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IN THE SUPREME COURT OF GUAM

IN RE:)	Supreme Court Case No. CRQ26-001
)	
REQUEST OF LOURDES A. LEON)	
GUERRERO, I MAGA'HÅGAN)	
GUÅHAN, RELATIVE TO ORGANIC)	
ACT LIMITS ON LEGISLATIVE)	ORDER
CONDITIONS AFFECTING THE)	
GOVERNOR'S AUTHORITY TO)	
ESTABLISH HOSPITALS.)	
)	

Petitioner Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan* ("Governor") by and through counsel and pursuant to 7 GCA § 4104, Guam Rules of Appellate Procedure 26 through 27, and the Organic Act of Guam, as amended, requests that the court issue declaratory judgment relative to the Organic Act limits on legislative conditions affecting the Governor's authority to establish hospitals. The Governor seeks declaration on the following questions:

1. Whether 48 U.S.C.A. § 1421g(a) confers upon the Governor enumerated authority to establish, maintain, and operate public-health services in Guam, including hospitals.
2. Whether generally applicable Guam statutes may be construed or applied in a manner that conditions, prevents, or effectively transfers ultimate authority over the establishment of a hospital from the Governor, consistent with the Organic Act.
3. Whether disputes concerning the legality of executive action undertaken pursuant to 48 U.S.C.A. § 1421g(a) are to be resolved through judicial review or application of statutory approval mechanisms.

Req. at 23–24 (Mar. 4, 2026).

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Supreme Court of Guam, Clerk of Court

NO. CRQ26-001

IN THE SUPREME COURT OF GUAM

IN RE:

REQUEST OF LOURDES A. LEON GUERRERO, *IMAGA'HÅGAN*
GUÅHAN, RELATIVE TO ORGANIC ACT LIMITS ON LEGISLATIVE
CONDITIONS AFFECTING THE GOVERNOR'S AUTHORITY TO
ESTABLISH HOSPITALS

REPLY BRIEF RE: JURISDICTION
OF PETITIONER LOURDES A. LEON GUERRERO,
IMAGA'HÅGAN GUÅHAN

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On March 5, 2026, the Court designated *I Liheslaturan Guåhan* (“Legislature”), as a Respondent in this case, ordering it to file its answer in response to the Request for Declaratory Judgment (“Petition”) in this matter on the issue of jurisdiction. Order (March 5, 2026) (“3/5/2026 Order”) at 2. On March 12, 2026, the Legislature filed its Opposition to Request for Declaratory Judgment re: Jurisdiction. Pursuant to the 3/5/2026 Order, Petitioner Lourdes A. Leon Guerrero, *IMaga’hågan Guåhan* (“Governor” or “Petitioner”), by and through counsel, hereby files her Reply Memorandum on the issue of jurisdiction.

I. INTRODUCTION

This Court’s jurisdiction under 7 GCA § 4104 is well defined. To invoke declaratory review, the Governor must demonstrate that (1) the issue presented is of great public importance, (2) resolution through the normal process of law would cause undue delay, and (3) the subject matter is appropriate for review under Section 4104. *In re Request of Governor Carl T.C. Gutierrez, Relative to the Organicity & Constitutionality of Pub. L. 26-35* (“Gutierrez II”), 2002 Guam 1 ¶ 9. The Court has further recognized that such requests are appropriate where they require interpretation of federal or local law within the jurisdiction of Guam courts or concern questions affecting the powers and duties of the Governor and the operation of the Executive Branch. *Id.*

The Governor's Petition satisfies each of these requirements. The Petition seeks interpretation of the Organic Act of Guam—specifically, the interaction between 48 U.S.C. § 1421g(a), which grants the Governor authority to establish public-health services including hospitals, and generally applicable Guam statutes that may be construed to condition or prevent execution of that authority. Determining the constitutional relationship between an enumerated Organic Act power and legislative enactments presents a pure question of law affecting the Governor's powers and duties and the operation of the Executive Branch.

The issue is also one of great public importance. The Petition concerns the constitutional allocation of authority among the branches of Guam's government and the legal framework governing development of public-health infrastructure. Clarification of the Organic Act's limits on legislative conditions affecting execution of an enumerated executive duty will guide not only the present hospital project but future interactions between legislative enactments and Organic Act powers.

Resolution through the normal process of law would likewise cause undue delay. The constitutional question presented affects ongoing executive action undertaken pursuant to the Governor's Organic Act duty to establish hospitals. Litigating the issue through trial-court proceedings followed by appellate review would take years while infrastructure planning, contracting, and federally funded improvements remain subject to uncertainty.

The Legislature’s opposition does not directly apply the jurisdictional framework articulated in *Gutierrez II*. Instead, it attempts to recast the Petition as a policy disagreement concerning the hospital project or as a dispute between executive officials regarding the interpretation of Guam statutes. Those arguments address the merits of the underlying constitutional question, not the jurisdictional requirements governing declaratory review under *Gutierrez II*. When the *Gutierrez II* factors are applied, the Petition plainly satisfies the requirements for declaratory jurisdiction under 7 GCA § 4104.

II. ARGUMENT

A. Legal Standard Governing Declaratory Jurisdiction Under 7 GCA § 4104

This Court possesses original jurisdiction over requests from the Governor of Guam for declaratory judgment interpreting federal or local law—including the Organic Act of Guam and its interaction with Guam statutory law—and over questions affecting the powers and duties of the Governor and the operation of the Executive Branch. 7 G.C.A. § 4104; see also 48 U.S.C.A. § 1424-1(a).

Section 4104 expressly authorizes the Governor to request declaratory judgments from this Court “as to the interpretation of any law, federal or local... and upon any question affecting the powers and duties of [the Governor] and the operation of the Executive Branch,” where the matter presents “great public interest”

and resolution through the normal process of law would cause undue delay. 7 G.C.A. § 4104.

Consistent with that statute, this Court has held that declaratory jurisdiction exists where three requirements are satisfied: (1) the issues presented are of great public importance; (2) resolution through the normal process of law would cause undue delay; and (3) the subject matter is appropriate for review under Section 4104. *Gutierrez II*, 2002 Guam 1 ¶ 9.

