.00
11	Chalan Mapao	0.20	\$60,000.00
12	Chalan Fena	0.20	\$60,000.00
13	West Manuel Mantanona Lane	0.10	\$30,000.00
14	Ignacio P. Quitugua Street	0.49	\$147,000.00
15	Leonardo Tenorio Street	0.34	\$102,000.00
16	Francisco A. Reyes Avenue	0.60	\$180,000.00
17	Route 4 (Anti-skid paving from Jeff's Pirates Cove to Ipan Mobil)	0.40	\$117,000.00
	Municipality Subtotals:	6.11	\$1,830,000.00
	Tamuning		
1	Anthurium Lane	0.30	\$90,000.00

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
2	Milindes Court / Street John Street	1.20	\$360,000.00
3	Tun Pedro Cruz Street	0.40	\$120,000.00
4	Adrian Sanchez Street	1.30	\$390,000.00
5	Taitano Road	0.60	\$180,000.00
6	Happy Landing Road (Old San Vitores Road)	0.50	\$150,000.00
7	Harmon Industrial Park (East & West)	1.20	\$360,000.00
8	Carlos Heights Road	0.60	\$180,000.00
9	Jones Town (All Roads)	2.50	\$750,000.00
10	Jalaguac Road	0.20	\$60,000.00
11	Manuel C. Rivera Street	0.20	\$60,000.00
12	Tan Conchita Lane	0.20	\$60,000.00
13	Black Construction Road	0.20	\$60,000.00
	Municipality Subtotals:	9.40	\$2,820,000.00
	Umatac		
1	S-7 Mahamok area	0.30	\$90,000.00
2	Jagan Drive	0.06	\$18,000.00
3	Jose A. Quinata Street (cemetery)	0.30	\$90,000.00
4	Jose Q. Aguon Street	0.30	\$90,000.00
5	George S. Sanchez Court	0.13	\$39,000.00
6	Jesus A. Quidachay Street	0.05	\$15,000.00
7	Unnamed Street, public easement (access to residence: Vivian Esteves)	0.05	\$15,000.00
8	Unnamed Street, public easement (access to residence: Eileen Celoso)	0.05	\$15,000.00
9	Unnamed Street, public easement (access to residence: Trini Halmi)	0.19	\$57,000.00
10	Unnamed Street, public easement (access to residence: Clare Gofigan)	0.11	\$33,000.00
11	Nino Perdido Street	0.15	\$45,000.00

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

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

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Mayoral Listing by Priority	Public Secondary/ Tertiary Road Listing	Project Distance (Miles)	Project Appropriation Cost
	Yona		
1	Willy Quichocho Road	0.11	\$33,000.00
2	Manenngon Road or Aguon Road	1.00	\$300,000.00
3	Chaco-Pocaigue Road	0.13	\$39,000.00
4	Teleforo Road	0.50	\$150,000.00
5	Ayuyu Road	0.08	\$24,000.00
6	Balajadia and Pangelinan Road	0.12	\$36,000.00
7	Fair Way Drive	0.10	\$30,000.00
8	Fair Way Drive (Road re-alignment, existing road on private property)	0.02	\$90,000.00
9	Rt. 4 / Rt. 17 (Intersection anti-skid paving)	0.38	\$120,000.00
	Municipality Subtotals:	2.44	\$822,000.00
	Grand Total:	121.28	\$39,650,000.00

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

NOTE: Public Law 28-150:V:17 (Sept. 30, 2006) provides the effective date of “Fiscal Year 2008” for subsection (d) – October 1, 2007.

§ 1514. Authorization to Borrow For the Purpose of Acquiring, Constructing and Equipping an Educational Cultural Facility.

(a) Authorization to Borrow. *I Maga’lahen Guåhan* is authorized to borrow on behalf of the government of Guam, including by the issuance of limited obligation notes or debt, as provided in this Section, in an aggregate principal amount not to exceed Twenty-five Million Dollars (\$25,000,000) for the purpose of paying for:

(1) the costs of the acquisition, construction and equipping of an educational facility that reflects a sense of Guam and the Chamorro culture and will be the permanent home for the preservation and continuance of the Chamorro people; provides for the display of artifacts and historical documents; stimulates community involvement; fosters

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research and conveys the results of research to the public primarily through the medium of public exhibits, demonstrations, lectures, public programs and publications using the theme: I Hinanao-ta, the journey of the Chamorro people;

(2) the preservation and restoration of the Plaza de España and other structures within the Plaza as important field facilities in the continuing cultural education of Guam's school children, residents, and visitors; and

(3) funding necessary reserves and paying expenses incurred in connection with the issuance of such debt not already included in an existing appropriation for, or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such debt; provided, however, that such debt may not be issued in an amount that would cause a violation of the debt limitation provisions of 48 U.S.C. 1423a (§ 11 of the Organic Act of Guam).

(b) Terms and Conditions Determined by Certificate. The terms and conditions of the debt shall be determined by *I Maga'lāhen Guåhan* by the execution of a certificate authorizing the issuance of the debt upon or prior to the issuance of the debt; provided, however, that such terms and conditions shall be consistent with this Section, and that the debt shall mature not later than the date thirty (30) years after its date of issuance and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the holders of the debt not exceeding seven and one-half percent (7½%) per annum.

(c) Valid and Binding. The debt authorized by this Section shall constitute the valid and binding limited obligation of the government of Guam payable from and secured by a pledge of the revenues derived from the Tourist Attraction Fund. The government of Guam pledges revenues described in Subsection (d) of this Section for the punctual payment of both principal of and interest on the debt and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the debt. There are hereby

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appropriated from the Tourist Attraction Fund such sums as may be necessary in each year to equal the amount of money necessary to pay the principal and interest on such debt. All officers charged by law with any duty in the collection of the revenues of the government from which debt service on the debt will be payable shall do every lawful thing necessary to collect such sum. The validity of any such debt shall not be affected by the validity or regularity of any proceedings for the expenditure of the proceeds of the debt.

(d) Pledge of Revenues. All or any part of the revenues constituting the Tourist Attraction Fund created by § 30107 of Title 11 GCA, Chapter 30 may be pledged to secure the repayment of any debt or debts created under this § 1514 and pay costs incurred in the creation of such debts, subject to any previously created lien on or pledge of such revenues. Any pledge made to secure the debt or debts shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the government of Guam, such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The certificate by which such pledge is created need not be recorded. All revenues pledged are hereby continuously appropriated for the purpose for which they have been pledged.

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

(f) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any debt issued under this Section, or for any other liability arising in connection

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with the debt; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

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

(h) Use of Proceeds from the Sale of the Debt. The proceeds of the debt shall be used and are hereby appropriated to:

- (1) pay for the costs of the acquisition, construction and equipping of an educational cultural facility;
- (2) pay for Five Million Dollars (\$5,000,000) towards the costs of the preservation and restoration of the Plaza de España, and other structures within the Plaza;
- (3) establish necessary reserves;
- (4) pay expenses relating to the authorization, sale and issuance of the debt, including, without limitation, printing costs, costs of reproducing documents, legal, financial advisory and accounting fees and charges and other costs, charges and fees in connection with the issuance, sale and delivery of the debt; and
- (5) fund capitalized interest on the debt for a period not exceeding twenty-four (24) months.

The educational cultural facility shall include facilities designed to assist in furthering the preservation, education and presentation of Guam's culture, heritage and history.

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(i) Permitted Investments. The proceeds of the debt and any moneys relating to the payment of such debt, may be invested in, but only in, the types of investments permitted by the certificate pursuant to which such debt is issued.

(j) Approval by the Guam Economic Development Authority. Section 50103(k), Title 12, Guam Code Annotated, provides that agencies and instrumentalities of the government of Guam shall issue debt and other obligations only by means of and through the agency of the Guam Economic Development Authority (GEDA). No debt authorized by this Section shall be sold until the Board of Directors of GEDA has adopted a resolution approving the sale of such issue.

(k) Approval of Voters Not Required. Notwithstanding §§ 17311 and 17312 of Title 17, Guam Code Annotated, the issuance of the debt authorized by this Section shall not be required to be subject to the approval of, or placed before, the voters of Guam.

SOURCE: Added by P.L. 30-179:1 (Aug. 14, 2010). Subsection (b) amended by P.L. 30-228:4 (Dec. 30, 2010).

§ 1515. Authorization to Borrow For the Purpose of Acquiring, Constructing and Equipping an Educational Cultural Facility, a Community Cultural Center and Certain Other Projects That Benefit Guam's Tourism Industry and For the Purpose of Refunding the Outstanding Government of Guam Limited Obligation Infrastructure Improvement Bonds.

(a) Definitions. The following terms shall have the following meanings when used in this Section:

(1) Debt service means the scheduled principal of and interest on bonds plus fees, if any, to be paid for credit enhancement of such bonds.

(2) Debt service savings means the amount by which the present value of debt service on refunding bonds is less than the present value of the remaining debt service on the prior obligations refunded by such refunding bonds. Present value shall be calculated for this purpose using the yield on the bond issue as the discount rate.

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(3) Hotel tax revenues means all revenues derived from taxes of the type now imposed by § 30101 of Chapter 30 of Title 11 of the Guam Code Annotated.

(4) New money bond means a bond issued pursuant to this Article as part of the same issue as the refunding bonds, but for the purpose of providing moneys for the projects authorized by Subsection (i) of this Section, funding a debt service reserve fund, or paying expenses incurred in connection with the issuance of such new money bonds not already included in an existing appropriation for, or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such debt.

(5) Prior obligations means the outstanding Government of Guam Limited Obligation Infrastructure Improvement Bonds, 1997 Series A, being refunded in connection with the issuance of bonds pursuant to this Section.

(6) Refunding bond means a bond issued pursuant to this Section for the purpose of providing moneys to redeem or otherwise retire prior obligations, funding any appropriate reserves allocable to the refunding bonds, or paying expenses incurred in connection with the issuance of such refunding bonds not already included in an existing appropriation for, or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such debt.

(7) Yield means the annual discount rate which, when used to discount all payments of net debt service on a bond issue to the date of issuance of the bonds, using a semiannual compounding interval, results in the aggregate present value of such payments being equal to the re-offering price to the public of the bonds. For this purpose, “net debt service” means debt service minus the amount of any direct subsidy payment to be received from the United States in connection with debt service.

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(b) Authorization of Issuance of Limited Obligation Infrastructure Improvement Bonds. *I Maga'lahaen Guåhan* is authorized to issue on behalf of the Government an issue of bonds of the Government consisting of refunding bonds and new money bonds, subject to the following requirements and limitations:

(1) The issuance of the bonds shall not cause a violation of the debt limitation provisions of Title 48 U.S.C. §1423a (§ 11 of the Organic Act of Guam).

(2) All obligation of the Government to pay debt service on the prior obligations shall be discharged concurrently with the issuance of the refunding bonds. Thereafter, any remaining debt service on the prior obligations shall be payable solely from and secured solely by a refunding escrow established for such purpose.

(3) The present value of debt service on the refunding bonds shall be at least two percent (2.0%) less than the present value of debt service on the refunded bonds, using the yield on the refunding bonds as the discount rate.

(4) The aggregate principal amount of refunding bonds issued shall not exceed the amount necessary to redeem or otherwise retire the prior obligations, fund any appropriate reserves allocable to the refunding bonds, and pay expenses incurred in connection with the issuance of the refunding bonds not already included in an existing appropriation for, or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such debt.

(5) The aggregate principal amount of new money bonds issued shall not exceed the amount necessary to fund the sum of the amounts appropriated for the projects listed in Subsection (i) of this Section, establish a debt service reserve fund allocable to the new money bonds, pay capitalized interest on the bonds and pay expenses incurred in connection with the issuance of the new money bonds not already included in an existing appropriation for, or the regular budget of any government agency or instrumentality

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or public corporation providing any service in connection with the issuance of such debt.

