

**The Honorable Lou Leon Guerrero**  
**Governor of Guam**

*Håfa Adai* Chairman Manchin and members of the committee:

Thank you for the opportunity to present the status of Guam. Alongside Lt. Governor Joshua Tenorio, we represent over 153,000 American citizens who call Guam home. I respectfully ask this committee to thoughtfully consider the needs of Guam's people and extend parity to the millions of U.S. citizens who reside in the territories.

**I. Impact of COVID-19**  
**Vaccination Rate**

For the last two years, Guam, like the rest of the globe, has faced the COVID-19 pandemic. We have reported over 25,000 cases and mourned over 280 lives. While we had our challenges dealing with the grief and uncertainty of the virus, I am proud to share that as of last month, over 132,000 residents, or 94% of our eligible population, are fully vaccinated. We achieved this success last summer when our people embarked on Operation Liberate Guam, a local effort to vaccinate 80% of our eligible population by July 21st—our island's Liberation Day.

Understanding the value of vaccinations, thousands rolled up their sleeves and continue to do so for their booster shots. As we work to keep our case numbers under control, I ask that a steady supply of test kits, vaccinations, and treatments continue to be made available and shipped to the territories as quickly as possible, considering our vast distance from the mainland U.S.

**Support for New Public Hospital**

Before the pandemic, we had limited health care capacity, and at the height of the pandemic, resources were stretched even thinner. While blu-med tents temporarily increased the number of beds available, COVID-19 made it clear that *now* is the time to build a new hospital. The Guam Memorial Hospital (GMH) is in dire need of a new facility. It is on the verge of infrastructural failure due to its age, environmental exposure, and lack of financial resources over the years for critical repairs. In 2019, an assessment conducted by the U.S. Army Corps of Engineers, funded by the U.S. Department of the Interior's Office of Insular Affairs, recommended the replacement of the hospital's facilities to ensure accreditation compliance at an estimated cost of \$743 million.

Since taking office as governor, rebuilding a new public hospital has been one of my top priorities. As a nurse by profession, I understand the urgency of prioritizing our health care systems and facilities. Additionally, as Guam holds the highest military enlistment rate per capita in the nation and is home to more than 8,000 veterans, we plan to install a veteran-dedicated wing within the new hospital. Guam does not have a Veterans Affairs hospital, and the nearest one is more than 3,000 miles away, so this is a necessary step to ensure that our service members receive critical health care services. Last year, the House of Representatives passed the Build Back Better Act, which included an allocation of at least \$347 million for Guam's new public hospital. While the Act has not passed the Senate, I ask Congress to approve this allocation for Guam through a separate legislative measure.

**Tourism Decline**

Before the pandemic, our island's tourism industry was on track to achieve record-breaking visitor arrivals, and one-third of all private-sector jobs were tied to tourism. When COVID-19 put travel to a screeching halt, we saw a 92% decrease in arrivals, compared to pre-pandemic levels at 1.6 million visitors per year. With our primary industry crippled, thousands lost work and wages. With the identification of new variants, including the highly transmissible omicron

variant, the Guam Visitors Bureau does not anticipate a full recovery of the industry until the next three to five years.

Under these unforeseen circumstances, we continue to rely on federal relief packages that have been noticeably inequitable. For example, of the 297 Guam businesses that had applied for funding through the Restaurant Revitalization Fund (RRF), only 79 food-related establishments were awarded, meaning only 19% of eligible territorial businesses that applied to the program received funds. However, the national approval average is 40%. Therefore, I ask that Congress pass a relief package specifically for territories to address previous federal aid disparities and our prolonged hardship due to reliance on international tourism, especially with the closure of most of our tourism markets.

### **Unemployment Rate**

Through skilled labor boot camps, pre-apprenticeship programs, and business assistance initiatives, we have made great efforts to provide our community with more opportunities to secure employment. Last month, the Guam Department of Labor (GDOL) reported an unemployment decrease of 3.3 percentage points as of September 2021. The total number of unemployed people in September 2021 was 5,660 or 8.1%, a substantial reduction from the pandemic-surged high of 19.4% in December 2020. The employment survey conducted by GDOL covered 124,110 residents of Guam, ages 16 and above. GDOL reports that the September 2021 unemployment rate reflects a decrease in unemployed people since June 2021 and is attributed to a reduction in labor force participation and an increase in employment. However, our rate remains high at 8.1% which further underscores our need for additional aid.

