

10 GCA HEALTH AND SAFETY
CH. 65A THE DISASTER RECOVERY RELIEF ACT OF 2002

CHAPTER 65A
THE DISASTER RECOVERY RELIEF ACT OF 2002

SOURCE: Enacted by P.L. 26-174:1 (Jan. 5, 2003) as uncodified law. Codified by Compiler.

2024 NOTE: Pursuant to 5 GCA § 1510, *I Maga'hågan/Maga'låhen Guåhan* means “Governor of Guam.” Pursuant to 2 GCA § 1101, *I Liheslaturan Guåhan* means the “Guam Legislature.”

NOTE: Public Law 27-046 (Dec. 17, 2003) provides:

“AN ACT TO REQUIRE THE GUAM ECONOMIC DEVELOPMENT AND COMMERCE AUTHORITY (GEDCA) TO REISSUE A REQUEST FOR PROPOSALS FOR THE REVOLVING LINE OF CREDIT APPROVED IN PUBLIC LAW 26-174.”

- § 65A101. Title.
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- § 65A109. Applicability of Chapter.
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- § 65A111. Annual Appropriation.

§ 65A101. Title.

This Chapter shall be known and be cited as The Disaster Recovery Relief Act of 2002.

SOURCE: Enacted by P.L. 26-174:1 (Jan. 5, 2003) as uncodified law. Codified by Compiler as § 65A001 and renumbered to § 65A101 pursuant to the authority of 1 GCA § 1606.

§ 65A102. Legislative Findings.

(a) *I Liheslaturan Guåhan* has determined that in times of Disaster, such as typhoons and earthquakes, there is a critical need for access to money for emergency measures, capital and non-capital improvements and replacements, renovations and general rehabilitation of Guam’s communities. This is exemplified by three (3) declarations of emergency in the Years 2001-2002 – the December, 2001 earthquake; Typhoon *Chata’an* and Super Typhoon *Pongsona*. These emergencies occurred during an extended financial period on Guam where the economy has slowed to its worst levels in several decades.

(b) In addition, funds are needed to repair or replace damaged or worn out Guam assets not resulting from the disaster, but identified during the disaster damage assessment as public purpose projects, for the mitigation of future damage, and determined eligible for FEMA funding.

(c) History has demonstrated that each disaster has devastating financial impacts upon Guam, which are significantly aggravated when repair and mitigation are not immediately undertaken. For example, the table that follows shows the sums provided to Guam after the last three (3) disasters.

Date	Name	(1) Federal Public Assistance Projection	(2) Mitigation Projection	Matching Participation Fed / Guam	Total of (1) and (2)
12/05/01	Earthquake	\$3,182,974	\$411,640	75% / 25%	

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Date	Name	(1) Federal Public Assistance Projection	(2) Mitigation Projection	Matching Participation Fed / Guam	Total of (1) and (2)
07/06/02	Typhoon <i>Chata'an</i>	\$21,431,672	\$8,005,044	90% / 10%	
12/08/02	Typhoon <i>Pongsona</i>	\$78,760,920 (Estimated from Typhoon <i>Paka</i> Projection*)	\$15,707,917	75% / 25%	
		\$103,375,566	\$24,124,601		\$127,500,167

* Note: The reason for the estimated figure used from Typhoon *Paka* is based in part upon preliminary damage assessment still ongoing. Also Typhoon *Paka* wind strength is comparable to that of Typhoon *Pongsona*.

(d) The government of Guam (Guam), after Federally declared disaster, relies primarily upon FEMA to provide loans and grants to fund repair and replacement of the damage and destruction. The schedule above sets forth the funds provided Guam by FEMA for recovery from the last three (3) disasters. While the amount is significant, the amount of matching participation funds obligated by Guam to pay is as low as ten percent (10%), and no greater than twenty-five percent (25%).

(e) Unfortunately, over the years, through a failure at least in part of Guam and its agencies, FEMA has developed a concern over the ability of Guam to provide the supporting documentation for FEMA assistance. As a result, FEMA assistance is not as swift as it should be, and Guam may qualify for larger amounts of assistance with better procedures and knowledgeable assistance to insure the reliability of Guam's applications and supporting documentation.