Where these requirements are met, the Court has recognized a narrow exception to traditional Article III standing principles. *In re Request of Leon Guerrero, Relative to the Validity and Enforceability of Public Law No. 20-134*, 2023 Guam 11 ¶ 24. In such circumstances, Article III standing is not required so long as the request presents a purely legal issue in an adversarial context capable of judicial resolution. *Id.*

The Petition satisfies each of these requirements.¹

¹ The Legislature does not meaningfully dispute that the Petition requires interpretation of federal and territorial law affecting execution of an Organic Act duty, nor that the issue presented concerns the allocation of authority under the Organic Act. Instead, the Legislature's opposition focuses primarily on whether declaratory review is appropriate and whether the dispute should proceed through ordinary litigation or the legislative process. In an abundance of caution, the Governor addresses each of the *Gutierrez II* factors herein. To the extent arguments regarding other jurisdictional elements are not addressed by the Legislature, those elements may be deemed conceded. *See, e.g., People v. Quinata*, 2023 Guam 25 ¶ 32 n.4 (explaining that issues not raised in a party's briefing are properly treated as forfeited).

B. The Petition Presents Questions Appropriate for Declaratory Review Under 7 GCA § 4104

The Legislature's opposition does not directly apply the jurisdictional framework articulated in *Gutierrez II*. Instead, it argues that the Court should decline review because the dispute is political, intra-executive, or better addressed through the legislative process.² Those arguments do not alter the jurisdictional inquiry under § 4104.

The Legislature also suggests that § 4104 precludes review because the Petition implicates the operation of another branch of government. Opp. at 6. But even under the Legislature's own framing, that limitation applies only where the other branch's actions do not impinge upon the requesting branch's authority. *Id.*

² The Legislature asserts that the Petition implicates its authority over public institutions, appropriations, and government land, and therefore should be resolved through the legislative process. But that contention confirms, rather than defeats, jurisdiction under § 4104. The Petition presents a question concerning the allocation of authority under the Organic Act, including the meaning of the phrase "subject to the laws of Guam" in 48 U.S.C. § 1421g(a) and its interaction with the Legislature's general lawmaking authority under 48 U.S.C. § 1423a.

This Court has already interpreted that phrase in the context of § 1421g(a), holding that it does not incorporate ordinary separation-of-powers principles in a manner that would permit legislative enactments to override a specific Organic Act grant of authority to the Governor. *In re Request of Leon Guerrero*, 2021 Guam 14 ¶ 27. The same interpretive question is presented here in the context of the Governor's authority to establish public-health services, including hospitals. Whether Guam statutes may operate in a manner that conditions or prevents execution of that authority is a legal question appropriate for declaratory review.

Here, the Petition alleges precisely the opposite: that Guam statutes are being applied in a manner that conditions or prevents execution of the Governor’s Organic Act duty under 48 U.S.C. § 1421g(a) to establish public-health services, including hospitals. Section 4104 therefore permits declaratory review.³

Section 4104 authorizes the Governor to request declaratory judgments interpreting federal or local law and addressing questions affecting the Governor’s powers and duties and the operation of the Executive Branch. *Gutierrez II*, 2002 Guam 1 ¶ 9. The Governor’s Petition falls squarely within both categories.

First, the Petition seeks interpretation of federal and local law within the jurisdiction of Guam courts. Specifically, the Court is asked to determine the interaction between the Organic Act of Guam—particularly 48 U.S.C. § 1421g(a), which directs the Governor to “establish, maintain, and operate” public-health services including hospitals—and generally applicable Guam statutes that may be construed to condition or prevent execution of that authority. Resolving the relationship between an enumerated Organic Act power and Guam statutory law

³ Section 4104 does not authorize one branch to seek advisory opinions regarding the operation of another branch where no impact on the requesting branch exists. 7 GCA § 4104 cmt.; *Gutierrez II*, 2002 Guam 1 ¶ 20. But that limitation applies only where the question “only concerns another branch” or does not affect the requesting branch’s duties. *Id.* ¶¶ 19–21. Here, the Petition alleges that Guam statutes are being applied in a manner that conditions or prevents execution of an Organic Act duty assigned to the Governor, and therefore directly affects the Governor’s powers and duties.

presents a pure question of law appropriate for declaratory review.⁴

Second, the requested interpretation directly affects the powers and duties of the Governor and the operation of the Executive Branch. Section 1421g(a) assigns to the Governor the responsibility to establish public-health services, including hospitals. Whether legislative enactments may be interpreted or applied in a manner that reallocates or conditions execution of that duty directly affects the Governor's ability to discharge a responsibility expressly conferred by Congress.

The Legislature suggests the dispute should instead be resolved through the legislative process. But the Petition does not seek amendment of existing statutes or adoption of new legislation. It seeks interpretation of the Organic Act and clarification of whether Guam statutes may operate in a manner that conditions execution of authority conferred by Congress. Questions concerning the interaction between higher law and legislative enactments are questions of law for the courts, not matters resolved through additional legislation. Declaratory judgment on these questions will not interfere with the Legislature's authority to enact or amend laws.

⁴ The Legislature's reliance on the phrase "subject to the laws of Guam" in 48 U.S.C. § 1421g(a) does not alter the jurisdictional analysis. This Court has already interpreted that phrase and rejected the view that it incorporates ordinary legislative supremacy or permits generally applicable statutes to override a specific Organic Act grant of authority to the Governor. *In re Request of Leon Guerrero*, 2021 Guam 14 ¶ 27. The same interpretive question is presented here. Whether Guam statutes may be applied in a manner that conditions or prevents execution of an enumerated Organic Act duty is a question of law appropriate for declaratory review under § 4104.

Rather, it would resolve whether the laws currently in force operate consistently with the Organic Act.⁵

The Legislature also attempts to characterize the Petition as a disagreement between executive officials concerning the interpretation of Guam statutes. But the Attorney General's asserted authority derives from statutes enacted by the Legislature. The Governor does not dispute that the Attorney General may challenge executive action in court if he believes it violates Guam law or the Organic Act. Rather, the Petition asks whether Guam law may authorize the Attorney General to unilaterally condition or prevent execution of authority conferred upon the Governor by the Organic Act. If the Attorney General believes executive action exceeds the Governor's authority, the appropriate mechanism is judicial review, not the exercise of statutory authority that operates as a veto over execution of an Organic Act duty. The question presented is therefore not whether the Attorney General may enforce the law through litigation, but whether Guam statutes may authorize him to block execution of an Organic Act duty without judicial review.

