

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Via Hand Delivery
and E-mail to: speaker@guamlegislature.org

October 13, 2023

HONORABLE THERESE M. TERLAJE
Speaker
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

RE: EXECUTIVE ORDER NO. 2023-12

Hafa Adai Madame Speaker:

Pursuant to Public Law 34-16, transmitted herewith is the following Executive Order:

**EXECUTIVE ORDER NO. 2023-12: RELATIVE TO ESTABLISHING THE FISCAL
REVIEW COMMITTEE TO ASSIST THE GUAM MEMORIAL HOSPITAL
AUTHORITY**

Thank you.

Sensaramente,

A handwritten signature in black ink, appearing to read "Leslie A. Travis".

LESLIE A. TRAVIS
Legal Counsel

Enclosure: Executive Order No. 2023-12

cc via email: *Maga'hågan Guåhan*
Sigundo Maga'låhen Guåhan
Hon. Robert J. Torres, Jr., Chief Justice of Guam
Compiler of Law
Central Files
Cabinet Members



ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGATNA, GUAM 96932
U.S.A.

EXECUTIVE ORDER NO. 2023-12

**RELATIVE TO ESTABLISHING THE FISCAL REVIEW COMMITTEE TO
ASSIST THE GUAM MEMORIAL HOSPITAL AUTHORITY**

WHEREAS, on September 28, 2023, during a legislative oversight hearing, Guam Memorial Hospital Authority (“GMHA”) officials testified that the GMHA has accumulated an outstanding balance of approximately Twenty-Six Million Eight Hundred Thousand Dollars (\$26,800,000) in vendor payables, supplies, travel nurses, contractors, and utilities; and

WHEREAS, if not resolved, these unpaid balances may adversely affect the long-term financial stability of GMHA and ultimately impact the quality of medical care and services it provides to the people of Guam; and

WHEREAS, on October 12, 2023, *I Mina'trentai Siette na Liheslaturan Guåhan* adopted Resolution No. 215-37, urging the Governor to declare an immediate state of emergency “to address the rapidly deteriorating conditions at the Guam Memorial Hospital and to direct funding and resources to assist our hospital with its financial challenges, supply deficiencies, and structural rehabilitation and repairs;” and

WHEREAS, while Resolution No. 215-37 asks for an emergency declaration to enable GMHA to resolve these concerns, as the Public Auditor noted in his testimony during the legislative session considering Resolution No. 215-37, Guam law *already* authorizes agencies, including GMHA, to procure goods and services on an emergency basis *without a declaration of emergency from the Governor*. GMHA *already* has legal authority to perform emergency procurements. What it lacks, and what Resolution No. 215-37 fails to address, is the *funding* to pay for the emergency procurement of goods and services; and

WHEREAS, the Organic Act of Guam does not give the Governor power over the public coffers. The Organic Act provides that “appropriations...*shall* be made by the legislature;” and

WHEREAS, on October 9, 2023, Governor Lourdes A. Leon Guerrero committed Twenty Million dollars (\$20,000,000) in American Rescue Plan Act (“ARPA”) funding to address unfunded, urgent structural repairs to the GMHA hospital facility; and

WHEREAS, the Final Rule issued by the Department of the Treasury for implementation of the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) established under ARPA authorizes recipients to use SLFRF funds up to the state or territory revenue loss amount on services traditionally provided by the government, including school and hospital infrastructure; and

WHEREAS, the Final Rule further authorizes Capital Expenditures that respond to the public health needs of the recipient communities, including expenditures to address inadequacies in public health facilities; and

WHEREAS, the Final Rule expressly provides that debt service and replenishment of rainy day funds are *not* allowable uses of SLFRF funds; and



ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGATNA, GUAM 96932
U.S.A.

WHEREAS, on October 9th, before the Guam Legislature adopted Resolution No. 215-37, Governor Lourdes A. Leon Guerrero called upon the Legislature to appropriate funds to address GMHA's unpaid vendor payables; and

WHEREAS, our Administration is committed to not only providing ARPA funding to address urgent repairs to the GMHA facility, but also activating Executive Branch financial experts to assist in the development of processes that will ensure expeditious repairs and vital procurements, timely vendor payments, strong internal financial control policies and cash management, and optimal billing and revenue cycles; and

WHEREAS, Guam law vests the governance of GMHA in a Board of Trustees, which is authorized to establish the internal organization and management of GMHA, oversee the employment practices of the hospital, and adopt and maintain a uniform system of accounting, among other powers. The Board is further authorized to exercise such other powers necessary to accomplish the purposes for which it was formed; and

WHEREAS, certain Executive Branch agencies, including the Office of the Governor, the Department of Administration, and the Bureau of Budget and Management Research, employ subject matter experts in finance and fiscal operations; and