(6) Aggregate net debt service in each fiscal year on the bonds issued pursuant to this Section and any Government of Guam Infrastructure Improvement Bonds, 1997 Series A, remaining outstanding after the issuance of such bonds shall not exceed Seven Million Dollars (\$7,000,000) per fiscal year.

(c) Source of Payment and Security for the Bonds. The bonds issued pursuant to this Section shall be limited obligations of the Government payable from and secured by a pledge of all or any part of the hotel tax revenues. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The hotel tax revenues received by the Government or any trustee, depository and custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the Government of such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture by which such pledge is created need not be recorded. Hotel tax revenues pledged for the purpose of paying the bonds are hereby continuously appropriated for such purpose and for the purposes of paying the charges of any trustee, custodian, depository, auditor or credit enhancement provider for the bonds and any other necessary bond expenses under the indenture. All such revenues not needed for such purpose or for the purposes of paying any Government of Guam Limited Obligation Infrastructure Improvement Bonds, 1997 Series A, remaining outstanding and any expenses related thereto shall be transferred periodically by any trustee or other fiduciary under the indenture as follows:

(1) first, to the fund or account designated by the Guam Visitors Bureau (GVB), such amount as is specified by the budget enacted by *I Liheslaturan Guåhan* (the Guam Legislature) for the GVB, and

(2) second, the balance of such revenues to the Tourist Attraction Fund.

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The obligation to make these transfers to the GVB and the Tourist Attraction Fund shall not be a part of the contract with the bondholders, and shall be subject to the modification by amendment of this Subsection (c) of this Section.

The Director of Administration shall provide to *I Liheslaturan Guåhan* (the Guam Legislature) a copy of each monthly trustee's or other fiduciary's report on collections and disbursements of hotel tax revenues within five (5) working days of the Director's receipt of such report.

(d) Terms and Conditions Determined by Indenture; Form of Bonds; Covenants; Appointment of Fiduciaries; Other Related Agreements. The terms and conditions of the new issue shall be as determined by *I Maga'lahaen Guåhan* by the execution of an indenture authorizing the issuance of the issue. The indenture shall contain such terms and conditions as are consistent with this Section. The technical form and language of the bonds of the new issue, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated bonds, negotiability, cancellation and other terms, covenants or conditions not inconsistent with this Section, shall be as specified in the indenture executed by *I Maga'lahaen Guåhan* authorizing the issuance of the bonds. The indenture may appoint one (1) or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the bonds and moneys relating thereto, to protect the rights of bondholders and to perform such other duties as may be specified in the indenture. The proceeds of the bonds issued pursuant to this Section, and any revenues relating to such bonds, may be invested in, but only in, the types of investments permitted by the indenture. *I Maga'lahaen Guåhan* is also authorized to execute, on behalf of the Government, any appropriate agreements, certificates or other instruments relating to the bonds and the sale of the bonds.

(e) Authorization for Credit Enhancement. *I Maga'lahaen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of any bonds authorized by this Section. Such contracts or agreements may contain an obligation

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to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the issue. Any such reimbursement obligation shall be payable solely from the same sources as debt service on the issue is payable, and any such advance, if necessary, shall be treated as creating a reimbursement obligation issued to refund the issue.

(f) Valid and Binding Obligations, Collection of Revenue. The bonds of the issue authorized by this Section shall constitute the valid and binding limited obligations of the Government. All officers charged by law with any duty in the collection of any revenues from which debt service on the issue is payable shall do every lawful thing necessary to collect the money necessary for such purpose. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of the infrastructure improvement projects funded by either the prior obligations or the new money bonds.

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

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

(i) Infrastructure Improvement Projects. The proceeds of the new money bonds issued under this Section are hereby appropriated in amounts not to exceed the following amounts for the purposes of implementing the following projects, in the following order of priority:

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(1) Sixty-Eight Million Five Hundred Thousand Dollars (\$68,500,000) for the following projects:

(A) for the acquisition, construction, and equipping of an educational facility that reflects a sense of Guam and the Chamorro culture and will be the permanent home for the preservation and continuance of the *Chamorro* people; provides for the display of artifacts and historical documents; stimulates community involvement; fosters research and conveys the results of research to the public primarily through the medium of public exhibits, demonstrations, lectures, public programs and publications using the theme: *I Hinanao-ta*, the journey of the *Chamorro* people; provided, however, that the location of such educational facility shall have been approved by *I Maga'låhen Guåhan* prior to acquisition (if any) or construction thereof;

(B) for resolution of the San Vitores flooding caused by storm water runoff along San Vitores Road north of the Fujita Pump Station by collecting and removing storm runoff via transmission to the Fujita Pump Station to be discharged at a suitable location;

(C) for various projects related to Historic Hagåtña to include the following:

(i) for the restoration of the walls of the Plaza de España;

(ii) for the restoration and rehabilitation of the Plaza de España Azotea;

(iii) for the restoration of the Plaza de España Chocolate House; and

(iv) for the development of a paver-surface crosswalk and landings on both sides of Marine Corps Drive to provide a proper connection between Skinner Plaza and the Chamorro Village.

(v) The Guam Economic Development Authority shall reprogram the sum of One Million

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Dollars (\$1,000,000) from the available unused allocation pursuant to this Section for the Dock and Shoreline Reinforcement Economic Enhancement Project of the Guam Fishermen's Cooperative Association Facility, to provide funding for the restoration and development of the seawall and new walkway beginning adjacent to the Hagåtña Fishermen's Cooperative Building and extending seaward along the Hagåtña Marina (Boat Basin) channel.

(D) for reimbursements to the Guam Preservation Trust interfund payables due to failure to deposit in said Fund and to transfers out by *I Maga'låhen Guåhan*;

(E) for the restoration of the Inarajan community center;

(F) for the restoration and rehabilitation of the Malesso Bell Tower, including landscaping and lighting improvements;

(G) for the design and construction of a Guam Farmers Cooperative Association facility and the relocation of the Dededo Flea Market;

(H) (i) for purposes of issuing a grant of no more than Five Million Dollars (\$5,000,000) to the Guam Fishermen's Cooperative Association (GFCA) for the purposes of construction, repair and improvements of its facility as part of the Greg D. Perez Marina Economic Enhancement Master Plan.

(ii) No funds authorized in this Section shall be used to pay any contracted consultants.

(iii) Notwithstanding the order of priority requirement in § 1515(i)(2) and upon enactment, the sum of Two Million Dollars (\$2,000,000) of the proceeds are authorized, appropriated and shall be deposited and accounted for in a separate trustee sub-account for the payments of expenses

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associated with the construction, repair and improvements of the GFCA facility. Any services or contracts or expenses associated with the construction, repair and improvements of the GFCA facility under this grant shall require the approval of the GFCA. Disbursements for payments of expenses associated with the construction, repair and improvements of the GFCA facility shall be approved by the GFCA and countersigned by GEDA. The proceeds of the grant must be expended or encumbered by the GFCA for the purposes provided herein no later than March 31, 2017. If any funds authorized by this Section remain unexpended or unencumbered after March 31, 2017, the amount of the unencumbered or unexpended authorization shall be subject to legislative re-appropriation. Funds not authorized for expenditure by the GFCA in this Section are subject to legislative appropriation for tourism-related capital improvement projects. The GFCA shall report to *I Maga'låhi* (the Governor) and the Speaker of *I Liheslatura* (the Legislature) on a quarterly basis of all expenditures of this grant and other funds secured by the GFCA used for the construction, repair and improvements of its facility until the grant is fully expended and the facility construction, repair and improvements are completed.

(I) for the construction of a historic monument and plaza to commemorate Ferdinand Magellan's historic visit to Umatac Bay;

(J) for the design and construction of village entrance signs for Guam's nineteen (19) municipalities;

(K) for improvements to the Nimitz Beach outdoor pavilion, public restrooms, lighting, benches and walking paths;

(L) for improvements to the public facilities near the Fish Eye Pier, including public restrooms, washing

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facilities, benches, lighting, and picnic areas;

(M) for improvements to the stalls, public restrooms, landscaping and walking paths of the Mangilao Public Market;

(N) for improvements in Tumon Bay, to include pedestrian corrals and safety railings, and overhead lighting at the Governor Joseph Flores Memorial Park;

(O) for the renovation of streetlights along Pale San Vitores Road;

(P) for the renovation of streetlights in the Agana Bay vicinity;

(Q) for the restoration and repair of scenic byways, overlooks, and historic sites, including the Cetti Bay and Sella Bay Overlooks; the Umatac Bay Overlook; the Agat Spanish Bridge (Talifak River); the Talofofo and Fadi'an Point Overlooks; the Santos Memorial Park ocean views; and the East Agana Bay picnic shelters and ocean views;

(R) for the design and construction of a permanent monument for the late Senator Angel L.G. Santos Park;

(S) for the scenic and informational highway signs;

(T) for improvements of the Hagåtña Tennis Courts;

(U) for improvements of the Hagåtña Pool;

(V) for deposit into the Community Sports Recreational Improvement Fund established under Public Law 14-27 for the construction and/or renovation of sports and community recreational facilities;

(W) for primary or supplemental funding for projects identified under the Hagåtña Master Plan; and

(X) for the acquisition of available real estate that is offered for sale, and the development of a public park,

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within the area known as Faifai and Gognga (Gun Beach) in Tumon.

(j) Approval of Guam Economic Development Authority. Section 50103(k) of Title 12, Guam Code Annotated provides that agencies and instrumentalities of the Government shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority (GEDA). No issue of bonds authorized by this Section shall be sold until the Board of Directors of GEDA has adopted a resolution approving the sale of such issue.

(k) In the event that *I Maga'lahren* secures a loan under Public Law 30-179, *I Maga'lahren* is authorized to reprogram bond proceeds intended for Item (1) of Subsection (i) of this Section for the purpose of reconstructing and/or renovation of the Old Guam Legislature Building (the former Guam Congress Building) and other historic facilities in Hagåtña.

SOURCE: Added by P.L. 30-228:1 (Dec. 12, 2010). Subsection (i)(2)(G) repealed and reenacted by P.L. 31-196:9 (Mar. 28, 2012), amended by P.L. 32-056:1 (July 8, 2013), P.L. 33-059 (June 30, 2015), and 33-147:1 (Apr. 15, 2016). Subsection (i)(2)(W) added by P.L. 31-196:10 (Mar. 28, 2012). Subsection ((i)(2)(B)(v) added by P.L. 33-147:2 (Apr. 15, 2016). Subsection (i) amended by P.L. 33-206:2 (Dec. 15, 2016).

2016 NOTE: Subitem designations were added to subsection (i)(2)(G) to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1515.1. Authorization of One (1) or More Series of Hotel Occupancy Tax Revenue Bonds.

(a) *I Liheslaturan Guåhan*, pursuant to 12 GCA § 50103(k), hereby authorizes *I Maga'hågan Guåhan* to issue one (1) or more additional series of tax-exempt and/or taxable Government of Guam Hotel Occupancy Tax Revenue Bonds, as provided in this Section, in an aggregate principal amount not to exceed Seventy-five Million Dollars (\$75,000,000) for the following purposes: (1) to refund all or a portion of the outstanding Government of Guam Hotel Occupancy Tax Revenue Bonds, Series 2011A (the "2011A Bonds"); (2) to fund a deposit to a debt service reserve fund; and (3) to pay expenses relating to the authorization, sale, and issuance of the bonds, including without limitation, printing costs, costs of

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reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, or charges and fees in connection with the issuance, sale and delivery of the bonds, subject to the following additional conditions:

(1) The terms and conditions of the bonds shall be as determined by *I Maga'hågan Guåhan* by the execution of a certificate or indenture authorizing the issuance of the bonds, prior to the issuance of the bonds, and shall be issued under the master indenture pursuant to which the 2011A Bonds were issued (including any amendments thereto); provided, however, that such terms and conditions shall be consistent with this Section; that the bonds shall have a final maturity not later than the final maturity of the 2011A Bonds; and that the present value of debt service on the bonds issued to refund the 2011A Bonds shall be at least two percent (2%) less than the present value of debt service on the bonds being refunded or refinanced, inclusive of all fees for bond counsel and bond underwriters and other costs of issuance.