⁵ The Legislature suggests that the Governor's request for declaratory review arises from an inability to obtain legislative amendment of existing statutes. But attempts to seek legislative clarification or amendment of a statute do not waive a party's ability to challenge whether that statute operates consistently with the Organic Act. The Governor's Petition asks this Court to interpret the limits imposed by the Organic Act on existing Guam statutes—an issue that remains a question of law regardless of whether legislative proposals addressing the same subject have previously been considered.

The Legislature also contends that the Petition seeks an advisory opinion concerning hypothetical future executive action. Opp. at 7-8. That characterization is incorrect. The Petition identifies a present and concrete legal dispute concerning whether generally applicable Guam statutes, specifically including 5 GCA § 5150, may be interpreted or applied to require discretionary approval as a condition precedent to execution of the Governor's Organic Act authority under 48 U.S.C. § 1421g(a).

The question presented is not hypothetical. It concerns the current legal framework governing executive action and whether that framework may operate to condition or prevent execution of an enumerated Organic Act duty. As this Court has recognized, § 4104 is designed to permit resolution of such legal questions before they ripen into full litigation or result in substantial disruption to governmental operations. See *Gutierrez II*, 2002 Guam 1 ¶ 16. Where, as here, executive agencies are presently required to navigate competing interpretations of law affecting the Governor's authority, the dispute is sufficiently concrete to warrant declaratory review.

Determining whether Guam statutes may constitutionally operate in a manner that conditions or prevents execution of authority conferred by the Organic Act lies squarely within this Court's declaratory jurisdiction under 7 GCA § 4104. Questions concerning the allocation of governmental authority under the Organic Act are

precisely the type of issues this Court has repeatedly resolved through § 4104 declaratory review.

The Legislature's opposition repeatedly invokes general principles of separation of powers and its authority over appropriations, public expenditures, and government land. Opp. at 10-11. Those arguments address the merits of the dispute, not the jurisdictional inquiry under § 4104. The Petition does not ask the Court to resolve policy questions concerning whether a hospital should be built, how it should be funded, or where it should be located. Nor does it seek to reassign legislative powers.

Rather, the Petition presents a legal question concerning the interaction between an enumerated Organic Act duty and generally applicable Guam statutes, and whether those statutes may be interpreted or applied in a manner that conditions or prevents execution of that duty. That question falls squarely within this Court's declaratory jurisdiction.

The Legislature's invocation of principles of judicial restraint and constitutional avoidance likewise does not affect the Court's jurisdiction under § 4104. Those doctrines guide how courts resolve cases, not whether they may exercise jurisdiction to decide a properly presented legal question. Here, the Petition presents a question concerning the interaction between an enumerated Organic Act duty and generally applicable Guam statutes. That question cannot be resolved

without determining whether those statutes may be interpreted or applied in a manner that conditions or prevents execution of that duty. Accordingly, principles of avoidance do not provide a basis to decline declaratory review.

The Legislature's suggestion that exercising declaratory jurisdiction would improperly draw the Court into a political dispute likewise does not alter the analysis. This Court has repeatedly exercised jurisdiction under § 4104 to resolve legal questions concerning the allocation of authority under the Organic Act and the operation of the political branches. Where, as here, the statutory requirements are satisfied and the Petition presents a concrete legal question affecting the Governor's powers and duties, the exercise of declaratory jurisdiction is not an expansion of the statute, but its intended application.

C. The Issue Presented Is One of Great Public Importance

The Petition also satisfies the requirement that the issue presented be one of great public importance. As this Court explained in *In re Request of Governor Gutierrez for a Declaratory Judgment as to Organicity of Guam Pub. Law 22-42* ("Gutierrez I"), a matter of great public importance is one whose resolution affects the operation of government and relates to a presently existing governmental duty borne by the requesting branch. 1996 Guam 4 ¶ 4.

The Legislature does not dispute that the Petition fulfills this requirement. To the contrary, it acknowledges that "the condition of Guam's healthcare system is

unquestionably a matter of public importance.” Opp. at 7. That concession confirms the issue presented satisfies the “great public importance” requirement of § 4104.

In any event, the Petition independently satisfies that standard. The question presented concerns whether Guam statutes may operate in a manner that conditions, delays, or prevents execution of authority conferred upon the Governor by the Organic Act to establish public-health services, including hospitals. Clarification of the relationship between that enumerated Organic Act duty and Guam statutory law directly affects the allocation of authority between the legislative and executive branches of Guam’s government and the ability of the Executive Branch to carry out responsibilities assigned by Congress.

Because the issue concerns the scope of authority conferred by the Organic Act and the interaction between that authority and Guam statutes, its resolution will affect not only the present circumstances surrounding development of public-health infrastructure, but also future instances in which executive authority granted by Congress intersects with legislative enactments. The issue therefore presents a matter of great public importance appropriate for declaratory review under 7 GCA § 4104.

D. Resolution of the Issues Raised in the Petition Through the Normal Process of Law Would Cause Undue Delay

The Petition also satisfies the requirement that resolution through the normal process of law would cause undue delay. Section 4104 permits declaratory review

“only where it is a matter of great public interest and the normal process of law would cause undue delay.” 7 G.C.A. § 4104; *see also In re Tax Trust Fund*, 2014 Guam 15 ¶ 25.

As this Court has explained, the purpose of § 4104 is to allow the prompt resolution of important legal questions affecting the operation of government without requiring the parties to engage in time-consuming litigation in the inferior courts. *Gutierrez I*, 1996 Guam 4 ¶ 8. In evaluating whether undue delay exists, the Court compares the practical timeline of ordinary litigation with the expedited procedure authorized by § 4104. The inquiry requires estimating “the relative difference in speed for an issue depending on whether it travels the ‘normal processes of law’ route, or that provided by 7 G.C.A. § 4104,” and determining whether the anticipated delay would be “excessive or inappropriate.” *Id.* ¶ 7; *see also In re Request of Calvo*, 2017 Guam 14 ¶ 11.