## **II. Finances**

### **Deficit Elimination**

Guam has nearly eliminated its deficit of over \$83 million, which is a direct result of my Administration's commitment to fiscal discipline. Even through a pandemic and a devastating economic landscape that shut down our tourism industry, we continue to stabilize our finances and sustain our community with the support of both local and federal dollars.

Audited financial statements for the year ended September 2020 show that we reported a surplus of over \$46 million in our General Fund, reducing our accumulated deficit to \$1.5 million or 0.2% of our reported revenues. The General Fund is the primary operating fund of GovGuam. The successful BPT Bond refinancing in May of last year, which will achieve debt service savings of \$63.4 million over the life of the bonds, and the upgrade of Moody's rating to "stable" from "negative," are both attributable to careful financial management and recognition of this improvement in financial performance.

### **H-2B Visa Situation on Guam**

For decades, Guam has had to rely heavily on the H-2B visa program for skilled workers, mainly in the construction industry. In 2016, U.S. Citizenship and Immigration Services (USCIS) began denying 100% of Guam H-2B worker petitions, citing that the work in Guam did not meet the definition of temporary in the statute. After several years of work with the advocacy of the Department of Defense (DoD) and other stakeholders, Guam employers are beginning to see better approval rates for all petitions with a military nexus as a result of the H-2B exemption contained in the past few National Defense Authorization Acts (NDAAs). The H-2B worker

population went from an all-time low of zero workers in May 2018 to 2,286 workers in January 2022, primarily due to heavy construction activity related to the Guam military buildup.

In the 2021 NDAA, additional criteria were added in order to address projects that were “adversely affected” by the military realignment because the sheer bulk of work being done on military projects had devastated our civilian construction sector, primarily with single-family homes and private sector facilities. The criteria may help with these vitally needed projects, which our civilian population count on. Unfortunately, guidance on how to access the new criteria caused confusion with employers. My administration has since consulted with USCIS leadership and is actively working with USCIS as it revises its policy guidance, likely including local input on individual H-2B petitions as a part of the adjudication process. Based on our discussions, we expect to see the new policy guidance soon, as it goes through the vetting process in USCIS.

We appreciate the efforts of members of Congress who supported our efforts to find a resolution to the skilled worker shortages, which are largely mitigated by the H-2B program. However, more work must be done as the NDAA H-2B exemption only helps the construction sector of Guam’s economy. As my administration works on economic diversification, we anticipate the need to import skilled workers in non-construction industries as the island develops needed expertise and skillsets for these new business ventures. We make this request as we do all we can to reskill our workforce, reduce barriers to workforce participation, support impacted businesses, and create a diverse economic environment.

We ask for Congress for the following solutions:

- Short Term Relief: The Guam NDAA H-2B exemption expires in 2023, and estimates for ongoing military construction extend to 2029. Therefore, we ask that the exemption be extended to 2029 to accommodate that need and align with the current H-2B visa cap exemption, which is already in statute until 2029. Failure to pass an extension would harm the current military buildup program.
- Long Term Resolution: Establish a Guam Only temporary need criteria within the H-2B program which would include “other qualified need” to be determined by the Governor of Guam. In this proposal, USCIS would still adjudicate an H-2B petition but would examine a temporary need based on criteria that fit the unique needs of Guam. We have already drafted legislation introduced in a previous Congress, which we believe may work. As you may know, Guam was given special designations with regards to visas in the past, with Guam Only Visitors Visa that was issued for Korea and Taiwan to facilitate tourism.

