Interagency Group on Insular Areas Annual Report on 2019 Activities to the President of the United States

2019 IGIA Senior Plenary Session
Eisenhower Executive Office Building

President Trump and the White House Initiative for Asian American and Pacific Islander Commissioners at the signing of the Executive Order on May 14. 2019

Vice President Pence in American Samoa

Table of Contents

This page left intentionally blank

2019 Senior Plenary Session

From left to right: Governor Lourdes "Lou" Leon Guerrero (Guam), Congressman Michael San Nicolas, Congresswoman Aumua Amata Coleman Radewagen (American Samoa), Governor Ralph Torres, Congresswoman Stacey Plaskett (USVI), Governor Albert Bryan (USVI), Secretary David Bernhardt, Deputy Assistant to the President Douglas Hoelscher, and Rear Admiral Douglas Fears

Secretary of the Interior David Bernhardt and Deputy Assistant to the President and Director of the White House Office of Intergovernmental Affairs Douglas Hoelscher, IGIA Co-Chairmen, convened the 2019 IGIA Senior Plenary Session at the White House Eisenhower Executive Office Building on February 25, 2019. Assistant Secretary of the Interior, Insular and International Affairs, Douglas W. Domenech served as master of ceremony.

Secretary Bernhardt opened the session and said, "I am excited to be here with you all. This is the only annual meeting that I am aware of where senior, high-level federal partners come together in one place with the territories as the primary focus of discussion. You are an important part of the American family, but because of your distance from Washington, as well as the unique differences that you have as territories, your issues often require awareness and tailored solutions. This meeting is a very important forum for us to raise such awareness and generally provide a platform for discussions on policies, programs, and events that impact your territories."

Governor Ralph Torres of the Commonwealth of the Northern Mariana Islands, Governor Lourdes "Lou" Leon Guerrero of Guam, and Governor Albert Bryan of the U.S. Virgin Islands were in attendance and addressed the gathering of senior Federal department representatives. Governor Lolo Moliga of American Samoa was not able to attend, due to illness, but he was represented by his chief of staff, Fiu John Saelua. Governor Moliga's staff submitted a written statement for the IGIA session and the staffs of Governors Torres, Guerrero, and Bryan requested that we use the statements that were submitted for the Senate Energy and Natural Resources Committee meeting of February 26, 2019 as their statements for the record. Those statements can be found in the appendix.

Congresswoman Aumua Amata Coleman Radewagen from American Samoa, Congresswoman Stacey Plaskett from the U.S. Virgin Islands, and Congressman Michael San Nicolas from Guam were in attendance and they also addressed the gathering. Congressman Kilili Sablan from the Commonwealth of the Northern Mariana Islands could not attend due to a prior commitment. He was represented by his chief of staff, Robert Schwalbach.

American Samoa

Governor Moliga was in the third year of his second four-year term of office at the 2019 Session, and he has the distinction of participating in the most IGIA sessions among current governors. In his written statement, he offered, "It is my hope that IGIA will create a unit to follow up on the requests being presented by all the territories during the IGIA forum to give us a sense that this platform is the springboard for positive outcomes relative to the elimination of economic development barriers preventing attainment of our mutual and collective vision of building self-sufficiency and self-reliant capacities of the protectorates of the USA." The following is a list of the priorities that he presented:

- Cabotage impacts on economic development,
- Disrepair of Lyndon B. Johnson (LBJ) Hospital and inequities of Medicaid,
- Increasing education performance of students,
- Equitable Federal financial support for infrastructure development,
- Healthcare facility for veterans, and
- Homeland security (Federal patrol and protection of waters and borders).