(2) The proceeds from such bonds shall be used and are hereby appropriated

(A) to refund all or a portion of the 2011A Bonds;

(B) to fund a deposit to a debt service reserve fund;

and

(C) to pay expenses relating to the authorization, sale, and issuance of the bonds including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, or charges and fees in connection with the issuance, sale, and delivery of the bonds.

(3) No bonds authorized by this Section shall be sold until the Board of Directors of Guam Economic

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Development Authority has approved the sale by resolution, as provided by Chapter 50 of Title 12, Guam Code Annotated.

(4) The issuance of bonds pursuant to this Section shall not be subject to the approval of the voters of Guam.

(b) All bonds issued pursuant to 5 GCA §§ 1515 and 1515.1, as may be amended from time to time, as well as any bonds (“Hotel Occupancy Tax Bonds”) issued pursuant to that certain indenture, dated as of April 1, 2011, by and among the government of Guam, the Bank of Guam, as trustee, and the U.S. Bank National Association, as co-trustee, as amended or supplemented from time to time in accordance with its terms (the “Hotel Occupancy Tax Bond Indenture”) shall be secured by a statutory lien on all revenues derived by the government of Guam from taxes imposed by 11 GCA § 30101, as may be amended from time to time (“Hotel Occupancy Tax Revenues”). This lien shall arise automatically without the need for any action or authorization by *I Maga'hågan Guåhan*, the government of Guam, or any other person or entity. Such lien shall be valid and binding from the time such Hotel Occupancy Tax Bonds are issued. The Hotel Occupancy Tax Revenues shall immediately be subject to such lien, and the lien shall automatically attach to the Hotel Occupancy Tax Revenues and be effective, binding, and enforceable against *I Maga'hågan Guåhan*, the government of Guam, their successors, assignees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. Hotel Occupancy Tax Revenues that are not required to make payments on the Hotel Occupancy Tax Bonds shall automatically, and without the need for any further action, be released from such lien and shall be available for appropriation for any other lawful purpose of the government. The statutory lien described in this Subsection shall not be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute. The Hotel Occupancy Tax Revenues received by the government of Guam or by any trustee, depository, or custodian shall be deposited in accordance with the provisions of the applicable indenture.

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(c) In addition to the statutory lien provided for in this Subsection, all or any part of the Hotel Occupancy Tax Revenues may be pledged, if and to the extent determined by *I Maga'hågan Guåhan*, to secure the payment of any Hotel Occupancy Tax Bonds. Any such pledge shall be valid and binding against all parties in accordance with its terms and have priority against all parties in accordance with its terms from the time the pledge is made, and property so pledged shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The pledge shall not be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute. The indenture by which such pledge is created need not be recorded. All Hotel Occupancy Tax Revenue so pledged is hereby appropriated for the purpose for which it has been pledged. Indebtedness issued by the government pursuant to this Article and that is payable from Hotel Occupancy Tax Revenue may not be issued in an amount that would cause a violation of the debt limitation provisions of Section 11 of the Organic Act of Guam.

SOURCE: Added by P.L. 35-127:1 (Dec. 29, 2020).

§ 1516. GARVEE Bonds Authorized.

(a) Legislative Findings and Intent. *I Liheslaturan Guåhan* hereby finds as follows:

(1) Federal law authorizes states and territories to issue Grant Anticipation Revenue Vehicle (GARVEE) bonds, which are payable from expected Title 23 Federal-aid grants from the U.S. Department of Transportation.

(2) Utilizing GARVEE bonds to finance highway construction projects eligible for Title 23 funding from the Federal Highway Administration (FHWA) can result in significant cost savings since projects can be completed at present-day costs, allows Guam to maintain its local highway construction capability by keeping it actively employed, and enables Guam to avoid the potential cost inflation that may accompany the military build-up.

(3) Funding transportation projects with grant anticipation bonds will also enable completion of highway

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construction projects, or preliminary components thereof, during this lull prior to the military build-up.

(4) The borrowing rates for grant anticipation bonds are near their all-time historical lows, presenting Guam with a unique opportunity to fund its transportation projects at a favorable cost of capital.

(5) Bonds to be repaid solely with the proceeds of special purpose federal grants are not “public indebtedness” within the meaning of the debt limitation provisions of the Guam Organic Act, 48 U.S.C. §1423a.

(6) Therefore, it is in the best interest of Guam to develop these innovative methods for funding and accelerating critical transportation infrastructure projects.

(b) Grant Anticipation Revenue Vehicle (GARVEE) Bonds for Highways.

(1) Authorization of Issuance of GARVEE Bonds. The Governor of Guam is authorized to issue one or more series of grant anticipation notes or bonds of the government of Guam in an aggregate principal amount not to exceed Seventy-Five Million Dollars (\$75,000,000) for the purpose of implementing the Capital Improvement Highway Projects described in Subsection (11) of this Section, funding debt service reserves and paying expenses incurred in connection with the issuance of such bonds; provided, however, that the issuance of the notes or bonds shall not cause a violation of the debt limitation provisions of 48 U.S.C. §1423a.

(2) Terms and Conditions Determined by Indenture. As hereafter used in this Section, the term “bonds” includes notes, bonds and other evidences of indebtedness. The terms and conditions of the bonds shall be as determined by the Governor by the execution of an indenture securing the bonds upon or prior to the issuance of the bonds. The indenture shall contain such terms and conditions as are consistent with this Section.

(3) Valid and Binding Obligation. Any bonds authorized by this Section shall constitute the valid and legally binding

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limited obligations of the government of Guam payable solely from and secured by a pledge of the revenues pledged pursuant to Subsection (4) of this Section. The validity of any such bonds shall not be affected by the validity or regularity of any proceedings for the implementation of Capital Improvement Highway Projects funded by the new bonds.

(4) Pledge of Grant Revenues; Not a General Obligation. All or any part of amounts apportioned to the government of Guam by the United States Department of Transportation or its successor may be pledged to secure the repayment of any bonds issued under this Section and to pay costs incurred in connection with the issuance or administration of the bonds. Pledged revenues may include, but are not limited to, amounts paid to the government of Guam pursuant to Chapter 1 of Title 23, United States Code, Highways, as amended and supplemented from time to time (Title 23), any successor to or replacement of Title 23, and any other provision of federal law authorizing federal funding of highways in Guam. Any pledge made to secure the bonds shall be valid and binding from the time the pledge is made. The revenues pledged and thereafter received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account and shall be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The indenture or agreement by which such pledge is created need not be recorded. All such revenues, to the extent so pledged, are hereby continuously appropriated for such purpose. The bonds shall not be, and shall state on their face that they are not, general obligations of the government of Guam.

(5) Authorization of Memorandum of Understanding. Maga'lāhen Guåhan may enter into one (1) or more memoranda of understanding on behalf of the government

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with the Federal Highway Administration, which would, among other things, identify the projects to be financed with proceeds of the bonds and set forth the procedures for calculation, request and payment of pledged revenues to the trustee, depository or custodian.

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

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

(8) Authorization for Credit Enhancement. The Governor is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the bonds issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal or

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interest on the bonds. Any such reimbursement obligation shall be payable solely from, and may be secured by a pledge of, the revenues described in Subsection (4) of this Section.

(9) Use of Proceeds from the Sale of the Bonds. Proceeds from the sale of the bonds shall be used solely to implement the Capital Improvement Highway Projects described in Subsection (11) of this Section, to fund a debt service reserve fund, if any, and to pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, if any, underwriting, legal and accounting fees and charges, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds. Any earnings derived from the investment of bond proceeds, and any bond proceeds not required for the completion of the Capital Improvement Highway Projects may be used by the Department of Public Works to purchase equipment and supplies to maintain Guam's highways.

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

(11) Expenditure of Proceeds.

(A) Project Groups. The 2030 Guam Transportation Plan (GTP) identifies highway projects that need to be undertaken to improve Guam's highway infrastructure. Highway projects to be funded under this Chapter are categorized into two (2) groups: Group 1 and Group 2.

(i) Group 1: eligible highway projects identified in the 2030 GTP that are deemed high priority and require funding immediately. (The

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projects are listed in alphanumeric order as a matter of form, and the Group 1 list is not to be construed as an order of implementation priority).

(ii) Group 2: eligible highway projects identified in the 2030 GTP that may be undertaken using:

(aa) excess fund balances from completed Group 1 projects and not needed or insufficient for the completion of remaining Group 1 project(s), or

(bb) funds reprogrammed from a Group 1 project that cannot be completed within a reasonable time due to technical or regulatory constraints.

(B) The proceeds shall be expended for the following Capital Improvement Highway Projects:

GROUP 1

(i) Route 14B (Ypao Road) – Reconstruction and Widening:

(aa) Phase 1, From Rte-1 to Carmen Memorial Drive (near SDA),

(bb) Phase 2, from Carmen Memorial Drive to Rte-14B/Rte-14 (San Vitores Road).

(ii) Route 27 (aka Adrian Sanchez Rd or Hamburger Rd) – Reconstruction, Widening, and Drainage Improvements from Rte-1 to Rte 16, and signalization at Rte-1/Rte-27 intersection.

(iii) Tiyan Parkway - Construction, Phase 1 (from old GPD Headquarters, westward to Rte-8 vic. Cars Plus).

GROUP 2

(i) Route 10A (Airport Road) - Reconstruction and Widening.

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(ii) Route 14 (Chalan San Antonio, Rte-1 to Archbishop Felixberto Flores Circle) - Resurfacing

(iii) Route 17 (Cross-island Road) - Rehabilitation and widening, Phase 2B (Rte-5/Rte-17 to Rte-17/Rte-4A intersections).

(iv) Route 26 (Macheche Hill) - Reconstruction and Widening from Rte-1 to Rte 15.

(v) Mass transit improvements.

In the event that one (1) or more of the Capital Improvement Highway Projects listed in Group 1 or Group 2 of this Subsection (11) is completed at a cost that is lower than current estimates, or that logistics in construction or other events cause one (1) or more other Capital Improvement Highway Projects to be ready for construction prior to the Capital Improvement Highway Projects listed above in Group 1 or Group 2 of this Subsection (11), then the proceeds of the bonds may also be expended on such other or additional Capital Improvement Highway Projects as are approved by the Federal Highway Administration for financing with proceeds of the bonds pursuant to a new or amended memorandum of understanding (as described in Subsection (5) of this Section) with *I Maga'lahaen Guåhan*. Any earnings derived from the investment of bond proceeds, and any bond proceeds not required for the completion of all of the Capital Improvement Highway Projects, shall be used as required or permitted by federal law on transportation related projects, subject to an appropriation by the Legislature.

(12) Approval by Guam Economic Development Authority. Subsection (k) of § 50103 of Title 12 of the Guam Code Annotated provides that agencies and instrumentalities of the Government shall issue bonds and other obligations only by means of and through the agency of the Guam Economic Development Authority (GEDA). No issue of bonds authorized by this Section shall be sold until the Board

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of Directors of GEDA has adopted a resolution approving the sale of such issue.

(13) Approval by Legislature of Government of Guam Grant Anticipation Bonds. *I Liheslaturan Guåhan*, pursuant to Subsection (k) of § 50103 of Title 12 of the Guam Code Annotated, hereby approves the issuance and sale by the government of Guam of bonds pursuant to this Section in one or more series or issues; provided that such notes or bonds shall have an aggregate principal amount not to exceed Seventy-Five Million Dollars (\$75,000,000), shall have a final maturity not later than twenty (20) years from their date of initial issuance, shall bear interest at such rate or rates and shall be sold for such price or prices as shall result in a net yield to the bondholders not exceeding seven percent (7.0%) per annum, shall be issued and sold in the manner, for the purposes and subject to the requirements and limitations provided in this Section. Net yield to the bondholders shall be calculated by subtracting interest subsidy amounts, if any, to be received from the United States in connection with such bonds from the amount of interest to be paid to bondholders.