The Legislature argues that the Governor cannot establish that the normal process of law would cause undue delay because the Governor failed to present a hospital proposal to the Legislature for review, including construction plans, operational structure and funding strategies, and therefore the Legislature has never been given a full opportunity to consider the proposal. *Opp.* at 7. The Legislature’s opposition misstates the standard for undue delay by suggesting that the Court must

evaluate delay relative to the “ordinary political or judicial process.” *Id.* Section 4104 contains no such requirement.

The statute asks whether the *normal process of law* would cause undue delay, and this Court’s precedents make clear that the relevant comparison is between ordinary litigation in the courts and the expedited procedure provided by § 4104, not whether it would be more expedient to pursue legislation. *Gutierrez I*, 1996 Guam 4 ¶ 8; *Calvo*, 2017 Guam 14 ¶ 11. The Legislature’s attempt to redefine the standard to require exhaustion of the legislative process finds no support in the statute or this Court’s decisions.

Moreover, the Petition does not seek legislative action. The Governor does not ask the Court to approve a particular hospital proposal or funding structure. Rather, the Petition seeks interpretation of the Organic Act and clarification of whether Guam statutes may operate in a manner that conditions or prevents execution of authority expressly conferred upon the Governor by Congress. Questions concerning the validity and operation of statutes under higher law are questions of law for the courts, not matters that can be resolved through additional legislation.

Absent declaratory review, the issue would likely arise through multiple proceedings in the trial courts involving procurement decisions, contract approvals, or related infrastructure activities, followed by appellate review. That process could

take years to reach final resolution. During that time, executive agencies responsible for infrastructure planning, contracting, and implementation would remain subject to continuing legal uncertainty regarding whether statutory approval mechanisms may operate to prevent execution of the Governor's Organic Act authority.

Section 4104 was enacted precisely to avoid such delay. Where an important legal question affecting the operation of government requires prompt clarification, the statute authorizes this Court to resolve the issue without requiring the parties to first engage in time-consuming litigation in the inferior courts. Because resolution of the issue through the normal process of law would require years of litigation while executive agencies remain uncertain regarding the scope of their authority, the statutory requirement of undue delay is satisfied.

III. CONCLUSION

For these reasons, the Petition satisfies each of the requirements governing declaratory jurisdiction under 7 GCA § 4104. The questions presented require interpretation of federal and territorial law affecting the Governor's Organic Act duties, involve matters of great public importance, and would suffer undue delay if required to proceed through the ordinary course of litigation. Accordingly, this Court should exercise its declaratory jurisdiction and resolve the questions presented.

//

//

Respectfully submitted this 17th day of March, 2026.

OFFICE OF THE GOVERNOR OF GUAM
Office of Legal Counsel
Attorneys for Petitioner
Lourdes A. Leon Guerrero,
Governor of Guam

By: /s/ Leslie A. Travis

LESLIE A. TRAVIS
JEFFREY A. MOOTS

4 This case is not about whether Guam should build a hospital; it is about whether
5 the Governor may bypass the Guam Legislature and commit public land and resources
6 to a hospital project lacking legislative authorization, financial feasibility, and any genuine
7 emergency. With the Legislature's institutional interests now before the Court, the
8 Governor's request for an emergency accelerated briefing schedule must be evaluated in
9 light of the constitutional structure established by the Organic Act of Guam and the
10 Legislature's central role in authorizing public institutions, appropriating public funds, and
11 regulating the use of government land.

12 **I. INTRODUCTION**

13 This case does not present a genuine constitutional conflict under the Organic Act
14 of Guam requiring judicial intervention. Instead, it reflects a policy disagreement between
15 the political branches concerning how Guam's procurement statutes and contract-review
16 requirements apply to the Governor's proposed hospital project.

17 The Governor cannot transform a statutory dispute with the Attorney General into
18 a constitutional controversy with the Legislature. The Governor initially pursued the
19 appropriate mechanisms available within Guam's constitutional structure. She requested
20 that the Legislature amend or reconsider statutory procurement requirements associated
21 with the hospital proposal. On November 24, 2025, Bill 1 (5-S)—An Act to Authorize
22 Installation of Utilities Infrastructure on Lot 5280-3 in Mangilao Utilizing American Rescue
23 Plan Act Funds—was introduced at the Governor's request. The Legislature considered
24 Bill 1 (5-S) and declined to enact the requested changes. The Legislature's decision
25 represents a lawful exercise of legislative authority over the expenditure of public funds
26 and the statutory framework governing government contracts.
27
28

3 The Governor also initiated litigation against the Attorney General concerning the
4 interpretation and enforcement of procurement statutes and contract-review
5 requirements. That case—now pending in the United States District Court following
6 removal—directly presents the question whether the Attorney General is properly
7 performing his statutory duties. See *In Re Request of Lourdes A. Leon Guerrero, I*
8 *Maga'hågan Guåhan, Relative to the Authority of the Attorney General of Guam to*
9 *Approve Autonomous Agency Contracts*, District Court Case No. 25-CV-00041, Notice of
10 Removal (Oct. 30, 2025). In that proceeding, the Governor argued the dispute concerns
11 the interpretation and application of Guam statutes governing procurement and contract
12 review.
13

14 Having pursued those avenues, her first case still before the Courts and the
15 Legislature having rejected her request, the Governor now asks this Court to issue a
16 declaration effectively permitting the executive branch to proceed outside the statutory
17 framework enacted by the Legislature. The Petition thus seeks judicial authorization to
18 exercise authority the Legislature has declined to grant.
19

20 The separation of powers established by the Organic Act does not permit courts
21 to resolve such disputes by overriding legislative policy choices. Legislative inaction or
22 refusal to amend existing statutes does not transfer authority to the executive branch, nor
23 does it create a constitutional void the judiciary must fill. When the political branches retain
24 the ability to address an issue through the ordinary legislative process, principles of
25 judicial restraint counsel strongly against judicial intervention.
26

27 Moreover, the Governor's theory would have consequences extending far beyond
28 the alleged hospital project. If the executive branch could bypass procurement statutes

3 whenever it invokes programmatic authority under the Organic Act, the Legislature's
4 constitutional authority to regulate the expenditure of public funds would be substantially
5 diminished. Procurement laws, contract-review requirements, audits and other fiscal
6 safeguards represent core legislative mechanisms for ensuring that public resources are
7 spent lawfully and transparently. They are traditional mechanisms of performing a key
8 Legislative role.