Commonwealth of the Northern Mariana Islands

Governor Torres was in the first year of his first four-year term of office at the 2019 Session. He ascended from Lt. Governor to Governor on December 19, 2015, upon the death of incumbent Governor Eloy Inos. In his written statement, he offered, "Many of the issues facing the territories today are unique to us. We all fight against issues of geography. Limited land mass, natural resource scarcity, distance from the United States, and import reliance are key among these issues. But I believe most important among these issues is our continual struggle to gain the Federal Government's understanding of the complexity of achieving substantial progress for the people living in the territories." The following is a list of the priorities that he presented:

- Long-term dependence on foreign workers,
- Inequities of Medicaid,
- U.S. Department of Labor funding for determining CNMI prevailing wage, and
- Equitable Federal financial support for infrastructure development.

Guam

Governor Guerrero was in the first year of her first four-year term of office at the 2019 Session. In her written statement, she offered, "In the less than two months of my Administration, I have been working tirelessly to address issues and priorities that will provide significant and lasting change to our island and shape a brighter future for all who call Guam home--including economic diversity, public safety, education, healthcare, and financial discipline. Guam is among the most patriotic places in the entire country… We welcome the military buildup and the economic impact it will bring, but it must be done at a pace that will benefit our local people, our island, and the U.S. military." The following is a list of the priorities that she presented:

- Long-term dependence on foreign workers,
- Economic and social impacts of the Compacts of Free Association,
- Burdens of Federal tax policy, i.e., Earned Income Tax Credit,
- Inequities of Medicaid, and
- Guam World War II Loyalty Recognition Act.

U.S. Virgin Islands

Governor Bryan was in the first year of his first four-year term of office at the 2019 Session. In his written statement, he offered, "Even before the hurricanes, the Virgin Islands and the other territories faced unique challenges not encountered on the U.S. mainland. Many of these challenges are the result of factors beyond the control of the Federal Government, such as geographic distance and isolation, lack of natural resources, and general small island limitations on scale and their related impact on economic development options. But some challenges we face are exacerbated by—and, in some cases, the direct result of—Federal policies…" The following is a list of the priorities that he presented:

- Inequities of Medicaid,
- FEMA policy reforms to meet unique circumstance of the territories,
- Burdens of cost-share requirements of disaster related funding,
- Equitable Federal financial support for infrastructure development, and
- Burdens of Federal tax policy, i.e., Earned Income Tax Credit.

Federal Presenters

The Co-Chairmen determined that natural disaster recovery and resilience as well as the 2019 expiration of various Medicaid funds made available to the territories under the Affordable Care Act (ACA) were the topics of discussion for Federal presentations. The following are the names and topics of the Federal presenters:

- Dr. Robert Kadlec, Assistant Secretary for Preparedness and Response (ASPR), and Demetrios Kouzoukas, Principal Deputy Administrator and Director of the Centers for Medicare & Medicaid Services, represented the Department of Health and Human Services and presented on HHS issues in the territories, the Medicaid cliff, and Medicaid match requirements.

- Anne L. Schwartz, Ph.D., Executive Director, and Kacey Buderi, Senior Analyst, from the Medicaid and CHIP Payment and Access Commission (MACPAC) presented on Medicaid and CHIP in the territories, program implementation in territories vs. states, and the fiscal impacts to territorial health care systems that the Medicaid cliff will impose.

- Mark Harvey, Senior Director for Resilience at the National Security Council, and Carlos Castillo, Associate Administrator in FEMA's Office of Resilience, presented on disaster recovery and resilience in the U.S. territories, what Governors should know about preparedness and recovery, and lessons learned from Hurricanes Irma and Maria, Cyclone Gita, and Typhoons Mangkhut and Yutu.

A listing of the Federal agency representatives who attended is provided in the Appendix.

Issues Identified by Territorial Leaders

Participants at the 2019 IGIA Senior Plenary Session

Territorial Governors and Congressional Delegates were given the opportunity to present their priorities and concerns to the Federal family assembled. What follows is a synopsis of issues that were raised, actions that were taken by Federal agencies to respond, and potential options for ways forward and recommendations that staff have devised in consultation with leadership.