(f) *I Liheslaturan Guåhan* believes it is in the best interest of Guam to establish a law which solicits from a lender to provide an available revolving line of credit "LOC" which can be drawn upon promptly in the event of a disaster and repayable with FEMA funds when approved and distributed. The lender will be able to make loans to Guam on the reliance that FEMA will pay Guam a substantially equivalent amount necessary to repay the lender.

(g) In order to assure the best probability of full reimbursement available from FEMA for recovery expenditures incurred by the government, it is in the government's interest to contract the services of a Disaster Documentation Team "DDT" which possesses the necessary technical and professional expertise to assist the government in the preparation and submission of the project worksheets required by FEMA for funding approval and payment. The purpose of the DDT will be to review and prepare all damage documentation provided by Guam or its agencies to assure that the documentation is in order and in full compliance with all FEMA requirements before submission of the documentation to FEMA by Guam. The DDT will be comprised of personnel that have extensive background and knowledge of FEMA laws, rules and regulations. The government, through use of the DDT, will be in a strong position to assure FEMA compliance in securing the funding necessary for the repayment of the line of credit.

(h) FEMA requires that Guam provide a percentage of matching funds for FEMA grant assistance. By way of this Chapter, the government is authorized to access the immediate cash needs for the matching funds Guam needs for expeditious recovery with an assignment of Section 30 funds, or other assets of Guam for the repayment of the recovery funds needs and not covered by FEMA reimbursements. By using the process implemented by this Chapter, Guam will have reduced its risk for unfunded liability on the line of credit, except for the administrative costs, interest charges, the local matching funds required and miscellaneous expenses not reimbursable by FEMA, since the DDT will be in place to provide the expertise in the preparation of the project worksheets assuring that Guam will receive a like amount from FEMA.

(i) *I Liheslaturan Guåhan* will require under this Chapter that all amounts loaned by the lender shall have a seven (7) year maturity at an interest rate that is commercially reasonable based upon market rates.

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Any amounts not paid within seven (7) years, which includes interest, administrative cost, non-reimbursed DDT cost, together with loans of the matching funds or funding of PPP, may be rolled over into a long-term loan pursuant to another RFP, with a term no longer than thirty (30) years, and a commercially reasonable interest rate based on the market.

SOURCE: Enacted by P.L. 26-174:2 (Jan. 5, 2003) as uncodified law. Codified by Compiler as § 65A002 and renumbered to § 65A102 pursuant to the authority of 1 GCA § 1606.

2024 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 65A103. Definitions.

The following words and phrases are defined in this Chapter to have the same meaning throughout this Chapter.

“Chapter” means “The Disaster Reimbursement Act of 2002.”

“DAT” means the Damage Assessment Team, which is composed of any officials designated by FEMA or any other Federal agency, and members of the Guam Recovery Office, both more fully described in the Chapter.

“Disaster” means a typhoon, earthquake, tsunami, storm water, storm surge, inordinate flooding and any other casualty usually associated with acts of God which are natural and not person-made, and cause widespread damage and destruction in Guam, for which the President has declared the area to have been the subject of a national disaster and eligible for FEMA aid.

“DDT” means the Disaster Documentation Team, which shall be implemented, contracted and controlled by Guam, and will be comprised of personnel that have extensive background and knowledge of FEMA laws, rule and regulations, and FEMA’s custom and practice.

“FEMA” means the Federal Emergency Management Agency, an agency of the Federal government, that provides emergency grants and loans, and other relief in times of disaster.

“GRO” means the Guam Recovery Office.

“Guam” means the government of Guam or *I Maga’hågan/Maga’låhen Guåhan*, as indicated by the context.

“Lender” means a bank, or other lending institution, that (either on-Guam or off-Guam) is successful in obtaining an award of the solicitation for a Request for Proposal pursuant to this Chapter. The lender shall also be responsible for the LDEA.