### **III. Standard of Living**

#### **Modernizing Government Pay Structures**

Modernizing the government’s pay structures has been one of my top priorities, which is why I directed the Department of Administration (DOA) to update the pay plans for nurses, law enforcement officers, and educators. Last year, I approved pay adjustments for nurses, providing a 15% base pay increment and a separate agency differential rate. Last month, I approved pay adjustments for law enforcement officers, which provided an 18% increase in base pay. Finally,

before the next school year begins, educators will review updated pay adjustments after DOA completes its final assessment of the educator pay plan.

### **Medicaid**

P.L.116-94 provided Guam's Medicaid program with \$127 million in federal funding and an increased Federal Medical Assistance Percentage (FMAP) to 83%. Additionally, the U.S. Health and Human Services COVID-19 Public Health Emergency (PHE) provided an additional 6.2% increase, raising our FMAP to 89.2%. However, unlike states, before these temporary measures, U.S. territories were subject to annual caps and expiration dates for federal Medicaid funding. Territories were also required to match federal dollars with local dollars at a fixed federal to territory ratio (55:45). Thus, the previous ratio for territories differs from that for states, which is per-capita income-based.

The inability of some territories to meet this high match requirement has prevented Guam from availing of much-needed federal funds, and the annual cap on Medicaid funds for territories has led to the government of Guam covering the remaining costs with unmatched local funds, which caused severe revenue shortfalls to the Guam Memorial Hospital (GMH) and Department of Public Health and Social Services (DPHSS), impeding their abilities to provide critical health services to the people of Guam.

Therefore, we call on Congress to pass legislation for a permanent solution, as suggested by President Biden, to remove funding caps and base matching rates on per-capita income to ensure equitable and adequate funding under Medicaid and other federal programs for the people of Guam.

### **Supplemental Security Income**

Since its creation almost 50 years ago, Supplemental Security Income (SSI) has excluded Guam, Puerto Rico, U.S. Virgin Islands, and American Samoa, but is available to our sister territory, the Northern Mariana Islands (NMI). There is no relevant difference between Guam and the CNMI that would lead to the denial of SSI benefits to otherwise eligible U.S. citizens. With the extension of SSI to Guam, an estimated 24,000 people will be able to avail themselves of this much-needed assistance. Therefore, we call on Congress to include Guam in SSI to help aged, blind, and disabled individuals in Guam with limited or no income to meet their basic needs.

### **Coral Critical Habitat Designation Proposed Rule**

The National Marine Fisheries Service (NMFS) Proposed Rule (85 FR 76262) to designate critical habitat for 7 threatened corals in U.S. waters in the Indo-Pacific states that 3 of the species are found in Guam's territorial waters. After substantial discussion with our team of experts, it is clear that this proposed rule was made without the best scientific data available and, of even greater concern, without any input from or consideration of local regulatory agencies.

Given that NMFS did not consult or consider any government agencies prior to publishing the proposed rule, teams in Guam, CNMI, and American Samoa have been rushed through what should be a thoughtful, measured process. Further to this point, the territories and the Western Pacific Regional Fisheries Management Council had to request that NMFS hold a public hearing. Until the hearings were requested, NMFS was not considering holding a hearing during which information and transparency in the process would be shared with stakeholders.

Another issue raised by our team is the unnecessary and duplicative bureaucracy created with this designation. Several federal and local regulatory programs exist that protect corals and reef habitats. These extensive programs and permitting processes already cause significant delays in construction and economic development projects in Guam. The addition of a critical habitat designation would exacerbate the existing permitting process and jeopardize project efficiency. Therefore, I ask for Congress' support to urge NMFS to delay the proposed critical habitat designation process until the 5-year coral status review and coral recovery plan are completed. Then, we will at least be able to verify that NMFS is using the current best available data.

#### **IV. Compact Impact**

In 2023 and 2024, certain financial provisions in the Compacts of Free Association (COFA) treaties with the Freely Associated States (FAS) are expiring. While Guam remains supportive of a US-FAS relationship, it is important to recognize and mitigate the adverse effects that the current stipulations of the COFA agreements continue to have on Guam's infrastructure and social services.