Participants at the 2019 IGIA Senior Plenary Session

Medicaid Cliff and FMAP

Background

Averting the "Medicaid Cliff" and receiving more equitable treatment under the Medicaid program were the highest priorities in 2019 for the Governors and Delegates. September 30, 2019, was the statutory expiration of a majority of the supplemental Medicaid funding made available to the territories under the Affordable Care Act (ACA), and the date became commonly referred to as the "Medicaid Cliff". The territories, for various reasons, had either expended all funds and were at risk of having to deny services to citizens or they were at risk of not being able to spend millions of dollars before the expiration dates. Either scenario meant a crisis in delivering critical health care services to territorial residents.

Under the Social Security Act (SSA), Federal Medicaid funding for the territories is subject to annual caps, and the territories must match these Federal dollars with local money at a fixed 55(F)/45(T) ratio. Federal Medicaid funding to states is not limited, and the local match that states are required to contribute is based on the individual state's per-capita income. The Medicaid cost share ratio for states ranges from a high of 50/50 to a low of 83(F)/17(S).

For Fiscal Year 2019, Federal baseline (Section 1108) Medicaid funding available to the territories to draw from was as follows:

- American Samoa, $12.31 M;
- Commonwealth of the Northern Mariana Islands (CNMI), $6.79 M;
- Guam, $18.21 M;
- U.S. Virgin Islands (USVI), $19.04 M.

Historically, the territories have either left funding on the table due to an inability to meet the match requirements or they have exhausted their Federal funding well before the end of the fiscal year and covered the remaining Medicaid costs with unmatched local funds.

For the years 2011–2019, under the Affordable Care Act (ACA), total additional Medicaid funding (with matching requirements and a 9/30/2019 expiration) became available to the territories to draw from as follows:

- American Samoa, $197.8 M;
- CNMI, $109.2 M;
- Guam, $292.7 M;
- USVI, $298.7 M.

Beginning October 1, 2019, available Federal Medicaid funding will only come via the Social Security Act and no longer from the ACA.

<u>Actions Since the 2019 IGIA Session</u>

- IGIA co-chairmen recognized and anticipated the urgency of the Medicaid issues and selected representatives from the Centers for Medicare & Medicaid Services (CMS) and the Medicaid and CHIP Payment and Access Commission (MACPAC) to provide analysis and policy perspective at the Senior Plenary Meeting.

In May 2019 the White House Office of Intergovernmental Affairs (WHIA) and the Office of Insular Affairs (OIA) coordinated a meeting with CMS to review the impacts of the expiration of ACA funding and to begin exploring administrative remedies that CMS could implement to provide flexibility to the territories and necessary statutory fixes Congress could pursue.

- During the May 23, 2019, House Natural Resources oversight hearing on the Medicaid Cliff, it was noted that HHS/CMS would authorize the territories to utilize their supplemental ACA balances between 10/1-12/31/19 prior to dipping into their FY 2020 SSA Medicaid dollars.
    - This action effectively extended the expiration of the ACA supplemental funds into 2020, except for the case of the CNMI.
    - CNMI spent all resources available and had a zero balance on all of its ACA funding and on its FY 2019 SSA capped allotment.

- On June 6, 2019, **President Trump signed H.R. 2157**, the “Additional Supplemental Appropriations for Disaster Relief Act of 2019” (P.L. 116-20), which included the following:
    - Local Medicaid matching requirement in the territories were waived for the remainder of the fiscal year.
    - The CNMI received an additional $36 million in its Section 1108 allotment under the Social Security Act through the remainder of FY 2019. This, is in effect, the maximum amount of funding the CNMI may receive from the Federal Government in Medicaid allotments.

- The law also allowed CNMI to be eligible for $25.2 million for disaster nutrition assistance through September 30, 2020, to help address needs following Typhoon Yutu.
- American Samoa received an additional $18 million in disaster nutrition assistance as made available under section 18 of the Food and Nutrition Act of 2008.

- On July 17, the House Energy and Commerce Committee reported out H.R. 2328, legislation reauthorizing and extending America's Community Health Act, which included, among other items, increases to Medicaid funding for the Territories and increases to the Federal share of the medical assistance percentage (FMAP) match through 2025. On December 9, 2019, the bill was referred sequentially to the Committee on Transportation and Infrastructure until February 19, 2020, for consideration of provisions of the bill that fall within the jurisdiction of the Committee.