9
10 The Supreme Court of Guam has repeatedly emphasized the Organic Act
11 establishes separated powers in which each branch must operate within its assigned
12 authority. *In Re: Request of Lourdes A. Leon Guerrero, I Maga'hágan Guáhan, Relative*
13 *to the Power of the Executive Branch to Establish, Maintain, and Operate Quarantine*
14 *Facilities in Guam and to Promulgate Quarantine and Sanitation Regulations for the*
15 *Protection of Guam Against the Importation and Spread of Disease*, 2021 Guam 6 at ¶¶
16 22-24. The Legislature retains broad authority to enact laws governing public programs
17 and institutions. *Villagomez-Palisson v. Superior Court*, 2004 Guam 13 at ¶ 15. Executive
18 action inconsistent with statutory authority cannot stand. *In Re Request of Governor F.P.*
19 *Camacho Relative to the Interpretation and Application of Sections 6 and 9 of the Organic*
20 *Act of Guam*, 2004, Guam 10 at ¶ 59. Federal precedent addressing Guam's
21 governmental structure likewise confirms the Legislature determines whether a public
22 hospital should exist and how it will be funded. *Bordallo v. Baldwin*, 624 F.2d 932, 934
23 (9th Cir. 1980).

24
25 Despite these settled principles, the Governor asks this Court to issue an
26 accelerated ruling declaring decisions concerning the creation and location of a public
27 hospital fall exclusively within executive authority—even though those decisions
28

4 necessarily involve legislative control over appropriations, public land, and the statutory
5 framework governing public expenditures.

6 This case does not require the Court to select a hospital site or resolve healthcare
7 policy. Those questions belong to the political branches through the legislative process.
8 The only issue presented is whether the executive branch may bypass the Legislature's
9 constitutional role under the Organic Act. It may not.

10 The Petition attempts to transform a statutory dispute with the Attorney General
11 into a constitutional conflict with the Legislature while simultaneously seeking judicial
12 authorization to exercise authority the Legislature has declined to provide. The
13 Governor's disagreement with statutes enacted by the Legislature does not create a
14 constitutional controversy with the Legislature itself. It simply presents a policy dispute
15 the Organic Act assigns to the legislative process rather than to judicial resolution.

16 The separation of powers established by the Organic Act is preserved not by
17 judicial intervention in political disagreements, but by adherence to the constitutional roles
18 assigned to each branch of government.

19 **II. STATEMENT OF JURISDICTION**

20 **A. Declaratory Jurisdiction Under 7 GCA § 4104 is Narrow and**
21 **Extraordinary**

22 The Governor seeks declaratory relief pursuant to 7 GCA § 4104, but that statute
23 confers only narrow and carefully circumscribed jurisdiction on the Supreme Court of
24 Guam. This Court has repeatedly emphasized this extraordinary form of jurisdiction is
25 available only in limited circumstances and must be exercised with caution to avoid
26 drawing the judiciary into disputes properly resolved through the political process. *In Re*
27

3 *Request of Gutierrez, 2002 Guam 1 at ¶ 9.* Indeed, the Governor's petition illustrates
 4 precisely the type of inter-branch policy dispute that this Court has cautioned should not
 5 be resolved through declaratory jurisdiction.

6 Section 4104 permits review only where:

- 7 1. the issue involves interpretation of federal or local law or affects the powers
- 8 and duties of the Governor and the operation of the executive branch;
- 9 2. the matter presents a question of great public interest;
- 10 3. resolution through the normal process of law would cause undue delay; and
- 11 4. the issue is otherwise appropriate for declaratory review.

12 The statute also reflects a critical separation-of-powers limitation: it does not permit
 13 one branch to request opinions as to the operation of another branch where that operation
 14 does not impinge on the requesting branch's authority. The purpose of this limitation is to
 15 prevent one branch from attempting to regulate another branch through the courts Public
 16 Law 29-103:1. The Governor's petition does not satisfy these jurisdictional requirements.

17 **B. The Governor's Petition Fails the Jurisdictional Test Established in**
 18 **Gutierrez**

19 The Court's order directing jurisdictional briefing confirms that the Governor's
 20 petition must satisfy the strict requirements articulated in *In re Request of Gutierrez, 2002*
 21 *Guam 1 ¶ 9.* Under that decision, declaratory jurisdiction exists only where:

- 22 1. the issue presented is a matter of great public importance;
- 23 2. resolution through the ordinary political or judicial process would cause
- 24 undue delay; and

3 3. the subject matter of the inquiry is appropriate for review under 7 GCA §
4 4104.

5 Although the condition of Guam's healthcare system is unquestionably a matter of
6 public importance, the Governor cannot satisfy the remaining requirements.

7
8 **C. The Governor Cannot Demonstrate the Ordinary Political
Process Would Cause Undue Delay**

9 The Governor cannot demonstrate resolution through the ordinary political process
10 would cause undue delay. She failed to present the Legislature with a complete hospital
11 proposal capable of legislative review. The Governor has not submitted construction
12 plans, operational structures, governance mechanisms, or funding strategies for a
13 hospital facility. Because the Legislature has never been given the opportunity to consider
14 such a proposal through the normal legislative process, the Governor cannot establish
15 that the "normal process of law" would cause undue delay.

16
17 Declaratory jurisdiction cannot be invoked simply because the legislative process
18 may be difficult or uncertain. The United States Supreme Court has emphasized that the
19 Constitution's structural safeguards cannot be bypassed merely because the political
20 branches find the legislative process inconvenient. *INS v. Chadha*, 462 U.S. 919, 951
21 (1983). The Governor's inability to secure legislative approval does not constitute "undue
22 delay" within the meaning of §4104.