SOURCE: Added by P.L. 31-233:XII:26 (Sept. 7, 2012).

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with: “Lowercase Roman Numerals” to “Uppercase Letters”; “Lowercase Letters” to “Lowercase Roman Numerals”; and “Lowercase Roman Numerals” to “Double Lowercase Letters” in subsection (b)(11).

§ 1517. Salary of *I Maga'låhen Guåhan*.

Notwithstanding any other provision of law, rule or regulation, policy, or procedure, the salary of *I Maga'låhen Guåhan* [the Governor of Guam] *shall* be paid at the rate of Ninety Thousand Dollars (\$90,000) per annum.

SOURCE: Added by P.L. 34-009:3 (May 23, 2017) as 5 GCA § 1103, effective ten (10) days after enactment. Codified to this section by the Compiler.

2017 NOTE: P.L. 34-009:5 stated the following:

Section 5. Effective Date. Notwithstanding any other provision of law, rule or regulation to the contrary, the provisions of this Act *shall* become effective ten (10) days

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after enactment.

ARTICLE 6
GUAM LIAISON OFFICES

- § 1601. Establishment.
- § 1602. Duties of Office.
- § 1603. Coordination with Washington Delegate.
- § 1604. Certifying and Disbursing Officer.

§ 1601. Establishment.

There is established within the government of Guam, Guam Liaison Offices located in the mainland.

SOURCE: GC § 63000 repealed/reenacted by P.L. 15-66:VI:19.

§ 1602. Duties of Office.

The offices shall:

- (a) seek out and keep appropriate federal officials aware of Guam's federal-territorial objectives;
- (b) promote Guam's economic well being;
- (c) promote government programs through appropriate contacts with federal, state and national association officials;
- (d) seek out and keep abreast of all Federal fund programs for which Guam qualifies or may qualify and inform appropriate officials; and
- (e) perform such other duties as assigned by the [Lieutenant] Governor which are necessary and proper to benefit the government of Guam.

SOURCE: GC § 63001 repealed/reenacted by P.L. 15-66:VI:19.

COMMENT: The original San Francisco Liaison Office was closed by the failure of the 17th Guam Legislature to appropriate funds for its continuance and because the federal government switched its own liaison duties back to Washington. In addition, when P.L. 17-25:III:2 repealed and reenacted the law with respect to the duties of the Lt. Governor, that reenactment omitted any reference to the responsibility of the Lt. Governor

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over any Guam Liaison Offices. Beginning in 1983 the Governor has maintained his own Liaison Office in Washington, D.C.

Considering these executive, federal and legislative developments, the Compiler assumes that what federal-territorial liaison activities are being undertaken take place out of the Governor's Washington Liaison Office.

§ 1603. Coordination with Washington Delegate.

The offices shall closely coordinate activities with the office of Guam's Delegate to the United States House of Representatives but shall be located and operated separate from such office.

SOURCE: GC § 63002 repealed/reenacted by P.L. 15-66:VI:19.

§ 1604. Certifying and Disbursing Officer.

The Director of Administration shall be the Certifying Officer and the Disbursing Officer for expenditures by the Liaison Offices.

SOURCE: GC § 63003 repealed/reenacted by P.L. 15-66:VI:19.

ARTICLE 7
EXTERNAL RELATIONS

- § 1701. External Relations Commission.
- § 1702. Term of Office.
- § 1703. Duties.

§ 1701. External Relations Commission.

There is hereby created an External Relations Commission to be composed of nine members to be chosen as follows:

- (a) Three members from the Legislature to be appointed by the Speaker;
- (b) Three members are to be appointed by the Governor;
- (c) Three representatives of private industry within the Territory to be appointed by the Speaker.

SOURCE: GC § 325 added by P.L. 15-52:1.

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COMMENT: This Commission has never been activated. The Legislature, for a time, maintained liaison offices in Hong Kong, but has transferred this function to the Association of Pacific Island Legislatures. The Guam Economic Development Authority maintains a liaison in Hong Kong, and from time to time, elsewhere.

There are doubts as to the validity of this section, since the Speaker is appointing members to what is in effect an executive function.

2013 NOTE: Numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme in accordance to 1 GCA § 1606.

§ 1702. Term of Office.

Each member of the Commission on External Relations shall serve a term of two years.

SOURCE: GC § 326 added by P.L. 15-52:1.

§ 1703. Duties.

The duties of the Commission on External Relations are to consult with the appropriate people in Taiwan, Japan, Republic of the Philippines, Republic of Korea, Singapore and the Peoples Republic of China on subjects of mutual interest of the people of Guam and the people of said countries.

SOURCE: GC § 327 added by P.L. 15-52:1.

ARTICLE 8
BUREAU OF WOMEN'S AFFAIRS

- § 1801. Bureau of Women's Affairs: Establishment
- § 1802. Authorization to Hire Personnel.
- § 1803. Duties and Responsibilities of the Bureau
- § 1804. Equal Employment Programs.
- § 1805. Committees: Formation.

§ 1801. Bureau of Women's Affairs: Establishment.

There is established within the Executive Branch of the government of Guam a Bureau of Women's Affairs (the Bureau). The Bureau shall be headed by a director (the Director), who shall be appointed by the Governor with the advice and consent of the Legislature.

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§ 1802. Authorization to Hire Personnel.

The Director is authorized to employ clerical, technical and support staff to assist in carrying out the duties of the Bureau.

§ 1803. Duties and Responsibilities of the Bureau.

The Bureau shall have the following duties and responsibilities:

(a) To formulate policies to eliminate gender discrimination throughout the government of Guam and the private sector;

(b) To study and make recommendations on issues of particular concern to women, and on widening the access of persons of both genders to all positions and aspects of the community;

(c) To review and submit recommended legislation to the Legislature addressing the gender inequities in current laws;

(d) To be responsible for closely monitoring issues and legislation relating to gender discrimination, and to advise the Governor and the Legislature of issues on such discrimination along with proposed recommendations for action;

(e) To select representatives to attend national conventions and other forums where issues concerning gender discrimination are to be discussed and acted upon.

§ 1804. Equal Employment Programs.

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

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

§ 1805. Committees: Formation.

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The Director shall advertise throughout the government of Guam and the private sector for interested persons wishing to participate on committees to effectuate the purposes of the Bureau. The Board of Advisors appointed by the Governor pursuant to Executive Order 87-14 shall organize the Bureau's structure and shall establish the organization of the Bureau and the committees necessary to further the work of the Bureau.

SOURCE: Article 8 is added by P.L. 21-23:1.

ARTICLE 9
PACIFIC ISLANDS DEVELOPMENT BANK

- § 1901. Short Title.
- § 1902. Acceptance of Membership.
- § 1903. Authorization by Governor of Person to Act on Behalf of the Government.
- § 1904. Governor to Implement Provisions of this Article.
- § 1905. Authorization of Appropriation and Payment of Subscription.
- § 1906. Appointment of Members to the Board of Governors of the Bank.
- § 1907. Immunity from Taxation.
- § 1908. Powers And Limitations of the Bank.
- § 1909. Audit.
- § 1910. Legal Opinion.

§ 1901. Short Title.

This Article may be cited as the Pacific Islands Development Bank Act.

SOURCE: Added as P.L. 22-148:1(a) (12/29/94). Codified by Compiler.

§ 1902. Acceptance of Membership.

The Governor of Guam is authorized to accept membership for the territory of Guam in the Pacific Islands Development Bank (the "Bank") provided for by the Agreement establishing the Bank (the Agreement).

SOURCE: Added as P.L. 22-148:1(b) (12/29/94). Codified by Compiler.

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§ 1903. Authorization by Governor of Person to Act on Behalf of the Government.

The Governor is authorized to empower by instrument under his hand such person as may be named in the instrument:

(a) to sign the Agreement on behalf of the government of Guam;

(b) to deposit the instrument setting forth that the government of Guam has accepted or satisfied the Agreement in accordance with its laws and has taken the steps necessary to enable it to fulfill all of its obligations under this Agreement; and

(c) to sign any document that may be necessary or desirable to permit the full participation by the territory of Guam in the membership of the Bank.

SOURCE: Added as P.L. 22-148:1(c) (12/29/94). Codified by Compiler.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with “Lowercase Roman Numerals” to “Lowercase Letters” in this section.

§ 1904. Governor to Implement Provisions of this Article.

The Governor is charged with the implementation of this Article and may make regulations as to any matter relating to the implementation of the provisions of the Agreement and to the fulfillment of the obligations of the government of Guam thereunder, and in particular, to the status, immunities and privileges of the Bank, of its governors and directors and their alternates and of its employees.

SOURCE: Added as P.L. 22-148:1(d) (12/29/94). Codified by Compiler.

§ 1905. Authorization of Appropriation and Payment of Subscription.

(a) One Million Dollars (\$1,000,000) are authorized to be appropriated, without fiscal year limitations, for the purchase of one thousand (1,000) shares of capital stock in the Bank;

(b) The Governor, on behalf of the government of Guam, shall:

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(1) make payment of an initial subscription to the additional capital stock of the Bank of a sum equivalent to One Hundred Thousand Dollars USD (\$100,000 USD) in accordance with the terms of the Agreement; and

(2) subject to appropriation by the Legislature, make any additional payments which may become payable under the Agreement to purchase the shares under Subitem (a) of this § 1905.

SOURCE: Added as P.L. 22-148:1(e) (12/29/94). Codified by Compiler.

§ 1906. Appointment of Members to the Board of Governors of the Bank.

The Governor, on behalf of the government of Guam, shall appoint one (1) person qualified to be representative of the Executive Branch on the Board of Governors of the Bank. One (1) person on the Board of Governors of the Bank shall be the Speaker or the Speaker's designee, as the representative of the Legislature Branch.

SOURCE: Added as P.L. 22-148:1(f) (12/29/94). Codified by Compiler.

§ 1907. Immunity from Taxation.

The Bank, its property, other assets, income, and the operations and transactions it carries out pursuant to this Section shall be immune from all taxation by the government of Guam.

SOURCE: Added as P.L. 22-148:1(g) (12/29/94). Codified by Compiler.

§ 1908. Powers and Limitations of the Bank.

The Bank, in accordance with its Articles of Agreement, is empowered to provide assistance in the following manner listed under subitems (a) through (i), and has the limitation listed under subitem (j) below:

(a) by the preparation, financing, and execution of development plans and projects, including the consideration of priorities, and the formulation of loan proposals on specific national or regional development projects;

(b) by the development and advanced training, through seminars and other forms of instruction of personnel

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specializing in the formulation and implementation of development plans and projects;

(c) by making or participating indirect loans;

(d) by investment of funds;

(e) by guaranteeing, whether as primary or secondary obligator, in whole or in part, loans for economic development;

(f) by acquiring and selling such securities, mortgages, bonds and other instrument as may be appropriate to the conduct of its business in the carrying out of its purpose;

(g) to act as, or appoint, attorneys or custodians to administer and supervise funds;

(h) to purchase, lease or dispose of assets, business and property within the limitations of its authority;

(i) to deposit funds in financial institutions in Micronesia, the United States and elsewhere as may be appropriate; and

(j) the Bank is prohibited from engaging in banking activities for the benefit of the general public such as maintaining deposit accounts and paying interest on balances thereon as well as engaging in the trust business or acting as a fiduciary in receiving funds, moneys, properties, or securities, and holding or investing such funds, moneys, properties, or securities for the account of such members of the general public; provided, however, that nothing in this subitem (j) shall prohibit the Bank from performing any activities for the benefit of its Members as defined in the Agreement, or performing any activity considered to be normal for a development financial institution.