“LDEA” means the Lender’s Disaster Escrow Account, which is defined in § 65A108 of this Chapter.

“LOC” means a revolving Line of Credit loan facility that can be drawn upon multiple times, replenished in whole or in part, and drawn on again.

“PPP” means Public Purpose Projects which, in this Chapter, refers to PPPs where Guam is in critical need of money for emergency measures, capital improvements, renovations and general rehabilitation and administrative cost not resulting from the disaster, but identified during the disaster assessment by DAT or otherwise.

“RFP” means a Request for Proposal which is a solicitation by Guam for a proposal by vendors, suppliers or service providers for goods or services, and is issued by the appropriate Guam procurement authority.

SOURCE: P.L. 26-174:3 (Jan. 5, 2003); codified by Compiler. ‘Act’ changed to ‘Chapter’ by Compiler.

2024 NOTE: Subsection designations omitted pursuant to authority of 1 GCA § 1606.

§ 65A104. Procurement for LOC, Collateral, Terms and Conditions.

(a) Upon passage of this Chapter, the Guam Economic Development and Commerce Authority (GEDCA) shall immediately initiate preparation of solicitation documents from RFP lenders. The solicitation shall require the lender provide a credit facility in the form of a revolving LOC. The lender must be willing to accept as the only collateral for the loans the FEMA grants generated as a result of a disaster, for the Federal portion of the FEMA grant, and the Section 30 funds, or other assets for Guam's matching participation on the grant and interest, and incidental charges to the LOC. Nothing stated herein shall preclude Guam and the lender from entering into a different security arrangement, but Guam is not required to provide any more security or collateral for the loans as provided for in this Section. The interest that may be charged by the Lender for a draw down on the LOC shall have a seven (7) year maturity and bear interest at a commercially reasonable rate based on prevailing market rates.

(b) Any amounts not paid within seven (7) years, which includes interest, administrative costs, non-reimbursed DDT cost, together with loans of the matching funds or funding of PPP, may be rolled over into a long term loan pursuant to another RFP, with a term no longer than thirty (30) years, and a commercially reasonable interest rate based on prevailing market rates. All terms and conditions of the line of credit, and any agreement between Guam, GRO and the lender pursuant to the RFP shall be subject to legislative approval, shall not include an indemnity of the Lender by Guam, and shall provide that Guam shall not be liable for any expenditures made by the Lender which are not reimbursable by FEMA after all appeals with the exception of administrative cost and interest, nor shall Guam be liable for any negligent actions or errors of the DDT.

SOURCE: P.L. 26-174:4 (Jan. 5, 2003), codified here by Compiler.

2024 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 65A105. Purposes and Authority of the DDT in the Disaster Process.

Guam shall issue an RFP and execute a contract for services of DDT to be activated after the declaration of a Federal disaster on Guam. The DDT, which shall be selected, organized, paid for and supervised by Guam, will perform the following duties. When a Disaster occurs, a DAT composed of Guam officials of the GRO appointed by *I Maga'hågan/Maga'låhen Guåhan*, and Federal officials from all relevant agencies, will conduct a damage survey of Guam to examine and inspect the damage resulting from the Disaster. During the same period, the highest official of each Guam agency will cause a report to the DAT of the extent and nature of the damage to property under the control or ownership of the agency. All Guam personnel involved in recovery efforts of any kind, and particularly personnel of the GRO, shall at all times fully and completely cooperate with DDT, and shall provide to DDT all forms, documents, applications, photographs, statements, narratives and information derived from contacts with FEMA and other Federal officials, as may be requested by DDT. Guam personnel working in disaster relief in any capacity shall be informed of the nature and purpose of the DDT, and the vital need for DDT's work, so that Guam can draw down as soon as possible on the LOC. After completion of the DAT or any phase of the DAT, Guam personnel shall provide all information and documentation described in this Section to DDT so that all information, applications or other documents to be provided through the GRO to FEMA to support and substantiate the requested assistance, will be in full compliance with FEMA laws, rules and regulations, and custom and practice. After DDT has completed any phase of its work, the documentation and related information shall be provided to the GRO for submission to FEMA. DDT shall implement a review process so that Guam, each of its agencies and the GRO have an opportunity to review the proposed DDT final set of documentation to FEMA to assure that the submission is accurate and complete. DDT shall then recommend to the lender the amount of FEMA money reasonably expected to be obtained as a result of the disaster, or any phase of the disaster that has been assessed and submitted to FEMA. Lender