23
24 **D. The Petition is Not Appropriate for Declaratory Review**

25 The Governor's petition is also inappropriate for declaratory review because it
26 seeks an advisory determination concerning hypothetical future executive actions. The
27 Governor does not identify any statute that has prevented the executive branch from
28

3 establishing a hospital. Instead, the petition asks this Court to determine in advance
4 whether generally applicable statutes governing procurement, contracting, and public
5 administration may apply to future executive actions associated with a hospital project.

6 The Governor's dispute is with the Attorney General.

7
8 Declaratory jurisdiction is not intended to provide advisory opinions regarding
9 hypothetical disputes that may arise in the future. In re *Request of Gutierrez, 2002 Guam*
10 1. Nor may declaratory jurisdiction be used by one branch to obtain judicial supervision
11 of another branch's operations where no present interference exists. The Governor's
12 petition therefore falls squarely outside the limited jurisdiction contemplated by §4104.

13 The Governor's own litigation conduct confirms declaratory jurisdiction is
14 unnecessary here. The Governor has already initiated separate litigation concerning the
15 Attorney General's interpretation and enforcement of Guam's procurement statutes and
16 contract-review requirements. That case—now pending in the United States District Court
17 following removal—directly presents the question whether the Attorney General is
18 properly performing his statutory duties. Because that litigation provides an ordinary
19 judicial forum capable of resolving the underlying statutory dispute, the extraordinary
20 declaratory jurisdiction authorized by 7 GCA § 4104 is neither necessary nor appropriate.
21 Where an existing judicial proceeding can resolve the dispute through the normal process
22 of law, this Court should decline to exercise its limited declaratory jurisdiction. See *In re*
23 *Request of Gutierrez, 2002 Guam 1.*

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3 **III. ARGUMENT**

4 **A. The Governor's Petition Presents an Intra-Executive Branch**
5 **Dispute, not a Controversy with the Legislature**

6 At its core, the Governor's petition does not present a constitutional dispute
7 between the executive and legislative branches. Instead, it reflects a disagreement within
8 the executive branch concerning the interpretation and execution of statutes enacted by
9 the Legislature.

10 The Guam Legislature enacted statutes governing procurement oversight and
11 requiring the Attorney General to review government contracts. Those statutes reflect
12 legislative policy judgments concerning transparency, fiscal accountability, and the lawful
13 expenditure of public funds. The Governor had not challenged the Legislature's authority
14 to enact those statutes, nor did she contend they are unconstitutional. Rather, the
15 Governor argued the Attorney General has misinterpreted or improperly applied those
16 statutes in the performance of his statutory duties.

17 Disagreements regarding the interpretation and implementation of statutes do not
18 create a controversy with the Legislature that enacted them. Such disputes concern the
19 execution of existing law and must be directed toward the executive officer responsible
20 for administering those statutes.
21

22 Because the true controversy concerns the execution of statutes by an executive
23 officer rather than the validity of legislative enactments, the Legislature is not a proper
24 party to the dispute.
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4 **B. The Organic Act Preserves Legislative Authority Over Public**
5 **Institutions, Public Funds, and Public Land**

6 The Court's role in this case is not to determine the policy wisdom of any proposed
7 hospital project. Rather, the Court's responsibility is to preserve the constitutional
8 structure established by Congress in the Organic Act of Guam. That structure assigns
9 legislative authority over appropriations, public expenditures, and the statutory framework
10 governing public institutions to the Legislature, while the executive branch administers
11 programs within that legislative framework.

12 Respect for that allocation of authority requires that the Court decline invitations to
13 reassign powers that Congress placed in the legislative branch. The Governor's petition
14 asks this Court to declare that the executive branch possesses exclusive authority to
15 determine whether and where a new public hospital will be established. That claim
16 conflicts with the structure of the Organic Act.

17 The Organic Act establishes a system of separated powers in which the legislative
18 and executive branches share responsibility for major public decisions involving public
19 institutions, public expenditures, and public land. The Legislature retains authority over
20 appropriations, the creation and organization of public institutions, and the statutory
21 framework governing government activity.

22 This is not a case where the Governor claims to be the recipient of federal
23 appropriations not requiring public land or future appropriations. This case clearly
24 mandates the Legislature authorize the use of public land and future government
25 expenditures.
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3 Decisions concerning the creation and location of a major public hospital
4 necessarily implicate those legislative responsibilities. The establishment of such a facility
5 requires the commitment of public funds, the use of government land, and compliance
6 with statutory procurement and contract-review requirements enacted by the Legislature.
7 Separation of powers exists precisely to prevent the concentration of those decisions
8 within a single branch of government.

9
10 **C. The Organic Act's Authorization for the Executive to "Establish,
11 Maintain, and Operate" Hospitals does not Eliminate Legislative
12 Authority**

13 The Governor appears to rely on Organic Act language authorizing the executive
14 branch to "establish, maintain, and operate" hospitals and other public institutions. That
15 language does not grant the Governor unilateral authority to determine whether a hospital
16 will be created, where it will be located, or how it will be financed.

17 Rather, that provision recognizes the executive branch's role in administering
18 public institutions once they have been authorized and funded through the legislative
19 process. Under the Organic Act, the Legislature retains authority over appropriations,
20 public expenditures, public land, and the statutory framework governing public
21 institutions. Decisions involving the commitment of public funds and the use of
22 government land cannot be made unilaterally by the executive branch.

23 Even assuming the executive branch possesses authority to administer public
24 hospitals once established, the creation and location of a new public hospital necessarily
25 depend upon legislative authorization of public expenditures and the statutory framework
26 governing government contracts and procurement.
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4 Under the Organic Act, the power to authorize and structure the expenditure of
5 public funds rests with the Legislature. Any interpretation of executive authority that would
6 allow the Governor to proceed with a major public institution while bypassing those
7 legislative controls would fundamentally alter the balance of powers established by
8 Congress.