SOURCE: Added as P.L. 22-148:1(h) (12/29/94). Codified by Compiler.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with “Numbers” to “Lowercase Letters” in this section.

§ 1909. Audit.

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The Bank will submit a copy of its annual audit report to the Executive and Legislative Branches of the government of Guam. In other respects, it will be subject to audit by the government of Guam.

SOURCE: Added as P.L. 22-148:1(i) (12/29/94). Codified by Compiler.

§ 1910. Legal Opinion.

The Attorney General of Guam is authorized to render such legal opinions as may be required by the Bank or by the government to permit the government of Guam to participate fully in the Bank.

SOURCE: Added as P.L. 22-148:1(j) (12/29/94). Codified by Compiler.

ARTICLE 10
OFFICE OF THE PUBLIC ENGINEER

SOURCE: Added as Article 10, §§ 2000-2004 by P.L. 24-119:2 (Feb. 4, 1998), codified by Compiler as §§ 1930-1934. Renumbered to §§ 11001-11005 to maintain the Compiler's general codification scheme pursuant to authority granted by 1 GCA § 1606.

- § 11001. Title.
- § 11002. Office of the Public Engineer: Establishment.
- § 11003. Authorization To Hire Personnel.
- § 11004. Duties of the Public Engineer.
- § 11005. Qualifications of the Public Engineer.

§ 11001. Title.

This Act shall be cited as, "The Public Engineer Act of 1997."

§ 11002. Office of the Public Engineer: Establishment.

(a) There is established within the Bureau of Planning of the Executive Branch, the office of the Public Engineer.

(b) The office shall be headed by the 'Public Engineer', a classified position, recruited and selected within the rules and regulations of the government of Guam. Compensation for the 'Public Engineer' shall be determined by the Director of

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Administration.

2017 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

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

§ 11003. Authorization to Hire Personnel.

The Public Engineer is authorized to employ clerical, technical and support staff to assist in carrying out the duties of the office, except that the total annual number of FTE’s shall be no greater than three (3), including the Public Engineer.

§ 11004. Duties of the Public Engineer.

(a) The Public Engineer (‘PE’) will have the responsibility to approve the scheduling of all Capital Improvement Projects authorized or performed by government of Guam departments, divisions or agencies, including autonomous agencies of the Judicial, Legislative and Executive Branches.

(b) The PE will have the responsibility to coordinate all construction activities public and private, which affect government of Guam easements or property, and to schedule all work to coincide with the government of Guam infrastructure development projects.

(c) The PE will have the responsibility to clear and approve all building permits for any development other than single, single-family residential units, including renovation of such which does not change occupancy, fencing or retaining walls 6' in height or less.

(d) The PE’s sole responsibility will be to review projects and determine whether or not government infrastructure scheduling will be affected by the project.

(1) In the event scheduling is affected, the PE shall have the authority to hold the permit for no less than thirty (30) calendar days while schedules are matched.

(2) In the event schedules cannot be matched, the PE shall direct the Building Official to hold a monetary bond

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from the developers for any subsequent repair to facilities damaged or affected by construction.

(3) In the event that a government or private utility agency are the cause for a failure to match schedules, the utility shall guarantee in the form of a monetary bond or purchase order, to the affected utility and the Department of Public Works for the proper and warranted repair to damaged utilities, roadways or appurtenances, including relocation of utilities.

2017 NOTE: Subsection/subitem designations added pursuant to authority granted by 1 GCA § 1606.

§ 11005. Qualifications of the Public Engineer.

(a) The Public Engineer ('PE') shall be a U.S. Citizen, a resident of Guam, an engineer licensed at the time of application within Guam, having obtained licensure through education in an accredited engineering curriculum within the United States, or other institutions recognized by the National Society of Professional Engineers, passing the Engineer-in-Training or Fundamentals of Engineering Exam and passing the Professional Engineer or Principles and Practices Examination. There shall be no administrative exceptions made to these requirements.

(b) At the time of application, the PE shall possess a minimum of fifteen (15) years of experience in the field of infrastructure engineering, development and planning,

(1) of which at least five (5) years should consist of the unique background of community infrastructure planning, and

(2) of which at least five (5) years should consist of demonstrated experience with public or private utilities doing work along rights-of-ways and easements, and

(3) shall have been a registered professional engineer at least fifteen (15) years prior to his or her appointment.

(c) (1) The PE should possess substantial experience in managing infrastructure development projects which require project management of various aspects of development, including community fit, development standards, local and

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Federal permitting, utilities and access development and coordination with utility services major traffic access.

(2) The PE will also possess experience with major private development projects which require similar coordination and management of permitting, utility and roadway access.

(3) The PE will possess a documented background of such experience, which will be part and parcel of the application for the position of PE.

(d) The applicant shall be fluent in either English or Chamorro, both being the official languages of Guam.

2017 NOTE: Subsection/subitem designations added pursuant to authority granted by 1 GCA § 1606.

ARTICLE 11.1
MEDICAL REFERRAL ASSISTANCE OFFICE

2017 NOTE: The provisions governing Medical Referral Assistance Office were moved by the Compiler pursuant to its authority granted by 1 GCA § 1606 from Chapter 1 of Title 10, GCA and recodified as a new Article 11.1 of Chapter 1, Title 5, GCA, to consolidate GCA provisions creating offices under the purview of the Governor.

- § 11.101. Medical Referral Assistance Office.
- § 11.102. Provision of Assistance.
- § 11.103. Term of Assistance.

§ 11.101. Medical Referral Assistance Office.

There is created the Medical Referral Assistance Office (MRAO) within the Office of *I Maga'låhen Guåhan* (the Governor of Guam). The MRAO shall assist residents of Guam in coordinating appropriate medical appointments, as well as coordinating temporary housing and transportation.

SOURCE: Added by P.L. 19-043:1 (Dec. 30, 1988) as 10 GCA § 1103; Repealed and reenacted by P.L. 21-136:IV:2 (Sept. 29, 1992) and P.L. 21-137:12 (Sept. 29, 1992). Repealed and reenacted by P.L. 34-021:2 (July 13, 2017) and codified to this section by the Compiler.

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§ 11.102. Provision of Assistance.

(a) The MRAO shall develop an eligibility algorithm that will apply to those benefits a resident seeking off-island medical care qualifies for. Residents with commercial health insurance benefits that cover transportation and lodging fees are not eligible for direct assistance from the MRAO. They may, however, qualify for education and coordination assistance.

(b) (1) The MRAO shall develop a Health Insurance Portability and Accountability Act (HIPAA) compliant quality improvement program that will consist, at a minimum, of tracking patient issues and resolutions, and a patient satisfaction survey that shall be offered to each patient serviced.

(2) The MRAO or contracted not-for-profit provider shall provide each patient with a brochure explaining the program, and contact information.

(3) The MRAO or contracted not-for-profit provider shall also provide appropriate information of the destination medical facility, transportation organization, lodging facility, and the surrounding area.

(c) (1) The MRAO shall develop and maintain reports that include the number of referred patients served, the number of patient escorts or accompanying family members served, and the average cost per patient referral.

(2) The MRAO shall also maintain a monthly report containing the following information:

- (A) name of patient;
- (B) gender and age of patient;
- (C) date of referral;
- (D) date assisted;
- (E) name of accepting medical facility;
- (F) insurance provider;
- (G) number of escorts/family members;

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(H) departure date; and

(I) service rendered.

(d) In providing assistance to Guam residents, the MRAO shall, to the greatest extent practicable, coordinate with existing services provided by insurance carriers, referring facilities, and local not-for-profit organizations. These services are provided free of charge, and as such may only require verification of availability and notice of services to the resident utilizing the service.

(e) For those residents who are not eligible for existing services provided by health insurance companies, referring facilities, or local not-for-profits, the MRAO may:

(1) develop a request for proposal to provide assistance services from a duly registered Guam-based not-for-profit organization that can provide such services, including coordination of appointments, transportation, and lodging. This proposal shall use a voucher type system to provide direct services to residents seeking off-island care. The contracted not-for-profit shall, to the greatest extent possible, coordinate with existing services provided by insurance carriers and referring facilities for the provision of transportation and lodging services. A limit of fifteen percent (15%) of the negotiated proposal is set for administrative overhead of such proposal; and

(2) provide services through the development of memoranda of understanding or individual contracts with required off-island transportation and lodging organizations to provide transportation and lodging services. The MRAO shall develop internal assistance policies and procedures to guide the operation of the office. This function shall reside within the Guam-based MRAO and is subject to the fifteen percent (15%) administrative overhead of the approved budgeted amount appropriated in the Governor's budget submission for the office.

SOURCE: Added by P.L. 34-021:3 (July 13, 2017) as 10 GCA § 1103.1. Codified to this section by the Compiler pursuant to authority granted by 1 GCA § 1606.

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§ 11.103. Term of Assistance.

(a) The MRAO is authorized to contract with a duly registered Guam-based not-for-profit for assistance services provided pursuant to § 1103.1(e) of this Chapter. The term of said contract shall be set for five (5) years, with annual renewal, subject to availability of funds.

(b) If the MRAO chooses to provide assistance services “in-house,” the funding for the provision of such services is subject to the budgeted fifteen percent (15%) administrative overhead (salary, equipment, supplies, etcetera), and is subject to the availability of funds on an annual basis.

SOURCE: Added by P.L. 34-021:4 (July 13, 2017) as 10 GCA § 1103.2. Codified to this section by the Compiler pursuant to authority granted by 1 GCA § 1606.

ARTICLE 12.1
OFFICE OF TECHNOLOGY

SOURCE: Added as Article 11 by P.L. 34-076:2 (Feb. 9, 2018), effective Oct. 1, 2018. Renumbered as Article 12.1 by the Compiler to maintain the codification scheme of the Guam Code Annotated.

2018 NOTE: Pursuant to P.L. 34-076:

Section 3. Reorganization Plan. The Chief Technology Officer of the Office of Technology shall within one hundred eighty (180) days of enactment of this Act, and as part of each budget preparation of this Office, transmit a proposed reorganization plan for the Office of Technology and a Technology Master Plan of the government of Guam to *I Liheslaturan Guåhan* and *I Maga'låhen Guåhan* for consideration, of any and all divisions within the government of Guam to unify the necessary purposes and functions of this Office throughout the government of Guam.

Section 4. Effective Date. This Act shall become effective October 1, 2018. The Office of Technology and the Department of Administration shall complete all transition requirements no later than December 31, 2018.

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Formerly Chapter XI of Title VII of the Government Code, entitled “Automatic Data Processing Act,” as added by P.L. 13-096:2 (Nov. 15, 1975). Codified by the Compiler as Article 2, Chapter 20 of Title 5 GCA. Repealed and added by P.L. 32-010:1 (Apr. 11, 2013), entitled “Office of Technology.” Article 2, Chapter 20 was repealed by P.L. 34-076:1 (Feb. 9, 2018), and “Office of Technology” was added as Article 11 by P.L. 34-076:2 (Feb. 9, 2018), renumbered to Article 12.1 by the Compiler pursuant to the authority of 1 GCA § 1606.

- § 12.101. Findings and Purposes.
- § 12.102. Scope of Authority.
- § 12.103. Definitions.
- § 12.104. Office of Technology; Chief Technology Officer; Appointment and Qualifications.
- § 12.105. Powers and Duties of the Chief Technology Officer; Generally.
- § 12.106. Duties of the Chief Technology Officer Relating to Security of Government Information.
- § 12.107. Project Management Duties of the Chief Technology Officer.
- § 12.108. Major Information Technology Projects Proposals and the Establishment of Steering Committees.
- § 12.109. Notice of Request for Proposals by Agencies/Programs Required to Make Purchases Through the Guam General Services Agency.
- § 12.110. Notice of Request for Proposals by an Agency/Program Exempted from Submitting Purchases to the Guam General Services Agency.
- § 12.111. Exemptions.
- § 12.112. Voluntary Assistance.
- § 12.113. Applicability of Succession of Article.
- § 12.114. Semi-Annual Reporting.