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shall immediately process for drawdown on the LOC credit facility funds in the gross amount of the sum recommended by DDT for approval, subject to the provisions of § 65A107 of this Chapter. The funds shall be transferred to the LDEA for distribution in check form in the amounts allocated to Guam, an agency of Guam, a service provider or a vendor or supplier. Draw down on the LOC shall require DDT to be in place.

SOURCE: P.L. 26-174:5 (Jan. 5, 2003); compiler by Compiler.

§ 65A106. Assignments.

To provide security for the lender for the Guam loans under this Chapter, Guam shall assign the corresponding FEMA funds which are expected to be received. If an assignment is made to FEMA by Guam, to the full extent allowed by Federal and Guam law, the proceeds of the FEMA disbursements assigned to the Lender shall be paid directly to the lender.

SOURCE: P.L. 26-174:6 (Jan. 5, 2003); compiled by Compiler.

§ 65A107. Use of Funds.

I Maga'hågan/Maga'låhen Guåhan is authorized, upon passage of this Chapter and without further approval, to draw upon the LOC for emergency purposes to address the damage resulting from disasters; provided, such projects have been received and approved for FEMA funding by FEMA; and for PPPs that have been evaluated and approved using FEMA Section 404 Hazard Mitigation Standards, and approved by *I Liheslaturan Guåhan*, which PPP draws shall be limited to the amount of the matching contribution Guam is required to make on the PPP or disaster grants, which can range from 0% to 25% of the loan.

SOURCE: P.L. 26-174:7 (Jan. 5, 2003); compiled by Compiler.

§ 65A108. Lenders Disaster Escrow Account.

After submission of the FEMA required documentation by the DDT to the GRO and the request for a drawdown by Guam on the revolving LOC, the lender shall pay the money to the LDEA, which will be through an escrow selected by lender, through an escrow process performed directly by lender, or by the Guam Department of Administration if lender so elects. The LDEA shall determine that the proper amount of money is allocated and disbursed to Guam, a Guam agency, a service provider or supplier or vendor. The LDEA shall issue the physical checks in the amounts, and to Guam and to the entities, consistent with the process established by this Chapter.

SOURCE: P.L. 26-174:8 (Jan. 5, 2003); compiled by Compiler.

§ 65A109. Applicability of Chapter.

This Chapter shall be applicable to all disasters occurring after December 1, 2001.

SOURCE: P.L. 26-174:9 (Jan. 5, 2003); compiler by Compiler.

§ 65A110. Lender May Use Tax Exempt Bonds.

The Lender may use as a source of funds to make loans under the LOC, money from tax-free bonds, if such tax free bonds are available for any portion of the loans of the lender. Guam acknowledges and understands that at least as to the LOC loans repaid by FEMA reimbursement, that are not tax exempt, but the lender may obtain tax-exempt funds as a source of loans made and secured by Section 30 funds or other Guam assets, if available, so as to reduce the interest cost on the loans to Guam. However, Guam shall have no responsibility whatsoever for, or in connection with, repayment of the bonds, or any other requirements imposed by the bonds, which shall be the sole responsibility of the lender. There shall be no contractual privity or relation between Guam and the bond holders, or anyone else that has responsibility under the bonds.

SOURCE: Added by P.L. 26-174:10 (Jan. 5, 2003); codified by Compiler.

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§ 65A111. Annual Appropriation.

There is hereby appropriated annually from the General Fund the amount necessary to fully fund the debt service on the local matching funds required and incidental charges of the line of credit proceeds used for such purposes.

SOURCE: Added by P.L. 26-174:11 (Jan. 5, 2003); codified by Compiler.