9 **D. The Governor's Theory Cannot be Reconciled with the Text of The**
10 **Organic Act, Which Expressly Requires Executive Action to be Taken**
11 **"Subject to the Laws of Guam"**

12 The Governor's petition ultimately rests on the premise that generally applicable
13 Guam statutes—such as procurement requirements and statutory mechanisms
14 governing government contracting—may not "condition," "delay," or otherwise affect the
15 Governor's authority to establish a hospital under the Organic Act. That premise cannot
16 be reconciled with the text of the Organic Act itself. Section 1421g(a) provides: "Subject
17 to the laws of Guam, the Governor shall establish, maintain, and operate public-health
18 services in Guam, including hospitals, dispensaries, and quarantine stations." 48 U.S.C.
19 § 1421g(a) (emphasis added).

20 This language is critical. Congress did not confer upon the Governor an
21 independent authority to establish hospitals free from the operation of Guam law. Instead,
22 Congress expressly provided that the Governor's authority must be exercised "subject to
23 the laws of Guam." 48 U.S.C. § 1421g(a).

24 The Governor's petition repeatedly argues that generally applicable Guam statutes
25 may not operate in a manner that "conditions" or "prevents execution" of the Governor's
26 authority. But procurement statutes, contract review requirements, and other generally
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3 applicable laws governing public administration are precisely the types of laws
4 contemplated by the phrase "subject to the laws of Guam."

5 Indeed, the Governor's argument effectively asks this Court to read that limiting
6 clause out of the statute. If generally applicable Guam statutes cannot regulate how the
7 executive branch enters contracts, expends public funds, or administers infrastructure
8 projects connected to hospital construction, then the Governor's authority would no longer
9 be exercised "subject to the laws of Guam" at all. Such an interpretation would invert the
10 structure chosen by Congress.
11

12 **E. The Legislative Process Remains the Proper Forum for Resolving**
13 **Policy Disagreements Concerning Procurement Law**

14 The Governor's petition also arises from disagreement with statutory requirements
15 governing procurement and Attorney General review of government contracts. Those
16 statutory requirements were enacted by the Legislature and remain valid law. The
17 legislative record confirms that the Governor previously sought legislative amendments
18 to eliminate procurement requirements and remove the Attorney General's statutory
19 review of government contracts. The Legislature considered those proposals and rejected
20 them by a vote of 13-2.
21

22 Having failed to obtain legislative approval for that policy change, the Governor
23 now seeks judicial relief that would effectively accomplish the same result by allowing the
24 executive branch to proceed outside the statutory framework enacted by the Legislature.
25 The separation of powers does not permit the judiciary to override a legislative policy
26 decision simply because the executive branch disagrees with the Legislature's refusal to
27 amend the law.
28

F. The Governor's Case Against the Attorney General Confirms the Dispute is really about the Attorney General's Execution of Statutory Duties

The procedural history of the Governor's separate Supreme Court action further confirms this case concerns the execution of statutes by the Attorney General rather than the validity of legislative enactments.

After the Governor filed her petition for declaratory relief in the Guam Supreme Court, the Attorney General removed that action to the United States District Court of Guam. *In Re Request of Lourdes A. Leon Guerrero*, District Court Case No. 25-CV-00041. The Governor then filed a motion seeking remand of the case to the Guam courts, arguing the dispute arises under Guam law and concerns the interpretation and application of Guam statutes governing procurement and the Attorney General's statutory review of government contracts. The Attorney General opposed remand and sought consolidation with related federal litigation, and the Governor subsequently filed a reply reiterating her request that the case be returned to the Guam courts.

These filings confirm that the Governor herself characterizes the controversy as a dispute concerning the Attorney General's interpretation and execution of statutory duties imposed by Guam law. Yet, in the present action, the Governor attempts to frame the controversy as a dispute with the Legislature itself. These positions cannot be reconciled. If the dispute concerns the Attorney General's interpretation and execution of Guam statutes—as the Governor alleged before this Court—then the proper defendant is the executive officer responsible for implementing those statutes, not the Legislature that enacted them.

G. Legislative Inaction Does Not Transfer Legislative Authority to the Executive Branch

The Governor also suggests the Legislature's failure to enact legislation approving a particular hospital site creates a justiciable controversy warranting declaratory relief. It does not. The Legislature's decision not to approve a proposal, its inability to secure a majority for one of several possible locations, or even its decision to take no legislative action at all are themselves proper exercises of legislative authority.

Legislative inaction does not transfer constitutional authority to the executive branch, nor does it authorize the judiciary to declare that the Governor may proceed outside the legislative process mandated by the Organic Act.

H. Judicial Restraint and Constitutional Avoidance Counsel Against Deciding the Broad Constitutional Questions Presented by the Governor

Courts consistently apply the principle of constitutional avoidance: where a dispute can be resolved on narrower statutory or procedural grounds, courts should refrain from deciding broad constitutional questions concerning the allocation of governmental authority. That principle applies here. The Governor asks this Court to declare that decisions concerning the creation and location of a public hospital fall exclusively within executive authority under the Organic Act.

But the controversy presented by the Governor's petition does not require resolution of that sweeping constitutional question. The dispute instead arises from the Attorney General's interpretation and execution of statutes governing procurement and contract review. Because the dispute concerns the execution of existing statutes rather than the validity of legislative enactments, this Court can resolve the matter without

4 reaching the broader constitutional issues the Governor seeks to present. Judicial
5 restraint strongly favors that course.

6 **I. The Petition Should Be Denied as a Matter of Law Because Exercising**
7 **Declaratory Jurisdiction is Not Harmless**

8 The Governor's petition should not be granted merely on the theory that the Court
9 can hear the case and ultimately rule in favor of the Legislature. Exercising declaratory
10 jurisdiction where the statutory requirements are not satisfied is not a harmless procedural
11 step. The extraordinary jurisdiction authorized by 7 GCA § 4104 exists precisely to
12 prevent the judiciary from being drawn into political disputes between the branches of
13 government where no true constitutional controversy exists.

14 This Court has repeatedly emphasized that declaratory jurisdiction must be applied
15 strictly to avoid converting the judiciary into a forum for political disagreements between
16 the branches. See *In re Request of Lourdes A. Leon Guerrero, I Maga'hågan Guåhan,*
17 *Relative to the Validity & Enforceability of Pub. L. No. 20-134,* 2023 Guam 11 at ¶¶ 20;
18 *Pangelinan v. Gutierrez,* 2000 Guam 11 ¶¶ 23–25; See also, *Taisipic v. Marion,* 1996
19 Guam 9 Those decisions make clear that the statute does not permit one branch to
20 request judicial opinions concerning the operation of another branch where that operation
21 does not impinge on the requesting branch's authority.