WHEREAS, the expertise of our Executive Branch agencies have enabled our government to retire our decades-old deficit, and restored our government's fiscal health and credibility in the bond market; and

WHEREAS, to protect GMHA from further detrimental effects of its accumulated outstanding vendor payables and ensure its future financial health, and to monitor the proper expenditure of ARPA funds and legislative appropriations, it is appropriate to create an entity consisting of experts from these Executive Branch agencies to review GMHA's financial policies and monitor its financial operations; and;

WHEREAS, to ensure potential concerns are identified and addressed expeditiously, the financial review entity established herein shall further provide independent reports of GMHA's financial situation to the Governor; and

WHEREAS, it is in the best interest of GMHA and our broader community to ensure both the immediate resolution of GMHA's existing issues, and to build capacity within GMHA to ensure continuity of sound fiscal practices and procedures; and

WHEREAS, it is my hope and expectation that activating these resources will enable GMHA to address immediate concerns related to its outstanding vendor payables, and ensure the success of its future financial operations.

NOW, THEREFORE, I, JOSHUA F. TENORIO, I Ákto Maga'låhen Guåhan, Acting Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam and the laws of Guam, do hereby direct as follows:

1. **ESTABLISHMENT OF THE FISCAL REVIEW COMMITTEE.** There is hereby established the **Fiscal Review Committee ("FRC")**, which shall consist of the Office of the Governor's Chief Fiscal Advisor, the Director of the Department of Administration ("DOA"), and the Director of the Bureau of Budget and Management



ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGATNA, GUAM 96932
U.S.A.

Research (“BBMR”) to monitor the GMHA’s financial policies and processes and make recommendations to the Governor.

2. DUTIES OF THE FRC. The FRC shall have the following duties and responsibilities:

A. Review and make recommendations to the Governor regarding the following items relative to GMHA:

- i. Policies and practices related to the preparation and presentation of GMHA’s operating budget request;
- ii. Budget request priorities;
- iii. Plans and schedules, including but not limited to those related to the following categories: operational and capital expenditures; facilities and maintenance; human resources management; and strategic planning;
- iv. Hiring policies, procedures, and controls;
- v. Financial reports and expenditures;
- vi. Accounting procedures and controls; and
- vii. Records related to information technology purchases and upgrades, including those pertaining to electronic health records and financial management systems.

B. Monitor and make recommendations to the Governor on the following items relative to GMHA:

- i. Contracts and expenditures in excess of One Million Dollars (\$1,000,000);
- ii. Contracts and renewal dates for operational and service contracts, including but not limited to provider services; pharmaceutical services; food service; laundry; facility maintenance; office reproduction equipment; solid waste disposal; and telecommunications;
- iii. GMHA receivables, billings and payments, including amounts due and paid from the U.S. Government (Medicare) and from the Government of Guam (Medicaid, Medically Indigent Program, Worker’s Compensation);
- iv. GMHA health insurance receivables, billings and payments, including amounts due and paid from individual private sector health insurance providers;
- v. GMHA self-payer receivables, billings and payments, including amounts due and paid from individuals, corporations, organizations, or other business entities (upon redaction of information consistent with Section 3 below), as well as records related to Medicaid eligibility assessments for Compact of Free Association citizens; and
- vi. Discounts granted to payers under (iii), (iv), and (v) of Section 2(B).



ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGATNA, GUAM 96932
U.S.A.

- C. Assess and make recommendations to the Governor regarding GMHA project proposals for the allocation of Twenty Million Dollars (\$20,000,000) in authorized ARPA funds for repairs to the GMHA hospital facility, including those procured on an emergency basis. In furtherance of the Governor's authorization of the use of ARPA funding for this purpose, the Director of BBMR is directed to establish an account for the identified funds, which may be utilized for identified projects upon the Governor's approval.
- D. Emergency procurements utilizing funds identified in Section 2C shall comply with 5 GCA § 5215 ("Emergency Procurements"), and the GMHA Administrator/CEO shall promptly provide Certificates of Emergency to the Governor consistent with Section 5215.
3. **HIPAA PROTECTIONS TO BE OBSERVED.** The FRC shall strictly observe all requirements and protections of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and to this end shall not access protected patient data in the performance of its duties.

SIGNED AND PROMULGATED at *Hagåtña*, Guam, this **13th** day of **October**, 2023.

Handwritten signature of Joshua F. Tenorio in blue ink.

JOSHUA F. TENORIO
Ákto Maga'láhen Guåhan
Acting Governor of Guam

Attested by:

Handwritten signature of Therese M. Terlaje in blue ink.

THERESE M. TERLAJE
Ákto Sigundo Maga'hågan Guåhan
Acting Lt. Governor of Guam