- On December 20, 2019, President Trump signed the Consolidated Appropriations Act, Public Law 116-94, which included the following changes to Medicaid programs in the territories:
    - Provides a temporary increase in the Federal Medical Assistance Percentage (FMAP) from the statutory level currently set at 55 percent to the maximum of 83 percent through September 30, 2021;
    - Increases Section 1108 Social Security Funding through Fiscal Year 2021; and
    - Delays until May 23, 2020, reductions in Disproportionate Share Hospital Payments.

- The Department of the Interior fulfilled a congressional directive to do an assessment for the Lyndon B. Johnson Hospital in American Samoa. The U.S. Army Corp of Engineers competed on-the-ground assessment of the hospital by May 2019. The recent assessment report for the hospital gave a range of options starting with renovating the existing structure for $161 million to building a completely new larger facility at a new site for up to $900 million.

Potential Options

- Continue to support achieving greater parity between the states and the territories regarding the Medicaid match formula and the funding limits in the future.

- CMS is encouraged to continue using its discretion in determining Medicaid service offerings that the territories provide in accordance with their capacity and local needs.

- Establishing an IGIA subgroup on health that facilitates interagency participation in improving the territories' health care systems over the long term.

Secretary David Bernhardt inspecting damage with the National Park Service Staff in St. John, USVI, after Hurricanes Irma and Maria

Natural Disaster Recovery

Background

The devastating impact of the 2017 and 2018 hurricane and typhoon seasons exposed the territories' extreme vulnerability to natural disasters, the fragility of their pre-disaster systems and infrastructure, and gaps in Federal and local policy planning and operations to optimally provide response and recovery services to the unique conditions in the territories. USVI

Governor Bryan estimated that there is in excess of $10 billion of damage caused by two back-to-back Category 5 hurricanes—Hurricanes Irma and Maria—in September 2017.

Typhoon Yutu struck Tinian and Saipan, CNMI, on October 24, 2018, as a Category 5-equivalent super typhoon. Governor Torres noted that the Federal Emergency Management Agency (FEMA) estimated that the total damage reached $800,000,000.

American Samoa Governor Moliga noted, in his February 26, 2019, written testimony before the Senate Energy and Natural Resources Committee, that, "While damage sustained by American Samoa from Cyclone Gita last February was thankfully not of the same magnitude as some other disasters, the effect of losses sustained by the people of American Samoa were dramatic, indeed." He explained that American Samoa sustained significant damage to its infrastructure, including the LBJ Medical Center, twenty-six-hundred farmers lost 100% of their crops for an entire growing season, and the need for nutritional assistance on American Samoa skyrocketed.

All governors expressed gratitude for the consideration that the Administration has provided in various declarations by reducing the local cost share to FEMA programs. The Governors, however, have consistently asked for the cost share to be waved in recovery infrastructure programs because they do not have the liquidity after being impacted by a natural disaster to meet the requirements without impacting essential government services. The Governors have sought relief in the provision of the Insular Areas Act that provides agency heads the discretion to waive program cost share requirements.

Actions Since the 2019 IGIA Session

- The WHIA coordinated meetings between territorial governors and the secretaries or other senior level decisionmakers of FEMA, HUD, and other Federal agencies to facilitate resolving the challenges the territories were having with the operations and policies of various programs.

- The FEMA Recovery Support Function Leadership Group (RSFLG) raised concern about the progress of the disaster recovery in the USVI and CNMI.

- The RSFLG Subgroup on Energy was established for Puerto Rico and Virgin Islands due to unique challenges of the energy sector.
  - The Subgroup identified a critical need for USVI utility to update its integrated resource plan and the OIA responded by funding a grant request from the USVI to complete the plan.