22 Granting the petition and requiring the Legislature to defend its enactments in a
23 proceeding that does not satisfy the jurisdictional requirements of §4104 would itself
24 undermine the separation of powers established by the Organic Act of Guam. The
25 Legislature should not be compelled to litigate the validity of statutes simply because the
26 executive branch disagrees with them. Allowing such proceedings would permit one
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branch to regulate another through the courts—precisely the danger this Court identified in *Gutierrez* and its progeny.

Nor is this a case in which a plausible constitutional conflict exists that warrants judicial clarification. The Governor's petition identifies no statute that prevents the executive branch from establishing a hospital. Instead, the petition challenges the application of generally applicable procurement and contract-review statutes enacted by the Legislature. Those statutes remain fully operative unless and until the Legislature chooses to amend them or a court determines they are unconstitutional. The Governor's disagreement with their application does not create a constitutional controversy with the Legislature.

Because the petition fails as a matter of law under the jurisdictional framework established by this Court, the appropriate course is not to grant the petition and address the merits later. The proper course is to deny the petition outright. To do otherwise would expand the declaratory jurisdiction statute beyond its intended limits and invite future attempts by the political branches to resolve ordinary policy disputes through litigation rather than through the legislative process.

The Governor's petition fails the jurisdictional requirements established by 7 GCA § 4104 and this Court's decision in *In re Request of Gutierrez*, 2002 Guam 1. The Court should decline jurisdiction. Moreover, exercising declaratory jurisdiction merely to hear the case and later rule in favor of the Legislature would itself be inconsistent with the limits of § 4104 and this Court's separation-of-powers jurisprudence.

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3 **IV. CONCLUSION**

4 The Governor's petition does not present a constitutional conflict requiring judicial
 5 intervention. Instead, it reflects a policy disagreement concerning the application of
 6 statutes enacted by the Guam Legislature governing procurement, government contracts,
 7 and the expenditure of public funds. The Governor has already pursued both of the
 8 ordinary mechanisms available within Guam's constitutional structure: she sought
 9 legislative amendment of the statutory framework and initiated litigation concerning the
 10 Attorney General's interpretation and enforcement of those statutes. The Legislature
 11 declined to amend the law, and the statutory dispute with the Attorney General is
 12 presently being litigated in federal court with a possible remand to this Court. As shown
 13 *In Re A.B. Won Pat Guam Int'l Airport Auth. v. Moylan*, 2005 Guam 5., the Governor has
 14 an adequate remedy.
 15

16 The extraordinary declaratory jurisdiction authorized by 7 GCA § 4104 was never
 17 intended to convert such political or statutory disagreements into judicial transfers of
 18 constitutional authority between the branches of government. This Court has repeatedly
 19 emphasized that declaratory jurisdiction must be exercised cautiously and only where the
 20 strict requirements articulated in *In re Request of Gutierrez*, 2002 Guam 1, are satisfied.
 21 Those requirements are not met here. The ordinary legislative process has not been
 22 exhausted, no statute presently prevents the Governor from presenting a hospital
 23 proposal to the Legislature, and the dispute concerning procurement statutes and
 24 contract-review requirements is already being addressed through an existing judicial
 25 proceeding.
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4 More fundamentally, the Governor's petition seeks judicial authorization to
5 exercise authority the Legislature has declined to grant. The Organic Act of Guam assigns
6 legislative authority over public expenditures, public institutions, and the statutory
7 framework governing government programs to the Legislature. Congress further provided
8 that the Governor's authority to establish public-health programs must be exercised
9 "subject to the laws of Guam." 48 U.S.C. § 1421g(a). The Petition effectively asks this
10 Court to disregard that limitation and declare that generally applicable Guam statutes
11 cannot apply to executive action associated with hospital development. The text and
12 structure of the Organic Act foreclose that interpretation.

13 Allowing the executive branch to bypass procurement statutes whenever it invokes
14 programmatic authority under the Organic Act would substantially diminish the
15 Legislature's constitutional authority over public expenditures. Audit compliance would
16 vanish. Procurement laws and contract-review requirements are among the Legislature's
17 principal mechanisms for ensuring transparency, fiscal accountability, and lawful
18 administration of public funds. Judicial authorization to disregard those statutes would
19 fundamentally alter the balance of powers established by Congress.
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21 The Governor's disagreement with statutes enacted by the Legislature does not
22 create a constitutional controversy with the Legislature itself; it simply presents a policy
23 dispute that the Organic Act assigns to the legislative process rather than to judicial
24 resolution. Legislative refusal to amend existing statutes does not transfer authority to the
25 executive branch, nor does it create a constitutional void for the judiciary to fill.

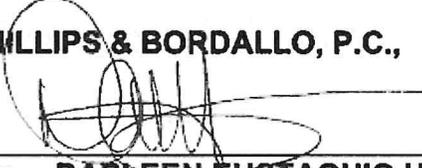
26 The Governor's petition fails to satisfy the jurisdictional requirements of 7 GCA §
27 4104 and presents a dispute that remains capable of resolution through the ordinary
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1 **RESPONDENT / MINA' TRENTAI OCHO NA LIHESLATURAN GUAHAN'S OPPOSITION TO REQUEST FOR DECLARATORY**
2 **JUDGMENT RE: JURISDICTION**
3 **IN RE: REQUEST OF LOURDES A. LEON GUERRERO, SUPREME COURT CASE NO. CRQ26-001**

4 legislative and judicial processes. This Court should decline to exercise its extraordinary
5 declaratory jurisdiction. The Organic Act does not permit the judiciary to convert ordinary
6 political disagreement into executive authority, nor to reassign powers that Congress
7 entrusted to the Legislature.

8 Respectfully submitted this 12th day of March, 2026.

9 **PHILLIPS & BORDALLO, P.C.,**

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11 **By: DARLEEN EUSTAQUIO HITON PHILLIPS**
12 **Attorney for Respondent**

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