§ 12.101. Findings and Purposes.

I Liheslaturan Guåhan finds and declares that information technology is essential to finding practical solutions to the everyday problems of government, and that the management goals and purposes of government are furthered by the development of compatible, linked information systems across government. Therefore, it is the purpose of this Article to create the Office of

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Technology with the authority to advise and make recommendations to all local governmental units on their information systems, and to have the authority to oversee coordination of the government's technical infrastructure.

§ 12.102. Scope of Authority.

This Article *shall* apply to all agencies of the executive branch of the government of Guam, not including the autonomous agencies as defined by 12 GCA. This Article *shall* not apply to the legislative and judicial branches of the government of Guam.

§ 12.103. Definitions.

As used in this Article:

(a) information systems means computer-based information equipment and related services designed for the automated transmission, storage, manipulation and retrieval of data by electronic or mechanical means;

(b) information technology means data processing and telecommunications hardware, software, services, supplies, personnel, maintenance, and training, and includes the programs and routines used to employ and control the capabilities of data processing hardware;

(c) information equipment includes central processing units, front-end processing units, microprocessors and related peripheral equipment, including data storage devices, networking equipment, services, routers, document scanners, data entry equipment, terminal controllers, data terminal equipment, and computer-based word processing systems, other than memory typewriters;

(d) related services includes feasibility studies, systems design, software development and time-sharing services, whether provided by government of Guam employees or others;

(e) telecommunications means any transmission, emission or reception of signs, signals, writings, images, or sounds of intelligence of any nature by wire, radio, or other electromagnetic or optical systems. The term includes all

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facilities and equipment performing those functions that are owned, leased or used by the executive agencies of the government;

(f) Chief Technology Officer means the person holding the position created in § 12.104 of this Article, and vested with the authority to oversee agencies/programs in planning and coordinating information systems that serve the effectiveness and efficiency of the government and individual agencies/programs, and further the overall management goals and purposes of government;

(g) technical infrastructure means all information systems, information technology, information equipment, telecommunications, and related services, as defined in this Section;

(h) information technology project means the process by which telecommunications, automated data processing, databases, the internet, management information systems and related information, equipment, goods and services are planned, procured and implemented;

(i) major information technology project means any information technology project estimated to cost more than One Hundred Thousand Dollars (\$100,000), or require more than three hundred (300) man hours to complete; and

(j) steering committee means an internal agency oversight committee established jointly by the Chief Technology Officer and the agency requesting the project, which *shall* include representatives from the Office of Technology and at least one (1) representative from the agency requesting the project.

§ 12.104. Office of Technology; Chief Technology Officer; Appointment and Qualifications.

(a) There is within the Executive Branch an agency of the government of Guam known as the Office of Technology.

(1) The head of the Office of Technology *shall* be the Chief Technology Officer who *shall* be appointed by I

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Maga'låhen Guåhan (the Governor) with the advice and consent of *I Liheslaturan Guåhan* (the Legislature).

(2) *I Maga'låhen Guåhan* may create and empanel an advisory council within the Office of Technology to provide guidance and expertise to the Chief Technology Officer and the Office of Technology staff.

(3) The Chief Technology Officer *shall* have

(A) knowledge in the field of information technology,

(B) experience in the design and management of information systems and an understanding of the special demands upon government with respect to budgetary constraints, the protection of privacy interests, and federal and local standards of accountability.

(4) The Chief Technology Officer

(A) *shall* be responsible for the administration of this Article and

(B) *shall* supervise the staff of the Office of Technology. The staff *shall* be organized into such divisions, sections, or units as are sufficient to perform the responsibilities outlined in this Article.

(b) The candidate for the position of Chief Technology Officer *shall* have at least five (5) years of managerial experience in the field of information technology, management information systems, financial information systems, or closely related field, in a company or governmental agency with revenues in excess of Ten Million Dollars (\$10,000,000).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 12.105. Powers and Duties of the Chief Technology Officer; Generally.

(a) With respect to all agencies/programs, the Chief Technology Officer may:

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(1) develop an organized approach to information resource management for the government of Guam;

(2) provide, with the assistance of the information/technology/communications services of the Department of Administration, technical assistance to the administrators of the various agencies/programs in the design and management of information systems;

(3) evaluate, in conjunction with the Information Services and Communications Division, the economic justification, system design and suitability of information equipment and related services, and review and make recommendations on the purchase, lease or acquisition of information equipment, and contracts for related services by the agencies/programs;

(4) develop a mechanism for identifying those instances where systems of paper forms should be replaced by direct use of information equipment, and those instances where applicable government of Guam or federal standards of accountability demand retention of some paper processes;

(5) develop a mechanism for identifying those instances where information systems should be linked and information shared, while providing for appropriate limitations on access and the security of information;

(6) create new technologies to be used in government, convene conferences, and develop incentive packages to encourage the utilization of technology;

(7) engage in any other activities as directed by *I Maga'låhen Guåhan*;

(8) monitor trends and advances in information technology and technical infrastructure;

(9) direct the formulation and promulgation of policies, guidelines, standards and specifications for the development and maintenance of information technology and technical infrastructure, including, but not limited to:

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(A) standards to support the government of Guam and the exchange, acquisition, storage, use, sharing and distribution of electronic information;

(B) standards concerning the development of electronic transactions, including the use of electronic signatures;

(C) standards necessary to support a unified approach to information technology across the totality of the government of Guam, thereby assuring that the residents and businesses of Guam receive the greatest possible security, value and convenience from investments made in technology;

(D) guidelines directing the establishment of government-wide standards for the efficient exchange of electronic information and technology, including technical infrastructure, between the public and private sectors;

(E) technical and data standards for information technology and related systems to promote efficiency and uniformity;

(F) technical and data standards for the connectivity, priorities and interoperability of technical infrastructure used for homeland security, public safety and health, and systems reliability necessary to provide continuity of government operations in times of disaster or emergency; and

(G) technical and data standards for the coordinated development of infrastructure related to deployment of electronic government services;

(10) periodically evaluate the feasibility of subcontracting information technology resources and services, and to subcontract only those resources that are feasible and beneficial to the government of Guam;

(11) direct the compilation and maintenance of an inventory of information technology and technical infrastructure, which may include personnel, facilities,

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equipment, goods and contracts for services, wireless tower facilities, geographic information systems, and any technical infrastructure or technology that is used for law enforcement, homeland security, or emergency services;

(12) develop job descriptions and qualifications necessary to perform duties related to information technology as outlined in this Article;

(13) periodically evaluate government-wide public safety/homeland security communications system/network requirements, inclusive of the “911” system, and report findings and recommendations to *I Maga'låhen Guåhan* and *I Liheslaturan Guåhan*, and provide support for the procurement, installation and operation of such systems/networks; and

(14) promulgate rules as may be necessary to standardize and make effective the administration of the provisions of Article 6 of Chapter 20 of Title 5 of the Guam Code Annotated.

(b) With respect to executive agencies, the Chief Technology Officer may:

(1) develop a unified and integrated structure for information systems for all executive agencies, consistent with respective Standard Operating Procedures, local and federal regulations, and industry standards;

(2) establish, based on need and opportunity, priorities and timelines for addressing the information technology requirements of the various executive agencies of the government of Guam;

(3) exercise authority delegated by *I Maga'låhi* (the Governor) by executive order to overrule and supersede decisions made by the administrators of the various executive agencies of government with respect to the design and management of information systems and the purchase, lease or acquisition of information equipment and contracts for related services;

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(4) draw upon staff of other executive agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies; and

(5) recommend to *I Maga'låhi* (the Governor) transfers of equipment and human resources from any executive agency, and the most effective and efficient uses of the fiscal resources of executive agencies, to consolidate or centralize information-processing operations.

(c) The Chief Technology Officer may employ the personnel necessary to carry out the work of the Office of Technology, and may approve reimbursement of costs incurred by employees to obtain education and training.

(d) The Chief Technology Officer *shall* oversee telecommunications services used by agencies/programs for the purpose of maximizing efficiency to the fullest possible extent. The Chief Technology Officer may establish microwave or other networks and hops; audit telecommunications services and usage; recommend and develop strategies for the discontinuance of obsolete or excessive utilization; participate in the renegotiation of telecommunications contracts; and encourage the use of technology and take other actions necessary to provide the greatest value to the government of Guam.

§ 12.106. Duties of the Chief Technology Officer Relating to Security of Government Information.

(a) The Chief Technology Officer *shall* ensure the security of government information and the data communications infrastructure from unauthorized uses, intrusions, or other security threats. At a minimum, these policies, procedures and standards *shall* identify and require the adoption of practices to safeguard information systems, data and communications infrastructures, as well as define the scope and regularity of security audits, and which bodies are authorized to conduct security audits. The audits may include reviews of physical security practices.

(b) Annual Audits.

(1) The Chief Technology Officer *shall*, at least annually, perform security audits of all executive branch

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agencies regarding the protection of government databases and data communications.

(2) Security audits may include, but are not limited to, on-site audits, as well as reviews of all written security procedures and documented practices.

(c) The Chief Technology Officer may contract with a private firm, or firms, that specialize in conducting these audits.

(d) All public bodies subject to the audits required by this Section *shall* fully cooperate with the entity designated to perform the audit.

(e) The Chief Technology Officer may direct specific remediation actions to mitigate findings of insufficient administrative, technical and physical controls necessary to protect government information or data communication infrastructures.

(f) The Chief Technology Officer *shall* promulgate rules to minimize vulnerability to threats and to regularly assess security risks, determine appropriate security measures, and perform security audits of government information systems and data communications infrastructures.

(g) The Chief Technology Officer *shall* ensure compliance with confidentiality restrictions and other security guidelines applicable to law enforcement agencies, emergency response personnel, and emergency management operations.

(h) The provisions of this Section *shall* not infringe upon the responsibilities assigned to the Public Auditor, or other statutory requirements.

(i) In consultation with the Adjutant General, the Chief of Police, the Fire Chief, and the Director of the Division of Homeland Security, the Chief Technology Officer is responsible for the development and maintenance of an information systems disaster recovery system for the government of Guam with redundant sites in two (2) or more locations isolated from reasonably perceived threats to the primary operations of the government of Guam.

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(1) The Chief Technology Officer *shall* develop specifications, funding mechanisms and participation requirements for all executive branch agencies to protect the government of Guam's essential data, information systems, and critical government services in times of emergency, inoperativeness, or disaster.

(2) Each executive branch agency *shall* assist the Chief Technology Officer in planning for its specific needs, and provide to the Chief Technology Officer any information or access to information systems or equipment that may be required in carrying out this purpose.

(3) No government-wide or executive branch agency procurement of disaster recovery services may be initiated, let or extended without the expressed consent of the Chief Technology Officer.

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 12.107. Project Management Duties of the Chief Technology Officer.

The Chief Technology Officer *shall* be the project manager for all technology projects of agencies under the jurisdiction of this Article. The Chief Technology Officer may delegate project management duties to an employee or a contract manager in the event that the project's funding sources, such as a grant or specific appropriation, allows funds to be expended for project management.

§ 12.108. Major Information Technology Projects Proposals and the Establishment of Steering Committees.

(a) Prior to proceeding with a major information technology project, an agency *shall* submit a project proposal outlining the business need for the project, the proposed technology solution, if known, and an explanation of how the project will support the agency's business objective and the government of Guam's strategic plan for information technology. The project manager may require the submission of additional information as needed to adequately review any proposal.

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(b) The proposal will further include:

- (1) a detailed business case plan, including a cost-benefit analysis;
- (2) a business process analysis, if applicable;
- (3) system requirements, if known;
- (4) a proposed development plan and project management structure;
- (5) business goals and measurement criteria, as appropriate; and
- (6) a proposed resource or funding plan.

(c) The project manager assigned to review the project development proposal *shall* recommend its approval or rejection to the Chief Technology Officer. If the Chief Technology Officer approves the proposal, then he or she *shall* notify the agency of its approval.

