

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

MEMORANDUM

July 28, 2022

TO: Edward Birn
Director
Department of Administration

FROM: Lourdes A. Leon Guerrero
I Maga'hāgan Guāhan
Governor of Guam

RE: Implementation of and Funding Source for Public Law No. 36-106

Buenas yan Hāfa Adai Director Birn,

On July 27, 2022, I signed into law Public Law No. 36-106, which, among other things, establishes and funds the Prugrāman Ayuda Para I Taotao-ta Energy Credit Program. The Program provides a utility credit of Five Hundred dollars (\$500) to the fifty-two thousand seven hundred sixty-two (52,762) residential and commercial subscribers of the Guam Power Authority (“GPA”), with One Hundred dollars (\$100) per subscriber to be disbursed on a monthly basis to GPA, for the months of July, August, September, October, and November 2022. P.L. 36-106 appropriates the sum of Twenty-six Million Three Hundred Eighty-one Thousand dollars (\$26,381,000.00) from the General Fund to the GPA for this purpose, to be disbursed in five (5) equal monthly installments. I have attached a copy of P.L. 36-106 for your reference.

Despite the clear appropriation made from the General Fund, P.L. 36-106 retains inconsistent language providing that amounts authorized may be expended from three possible sources: (1) FY2021 excess General Fund revenues, (2) FY2022 General Fund appropriations as authorized, and (3) federal appropriations that can be used for purposes of P.L. 36-106. Further, the law provides that “[n]o local funds may be used for the [program] as long as federal funds that can be used for the purposes of this Act are available to encumber, obligate, or expend.”

As you know, the use of American Rescue Plan (“ARP”) Act funds is subject to requirements and restrictions. The utility credit provided in P.L. 36-106 cannot be funded utilizing ARP funds for the following reasons: (1) the impact the Program seeks to address – the rise in power costs – did not result from the COVID-19 pandemic but rather from geopolitical circumstances, as GPA itself has stated on several occasions; (2) the credit is given to all residential subscribers, regardless of whether they have suffered from a negative economic impact resulting from the pandemic, which is not an eligible use of ARP funds for impacted or disproportionately impacted households, and (3) the credit is given to commercial subscribers, who do not qualify as impacted or disproportionately impacted households. Further, as you know, all ARP funds have been dedicated, and no such funds are available to encumber, obligate or expend for this purpose. Finally, the Legislature is not authorized to reappropriate ARP funds.

To: Edward Birn, *Director, Department of Administration*
Fr: *Honorable Lourdes A. Leon Guerrero, Governor of Guam*
Date: July 28, 2022
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Page 2 of 2

For these reasons, federal funds cannot be used to fund the Program, and you may proceed with implementation of the Program consistent with the General Fund appropriation provided in P.L. 36-106.

SO ORDERED:



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

cc via email: *Sigundo Maga'låhan Guåhan*