



SENATOR JOE S. SAN AGUSTIN

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
CHAIRMAN, COMMITTEE ON APPROPRIATIONS, GENERAL GOVERNMENT OPERATIONS & HOUSING

March 25, 2020

Transmitted via electronic mail:
governor@guam.gov

Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan
Ricardo J. Bordallo Complex
Adelup, Guam

Re: FY2020 General Fund COVID-19 Mandatory Quarantine Protocol Funding

Håfa Adai Governor Leon Guerrero!

The Committee on Appropriations is in receipt of the list of departments and entities that are being tapped to fund the COVID-19 Mandatory Quarantine Protocol, which BBMR asserts is authorized under 10 GCA § 19403(a).

While we understand the need to fund the various aspects of the Public Health Emergency as directed through Executive Orders 2020-03 through 2020-06, we search for clarity surrounding your statutory authority to transfer a total of Four Million Dollars (\$4,000,000) from the General Fund, which would reduce appropriations for Fiscal Year 2020 for seventeen (17) departments and entities.

Every aspect of our government is affected by this Public Health Emergency and we recommend utilizing an across-the-board approach in order to best serve all of GovGuam.

We thus seek guidance from you concerning your emergency transfer authority pursuant to the *Islan Guåhan Emergency Health Powers Act*, codified at 10 GCA §§ 19101 through 19809, specifically because 10 GCA § 19803(a) states that you “may transfer from the General Fund up to One Hundred Thousand Dollars (\$100,000) monthly as an emergency appropriation upon the declaration of a public health emergency, and upon notification to the United States Centers for Disease Control (‘CDC’), to address, mitigate or abate any catastrophic disease control situations relating to the spread or outbreak of communicable diseases, or for any biological threats to mankind.”(emphasis added). This emergency authorization is permitted “up to three (3) consecutive months per emergency notification to the CDC, and at such time shall be subject to *Liheslaturan Guåhan’s* appropriation.” *Id.* Additionally, a notice of any transfer shall be delivered to the Speaker and to the Committee on Appropriations within ten (10) days after such transfer, certain conditions must be met in order for such transfers to be effective, and expenses incurred during a state of public health emergency shall not exceed \$600,000 for any fiscal year—after

which time amounts in excess are subject to the Guam Legislature's appropriation. 10 GCA § 19803(a)-(c).

Given the limitations provided in 10 GCA § 19803 relative to utilizing emergency appropriations and incurring expenses during a public health emergency, we are faced with the question of whether your anticipated transfer of Four Million Dollars (\$4,000,000) for the COVID-19 Mandatory Quarantine Protocol goes beyond that authorized by law.

In addition to identifying the legal basis for expending funds during this Public Health Emergency, it is also critical to track when, where, and how funds are being spent, as you recognize in Executive Order 2020-03:

“Documentation of Expenses. All departments and agencies are instructed to keep appropriate documentation on all emergency expenses authorized by this Executive Order for inspection by the Executive and Legislative Branches and by the Public Auditor of Guam, and in anticipation of federal disaster assistance approval by the President of the United States to be administered by a federal agency.

Accordingly, based on the foregoing and 10 GCA § 19803(a), the Committee on Appropriations respectfully seeks documentation and records of any and all emergency expenses incurred to date and authorized by you, specifically the number of authorized transfers, amounts transferred, and where funds were removed and transferred.

Governor, we understand that you are exercising this authority toward the elimination of COVID-19 on Guam, and we support your efforts to mitigate the impacts of the pandemic on our community. But, we must do all we can to ensure that our government—as a whole—functions at its best with the limited resources it has both now and in the future, and that can be achieved when we work together and treat all of GovGuam fairly.

We hope that together we will embrace our shared values of taking care of our community and working for the benefit of all our people in a time of uncertainty. I look forward to your response and stand ready to assist should legislative action be necessary.

Should you wish to discuss these and other concerns, please contact me immediately.

Si Yu'os Ma'åse'!



Joe S. San Agustin
Senator



Tina Rose Muña Barnes
Speaker