(d) Whenever an agency has received approval from the Chief Technology Officer to proceed with the development and acquisition of a major information technology project, the Chief Technology Officer *shall* establish a steering committee.

(e) The steering committee *shall* provide ongoing oversight for the major information technology project, and have the authority to approve or reject any changes to the project's scope, schedule or budget.

(f) The Chief Technology Officer *shall* ensure that the major information technology project has in place adequate project management and oversight structures for addressing the project's scope, schedule or budget, and *shall* address issues that cannot be resolved by the steering committee.

§ 12.109. Notice of Request for Proposals by Agencies/Programs Required to Make Purchases Through the Guam General Services Agency.

Any agency/program that pursues an information technology purchase that does not meet the definition of a "major information technology project," and that is required to submit a request for

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proposal to the Guam General Services Agency prior to purchasing goods or services, *shall* obtain the approval of the Chief Technology Officer, in writing, of any proposed purchase of goods or services related to its information technology and telecommunications systems. The notice *shall* contain a brief description of the goods and services to be purchased. The agency/program *shall* provide the notice to the Chief Technology Officer prior to the time it submits its request for proposal to the Guam General Services Agency.

§ 12.110. Notice of Request for Proposals by an Agency/Program Exempted from Submitting Purchases to the Guam General Services Agency.

(a) (1) Any agency/program that is not required to submit a request for proposal to the Guam General Services Agency prior to purchasing goods or services *shall* notify the Chief Technology Officer, in writing, of any proposed purchase of goods or services related to its information technology or telecommunications systems.

(2) The notice *shall* contain a detailed description of the goods and services to be purchased.

(3) The agency/program *shall* provide the notice to the Chief Technology Officer a minimum of ten (10) days prior to the time it requests bids on the provision of the goods or services.

(b) (1) If the Chief Technology Officer evaluates the suitability of the information technology and telecommunications equipment and related services under the provisions of § 12.105(a)(3) of this Article, and determines that the goods or services to be purchased are not suitable, he or she *shall*, within ten (10) days of receiving the notice from the agency/program, notify the agency/program, in writing, of any recommendations he or she has regarding the proposed purchase of the goods or services.

(2) If the agency/program receives a written notice from the Chief Technology Officer within the time period required by this Section, the agency/program *shall* not put the goods

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or services out for bid less than fifteen (15) days following receipt of the notice from the Chief Technology Officer.

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 12.111. Exemptions.

(a) The provisions of this Article *shall* not apply to autonomous agencies as defined by 12 GCA, *I Liheslaturan Guåhan*, the Judiciary, the Public Defender Service Corporation, the Office of Public Accountability, and the Office of the Attorney General.

(b) Notwithstanding any other provision of this Article to the contrary, except for participation in the compilation and maintenance of an inventory of information technology and technical infrastructure of the government of Guam authorized by § 12.105 of this Article, the provisions of this Article *shall* not apply to the Guam Department of Education. The Guam Department of Education may cooperate and collaborate with the Chief Technology Officer to the extent feasible.

(c) *I Maga'låhen Guåhan* may, by executive order, exempt from the provisions of this Article any entity created and organized to facilitate the public and private use of health care information and the use of electronic medical records throughout the government of Guam.

§ 12.112. Voluntary Assistance.

Any branch or agency exempt from the provisions of this Article by § 12.111(a) of the same, may, by memorandum of understanding, avail itself of any of the services offered by the Office of Technology if such branch or agency determines that acquiring such services is feasible. Such memorandum of understanding may include fees and costs paid by the branch or agency, except that no fees for such services *shall* be paid by the Office of Attorney General or the Office of Public Accountability.

(a) The Chief Technology Officer *shall* create a schedule of fees, rates, and other consideration for services rendered to other government of Guam agencies, departments, public corporations and instrumentalities.

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(1) Such schedule and any changes to such schedule must be approved by *I Maga'låhen Guåhan* and transmitted to *I Liheslaturan Guåhan* in bill form.

(2) The fee schedule and any future changes to the fee schedule *shall* be subject to approval by *I Liheslaturan Guåhan* after the following conditions are met:

(A) at least one (1) public hearing for the affected agencies on the fee schedules is held by the Office of Technology pursuant to Chapter 9 of 5 GCA; and

(B) submission of the fee schedule to *I Liheslaturan Guåhan*, inclusive of the minutes of such hearing(s) on the fee schedules.

(b) Prior to initiating services requested by an agency where fees, rates or other consideration are required, the work order for such services must be certified for availability of funds and approved by the agency's approving officer.

2018 NOTE: Subsection designations added/alterd pursuant to authority granted by 1 GCA § 1606.

§ 12.113. Applicability of Succession of Article.

(a) All references to "Automated Data Processing Act," as contained in Article 2, Chapter 20, 5 GCA prior to the enactment of P.L. 32-10 and this Act, *shall* henceforth refer to the Office of Technology. The Compiler of Laws *shall* make appropriate changes in the codification of public law consistent with this Section.

(b) The Office of Technology *shall* assume all personnel, funding, facilities, equipment, supplies, records, and obligations required by contract, memoranda of understanding, rule, regulation and executive order, of the Department of Administration as related to the operation of Article 2, Chapter 20, 5 GCA prior to the enactment of P.L. 32-10. All personnel, funding, facilities, equipment, supplies, records, and obligations required by contract, memoranda of understanding, rule, regulation and executive order, of the Office of Technology

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following the enactment of P.L. 32-10 *shall* also be transferred from the Department of Administration to the Office of Technology as established by this Article.

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 12.114. Semi-Annual Reporting.

The Chief Technology Officer *shall* submit a report to *I Liheslaturan Guåhan* every six (6) months on the activities of the Office of Technology.

ARTICLE 13.1

GUAM WAR CLAIMS FUND

SOURCE: Added by P.L.35-061:2 (Jan. 3, 2020) as § 11301, renumbered by Compiler to maintain numbering scheme, pursuant to authority granted by 1 GCA § 1606.

§ 13.101. Fund Structure and Administration.

§ 13.101. Fund Structure and Administration.

(a) There is hereby established the Seventy-fifth (75th) Guam Liberation War Claims Fund (Fund), which *shall* be administered by the Department of Administration.

(b) The purpose of the Fund is to receive deposits to pay for certified claims to Compensable Guam Victims, as defined in Section 1704(c)(2) of U.S. Public Law 114-328, by the Foreign Claims Settlement Commission, as referenced in Section 1705 of U.S. Public Law 114-328.

(c) *I Maga'hågan Guåhan* is authorized to transfer such sums as are available from the General Fund to pay adjudicated claims as of the passage of this Act from the General Fund appropriations contained within Public Law 34-116 and Public Law 35-36 for the purposes outlined in Subsection (d) of this Section.

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(d) Any funds transferred to the Fund *shall only* be used to pay Compensable Guam Victims with certified claims by the Foreign Claims Settlement Commission and such use *shall* be consistent under a Memorandum of Agreement between the Guam Department of Administration and the U.S. Department of the Treasury. This Fund *shall* be exempt from the Governor's transfer authority; and, any funds remaining *shall* be subject to legislative appropriation.

(e) All money reimbursed to the Government of Guam for payment of claims as authorized in Subsection (d) of this Section *shall* be deposited in the Fund.

(f) The Department of Administration and the Bureau of Budget and Management Research *shall* submit a report every six (6) months to *I Liheslaturan Guåhan* and *I Maga'hågan Guåhan* on the status of payments and reimbursements to Compensable Guam Victims pursuant to this Article until all payments and reimbursements of claims are exhausted. Information provided by the United States Government to the Government of Guam concerning the identity of war survivors and their application for war claims *shall* be protected and *shall* not be part of the public record.

2020 NOTE: Section 3 of P.L. 35-061 (Jan. 2, 2020) addressed the effective date of this provision as follows:

Section 3. Effective Date. This Act *shall* be effective upon the execution of a Memorandum of Understanding between the United States Government and the Government of Guam which sets out the administrative process that must be adhered to for the Government of Guam to pay awards; provided, that this Memorandum of Understanding must be filed with *I Liheslaturan Guåhan* prior to any funds being transferred for the payment of claims.

ARTICLE 13.2

GUAM WORLD WAR II RECONCILIATION ACT OF 2021

SOURCE: Entire article added by P.L. 36-062:2 (Nov. 9, 2021).

2021 NOTE: Entire article originally added by P.L. 36-059:1 (Oct. 15, 2021), which was repealed by P.L. 36-062:1 (Nov. 9, 2021).

§ 13.201. Legislative Findings and Intent.

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- § 13.202. Implementation of the Guam World War II Reconciliation Act of 2021.
- § 13.203. Adjudication Committee Established.
- § 13.204. Consistency with Established Guidelines, Rules and Regulations, and Award Limits.
- § 13.205. Reporting Requirements.
- § 13.206. Authorization to Deposit Funds in the Guam War Claims Fund.
- § 13.207. Effective Date.

§ 13.201. Legislative Findings and Intent.

(a) On December 8, 1941, the Imperial Japanese military invaded and occupied Guam for nearly three (3) years. During the occupation, approximately twenty thousand (20,000) people suffered and were subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment. On November 15, 1945, the United States Congress passed the Guam Meritorious Claims Act, which was signed by President Harry S. Truman as Public Law 79-224. This Act authorized the Secretary of the Navy to grant immediate relief to the residents of Guam by adjudicating and settling claims for property damage, death, or personal injury.

(b) In 1947, Dr. Ernest M. Hopkins chaired a committee appointed to evaluate the U.S. Navy's execution of the Guam Meritorious Claims Act. The "Hopkins Report" generated by the committee determined that the implementation of the Guam Meritorious Claims Act was not sufficient and payments for claims were slow. The Hopkins Report recommended to Congress that changes were necessary; however, Congress failed to adopt any recommendations in future war claims legislation passed by it.

(c) On December 23, 2016, nearly seventy-two (72) years after the passage of the Guam Meritorious Claims Act, the Guam World War II Loyalty Recognition Act was signed into law as U.S. Public Law 114-328. On June 20, 2017, the Commission's Guam World War II Loyalty Recognition Act Claims Program began. The Guam World War II Loyalty Recognition Act authorizes the Foreign Claims Settlement Commission to accept and adjudicate claims. Section 1705(b)(2) of U.S. Public Law 114-328 gives the

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authority of the Foreign Claims Settlement Commission to publish a notice of the deadline for filing a claim in the Federal Register, and in newspaper, radio, and television media in Guam. Pursuant to Section 1705(b)(2) of U.S. Public Law 114-328, following the implementation of the Guam World War II Loyalty Recognition Act Claims Program, claimants were given one (1) year to file. The deadline to file a claim was on June 20, 2018. Since the June 20, 2018 deadline, over seven hundred (700) remaining survivors of Guam's wartime occupation and their descendants have signed a petition urging Congress to amend the Guam World War II Loyalty Recognition Act to remove the deadline to file their claim.

(d) While under the National Defense Authorization Act of 2017, the Guam World War II Claims Fund, also known as the "Claims Fund," was established as a special fund by the Secretary of the Treasury for the payments of claims. Deposits collected under Section 30 over the 2014 threshold are to be made into the Claims Fund with deductions for administrative expenses.

(e) While the government of Guam has demonstrated through the passage of Public Law 35-61 its intent and desire to pay out World War II claims as expeditiously as possible, Section 1705(b)(2) of U.S. Public Law 114-328 prohibits members of the Greatest Generation who have not filed within the one (1)-year filing period from filing claims. It is the intent of the Guam World War II Reconciliation Act of 2021 to make right by these individuals as *I Liheslaturan Guåhan* finds that it is a moral obligation to do right by our *manåmko'*.

(f) While *I Liheslaturan Guåhan* finds that it is the duty of the United States Congress to correct this technical flaw, Guam's Delegate to Congress has urged *I Liheslaturan Guåhan* to act independently as *I Liheslatura* can ensure that its moral obligation to our *manåmko'* is fulfilled in a timely manner.