##### Education System Impact

The Guam Department of Education (GDOE) provides K-12 educational services to FAS citizens. In 2019, FAS students comprised about 26% of GDOE student enrollments. Unfortunately, the federal government has inadequately reimbursed Guam for the cost of providing educational services, resulting in the government of Guam absorbing over 80% of educational expenses alone. In FY2017, the government of Guam expended \$72 million in COFA education expenses yet received only \$13 million in total COFA reimbursements.

In 2020, the U.S. Government Accountability Office (GAO) released a report entitled, "Compacts of Free Association: Populations in US Areas Have Grown, with Varying Reported Effects," which noted that "Guam reported \$1.2 billion in total estimated compact impact costs." The report also stated that Guam was only provided \$259.7 million in compact impact grants to "defray costs due to the residence of compact migrants," meaning that Guam only received about 20% of the funds owed to it by the federal government.

##### Justice System Impact

Many COFA citizens have difficulty transitioning into Guam's system of government despite being eligible for all social and public services. As a result, we have observed the rising trend of COFA citizens in our justice system for arrests and incarcerations among both youth and adults. We ask that more deliberate action be taken to develop transition and educational programs for COFA migrants to ensure that their move to Guam is worthwhile and gainful. Additionally, as Guam works to reduce its high correctional recidivism rate of 62% (as of 2018), Guam's involvement in COFA negotiations would help to benefit COFA migrants and the greater island community and greatly facilitate migrants' successful integration.

##### Proposed Amendments to the Treaties

As Guam's governor, I ask to participate in the re-negotiation of the COFA treaties and to include the following provisions in the amended agreements:

1. Full reimbursement for future Compact Impact expenses with a sufficient and dedicated funding source. The University of Guam is currently conducting a methodological

proposal for determining Compact Impact costs through a grant awarded to the Guam Bureau of Statistics and Plans by the Department of Interior (DOI).

2. Debt relief of past unreimbursed, validated, compact impact expenses to offset debt Guam owes to the federal government.
3. Preliminary screenings of FAS citizens before arrival in Guam to ensure the purposes of migration are in adherence with conditions indicated in the compact agreement.
4. Extending Medicaid coverage to all FAS citizens in their home nations to strengthen FAS health systems and reduce the need for FAS residents to migrate to Guam, the NMI, Hawaii, and other affected states.
5. Expansion of Low-Income Housing Tax Credits (LIHTC) to developers on Guam, as an incentive for the construction of affordable housing, to stabilize critical housing shortages for more than 4,000 individuals currently on the waiting list.

These proposed solutions would help stabilize Guam's economy and social infrastructure. While this list is not conclusive, I hope it will guide discussions during the COFA renegotiations.

#### **V. Self-determination**

Lastly, I must raise the historical and ongoing issue of self-determination for the colonized people of Guam. For 120 years, our people have been denied their inherent right to self-determination. Many of the challenges that Guam faces are directly affected by our lack of true democratic self-governance. Our status as a non-self-governing territory of the United States is not a reflection of our desires as a people. We have been denied an opportunity to articulate our political status preference by a system that chooses for us what rights we receive. Despite our status, we weathered every COVID-19 surge, learning important lessons as we navigate the changing nature of the virus and its effects on all aspects of our community.

I have previously requested the Biden Administration's support for Congressional legislation to address the continued denial of the right to self-determination, as caused by the *Davis v. Guam* case, which barred Guam from holding a political status plebiscite in the manner it had planned. The people of Guam remain committed to advancing a process that will allow us to articulate our desired political status, and the federal government has expressed its commitment to this endeavor. Please do not allow that pledge to remain unfulfilled. We are simply asking to be treated with the same dignity and respect extended to other American citizens across the country.

Unlike states, the U.S. territories face unique circumstances directly resulting from our political status, lack of voting representation in our nation's capital, and exclusion from participating in the federal electoral process. Yet, despite these obstacles, Lt. Governor Tenorio and I have remained steadfast in our efforts and continue to work tirelessly to pioneer solutions to safeguard the health, security, and economic prosperity of the people we have been entrusted to serve.

*Si Yu'os ma'åse*, Mr. Chairman.