2021 NOTE: Subsection designations added pursuant to authority of 1 GCA § 1606.

§ 13.202. Implementation of the Guam World War II Reconciliation Act of 2021.

Notwithstanding any other provision of law, within thirty (30) days of the enactment of the Guam World War II

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Reconciliation Act of 2021, *I Maga'hågan Guåhan* shall submit to the Speaker of *I Liheslaturan Guåhan* an implementation plan, which shall include a proposed funding source(s), for the payment of war claims under U.S. Public Law 114-328 to claimants who failed to meet the one (1)-year filing deadline under Section 1705(b)(2) of U.S. Public Law 114-328. Upon the submission of *I Maga'hågan Guåhan's* implementation plan, *I Liheslaturan Guåhan* may adopt, reject, or amend the plan in the form of a bill. If after thirty (30) calendar days, *I Liheslaturan Guåhan* fails to act on the plan as submitted, the plan shall be deemed adopted.

§ 13.203. Adjudication Committee Established.

(a) At a minimum, the implementation plan required by this Act shall incorporate the establishment of an Adjudication Committee responsible for adjudicating, through a formal application process, war claims from individuals who were eligible to apply for compensation pursuant to U.S. Public Law 114-328 but were unable to submit required documents to the Foreign Claims Settlement Commission of the United States on or before June 20, 2018.

(b) The Adjudication Committee shall consist of five (5) members: (1) the Executive Director of the Commission on Decolonization or their designee; (2) the Governor of Guam or their designee; (3) the Speaker of *I Liheslaturan Guåhan* or their designee; (4) the President of the Mayors Council of Guam or their designee; and (5) a member of the general public appointed by the Governor of Guam. A Chairperson shall be elected from among the members of the Adjudication Committee.

(c) The Adjudication Committee may establish rules and regulations, procure goods and services, and solicit personnel assistance and other administrative support from the Governor of Guam and the Speaker of *I Liheslaturan Guåhan* as may be necessary to effectively and efficiently administer the provisions of this Act. Decisions by the Adjudication Committee shall require a majority vote.

2021 NOTE: Subsection designations added pursuant to authority of 1 GCA § 1606.

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§ 13.204. Consistency with Established Guidelines, Rules and Regulations, and Award Limits.

(a) The Adjudication Committee shall adjudicate all applications submitted by compensable Guam victims and survivors of compensable Guam decedents, as defined by the Guam World War II Loyalty Recognition Act enacted through U.S. Public Law 114-328.

(b) All rules and regulations and decisions rendered by the Adjudication Committee shall be consistent with program guidance and award limits established pursuant to U.S. Public Law 114-328.

2021 NOTE: Subsection designations added pursuant to authority of 1 GCA § 1606.

§ 13.205. Reporting Requirements.

(a) A portion of any funds authorized to effectuate the requirements of this Act may be used by the Adjudication Committee for administrative and legal assistance. Until the payment of all eligible war claims applications have been paid, the Director of Administration shall submit a report every six (6) months summarizing the number of applications which have been submitted, adjudicated, and settled, which shall include information on all payments issued pursuant to this Act.

(b) Information concerning the identity of war survivors and their application for war claims shall be protected and shall not be part of the public record.

§ 13.206. Authorization to Deposit Funds in the Guam War Claims Fund.

(a) The Guam War Claims Fund, established by Public Law 35-61, was established to expedite the payments of adjudicated claims. As prescribed under 5 GCA § 13.101, monies reimbursed by the United States Department of Treasury for the implementation of Public Law 35-61 shall remain in said Fund and are authorized to be expended for the payment of war claims under U.S. Public Law 114-328 to claimants who missed the one (1)-year filing deadline under Section 1705(b)(2) of U.S. Public Law 114-328.

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(b) Should such funds be insufficient for the implementation of the Guam World War II Reconciliation Act of 2021, notwithstanding any other provision of law, *I Maga'hågan Guåhan* is authorized to transfer such sums as may be available to her for the purposes outlined in § 13.202 of this Article; provided, that such transfer is reported to the Speaker of *I Liheslaturan Guåhan* and the Office of Finance and Budget no later than five (5) working days before the transfer is made. Said transfer report shall indicate which fund, object categories, object groups, and agencies the funds were transferred to or from.

§ 13.207. Effective Date.

This Article shall be effective upon enactment.

ARTICLE 14

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT
MODERNIZATION**

SOURCE: Entire article added by P.L. 35-133:2 (Dec. 29, 2020).

2021 NOTE: The Office of Homeland Security was originally established by Gov. Felix P. Camacho through Executive Order No. 2003-13 (Apr. 21, 2003).

- § 14.101. Office of Homeland Security Established.
- § 14.102. Duties and Responsibilities.
- § 14.103. Mission.
- § 14.104.1. Advisor for Homeland Security, Functions Of.
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§ 14.101. Office of Homeland Security Established.

There is hereby established the Office of Homeland Security (OHS). The OHS will be managed by the Homeland Security Advisor. The Homeland Security Advisor shall be an unclassified employee appointed by *I Maga'hågan Guåhan* (the Governor of

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Guam), and shall serve at her pleasure. The Homeland Security Advisor position shall be subject to the availability of funds, which may be locally appropriated or in the form of a federal grant award designated for such purpose.

§ 14.102. Duties and Responsibilities.

All the duties and responsibilities of the Office of Guam Homeland Security, as established by executive order, are hereby established by law.

§ 14.103. Mission.

In accordance with the duties and responsibilities imposed upon the Governor by the President of the United States and federal law, rule, or regulation, the mission of the OHS shall be to develop and coordinate the implementation of a comprehensive plan to protect Guam and its people from terrorism, invasion, insurrection, rebellion, lawless violence, or the threat thereof. In addition, the Homeland Security Advisor shall compile a comprehensive analysis of all entities within the Executive Branch of the government of Guam who have similar overlapping responsibilities with the OHS for the Governor to consolidate all such responsibilities.

§ 14.104.1. Advisor for Homeland Security, Functions Of.

(a) The Advisor shall coordinate the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from acts of terrorism, invasion, insurrection, rebellion, lawless violence, or the threat thereof against Guam and its people.

(b) In carrying out its functions as defined in § 14.104.1(a), the Advisor shall cooperate and coordinate her or his efforts and those of the OHS with:

- (1) all branches of the government of Guam, including subdivisions thereof;
- (2) all agencies of the federal government, whether civil or military;

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(3) all agencies of the governments of all states, territories and freely associated states, and the subdivisions of all such governments;

(4) private entities within Guam or elsewhere in the United States whose participation would be helpful to the OHS in carrying out its mission; and

(5) to the extent not preempted or prohibited by federal or local law, such foreign persons or entities, public or private, whose participation would be helpful to the office in carrying out its mission.

(c) The Advisor shall recommend to the Governor ways to improve coordination, cooperation, and communication among and between:

(1) all agencies of all branches of the government of Guam, including subdivisions thereof;

(2) all agencies of the federal government, whether civil or military;

(3) all agencies of the government of all states, territories and freely associated states, and the subdivisions of all such governments;

(4) private agencies within Guam or elsewhere in the United States whose participation would be helpful to the office in carrying out its mission; and

(5) to the extent not preempted or prohibited by federal or local law, such foreign persons or entities, public or private, whose participation would be helpful to the office in carrying out its mission.

(d) The Advisor shall assemble, assimilate, synthesize, and summarize for the Governor scholarly research, technological advice, and information concerning processes and organizational management practices with the objective of formulating the most cost-efficient and effective homeland security plan and procedures for Guam.

§ 14.104.2. Advisor for Homeland Security, Additional Responsibilities and Support For.

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(a) The Advisor shall coordinate the activities of all of the Executive Branch agencies pertaining to terrorism-related issues, including, but not limited to, legislative issues, contact with federal and local agencies, training, and public outreach activities.

(b) All departments and agencies of the government of Guam, however denominated, shall assist the Advisor in carrying out the purposes of this Section and the functions of the OHS.

(c) The Advisor shall coordinate activities between government of Guam departments and agencies, however denominated, and federal agencies on topics related to terrorism and coordinate, in conjunction with the Guam State Clearinghouse, all of Guam's requests for federal funds designated for terrorism-related activities, developing guidelines for such requests, and approving the distribution of any federal funds allocated to Guam. The Advisor shall coordinate with the United States Department of Homeland Security as appropriate.

(d) Utilizing the Incident Command System (ICS) concept of emergency management, the Advisor shall be the individual primarily responsible for coordinating facilities, equipment, personnel, procedures, and communications operating within the organizational structure of the OHS in the event of imminent terrorist threat, domestic or foreign. The Advisor shall coordinate the domestic response efforts of all departments and agencies in the event of an imminent terrorist threat, domestic or foreign, and during and in the immediate aftermath of a terrorist attack, domestic or foreign, within Guam and shall be the principal point of contact for and to the Governor with respect to coordination of such efforts. The Advisor shall coordinate with the United States Department of Homeland Security as appropriate.

(e) The Advisor, in coordination with the United States Department of Homeland Security, shall review plans and preparations for ensuring the continuity of local government in the event of a terrorist attack threatening the safety and security of Guam, its people, and its government.

§ 14.105. Marianas Regional Fusion Center.

There is hereby established the Marianas Regional Fusion Center (MRFC). The MRFC shall operate under the direction of

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the OHS, and its purpose shall be to coordinate the exchange of criminal intelligence, information regarding threats to physical security and cybersecurity, and chemical, biological, radiological, nuclear, and conventional explosive hazards, and to facilitate local, regional, national, and international communication, which may include the Commonwealth of the Northern Mariana Islands law enforcement entities, first responders, and government and private sector partners.

§ 14.106. Division of Cybersecurity and Critical Infrastructure Security.

There is hereby established a Division of Cybersecurity and Critical Infrastructure Security within the OHS' MRFC, whose multiple functions shall be the protection of information networks and telecommunications networks, including hardware, software, and data, from cyberattacks and the security of critical infrastructure, including, but not limited to, buildings, transportation and equipment, roads, ports, monuments, and utilities.

§ 14.107. Establishment of the Guam Emergency Management Advisory Council.

There is hereby established the Guam Emergency Management Advisory Council (GEMAC) to advise and assist the Governor of Guam, the Lieutenant Governor of Guam, and the Homeland Security Advisor with respect to all aspects of homeland security. The GEMAC shall coordinate homeland security-related activities of executive departments and agencies and shall be responsible for the development and implementation of homeland security policies.

(a) The members of the GEMAC shall be the Governor of Guam, the Lieutenant Governor of Guam, the Guam Legislature, the Attorney General of Guam, the Homeland Security Advisor, the Adjutant General of the Guam National Guard, the Assistant Adjutant General-Army, the Assistant Adjutant General-Air Force, the Chief of the Guam Police Department, the Chief of the Guam Fire Department, the Executive Manager of the A.B. Won Pat Guam International Airport Authority, the General Manager of the J.D. Leon

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Guerrero Port Authority of Guam, the Administrator of the Guam Memorial Hospital Authority, the General Manager of the Guam Power Authority, the General Manager of the Guam Waterworks Authority, the Director of the Department of Public Works, the Chief Technology Officer of the Guam Office of Technology, the Director of the Guam Customs and Quarantine Agency, the Administrator of the Guam Environmental Protection Agency, the Director of the Department of Public Health and Social Services, the President of the Mayors Council of Guam, and other persons as the Governor may, from time to time, designate and invite to attend meetings that pertain to the GEMAC's responsibilities.

(b) The GEMAC shall meet at the call of the Governor of Guam. When the Governor of Guam is absent, the Lieutenant Governor of Guam shall preside at meetings. At the direction of the Governor, the Homeland Security Advisor shall prepare the agenda for each meeting and shall maintain records of the GEMAC's proceedings.