- Congress appropriated an additional $200 million to HUD through its Community Disaster Block Grant Disaster Recovery (CDBG-DR) grant programming to address the unmet needs of CNMI and American Samoa from Yutu and Gita.
  - HUD and OIA met to establish an informal agreement for OIA to support HUD in the field in CNMI and American Samoa.
  - OIA may provide technical assistance to CNMI and American Samoa in the development of their plans to utilize CDBG-DR funding.

- CDBG-DR provides funding to the grantee for administrative requirements but not until the grantee's plan has been approved by HUD.

- As of the end of CY2019, the FEMA Disaster Relief Fund had:
  - Obligated $3.3 billion and expended $2.0 billion for USVI; and
  - Obligated $571 Million and expended $395 million for CNMI.

<u>Potential Options</u>

- Federal departments should consider using their discretion under the Insular Areas Act to waive local match requirements for Federal disaster grant programs and to seek a clarification or additional guidance on Congressional intent.

- Federal agencies should seek opportunities to partner with the territories on initiatives that strengthen the capacity of territorial leadership in disaster recovery and resilience.

Former Deputy Secretary of Housing and Urban Development Pam Patenaude in the USVI

Federal Tax Policy

<u>Background</u>

The application of the Federal tax rules to the territories varies from one jurisdiction to another. Three territories: Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, are referred to as "Mirror Code" areas because the Internal Revenue Code of 1986, as amended, (the "Code") serves as the internal tax law of those territories (substituting the particular territory for the words "United States" wherever the Code refers to the United States). Residents of those territories generally file a single tax return only with the territory of which the individual is a resident, and not with the Federal government.

By contrast, American Samoa and Puerto Rico are "Non-Mirror Code" jurisdictions. These two territories have their own internal tax laws, and a resident of either American Samoa or Puerto

Rico may be required to file income tax returns with both the territory of residence and the Federal government.

Federal tax rules apply to the territories in a manner that is different from their application in relation to both the states and foreign countries. Broadly, an individual resident of a territory is exempt from U.S. tax on income that has a source in that territory yet is subject to U.S. tax on U.S.-source and non-possession-source income. A corporation that is organized in a territory is generally treated as a foreign corporation for U.S. tax purposes.

On the other hand, several Code provisions have effect in one or all of the territories as if the territories were states. One such provision is the **Earned Income Tax Credit (EITC),** which is a benefit to low income working families who file a tax return in the states and the "Mirror" territories. Guam and the U.S. Virgin Islands pay the credit at a great cost to their local general funds – about $50 million and $24 million in FY 2017, respectively.

Unlike other tax credit programs that the Treasury reimburses Guam and the U.S. Virgin Islands for administering, the Treasury Department has explained that it does not have the authority to reimburse Guam and the USVI for the EITC. Elected officials from both jurisdictions have described the EITC as an unfunded Federal mandate that has been a destabilizing force to their fiscal health and sustainability, and they have consistently lobbied for relief.

Federal tax rules have also included certain preferences for territory activities. For example, the **Section 30(A) tax credit** under IRC Section 936 subsidizes the labor cost in American Samoa's tuna industry. This credit must be reauthorized every year in a tax extender and creates instability in the marketplace because of the risk of it not being extended.

The U.S. Virgin Islands is also the beneficiary of a Federal tax rule, commonly known as the **Rum Cover Over**, that allows it to receive a portion of the excise tax imposed on rum exported into the continental United States. This provision is also not permanent and is usually reauthorized through the tax extender process on an annual or biennial basis. The lack of permanency places a significant burden on the USVI fiscal planning. Elected officials from American Samoa and the USVI have consistently requested that these preferences be made permanent to support their efforts to achieve greater self-sufficiency and fiscal sustainability.

<u>Actions Since the 2019 IGIA Session</u>

- The WHIA and OIA conducted a conference call with Treasury and the Internal Revenue Service (IRS) in May 2019 to discuss the implication of the EITC and possible policy options.
    - Treasury and IRS researched the history of the legislation and confirmed that it did not have the legal authority to reimburse the "Mirror" territories for the EITC and legislation would be required.

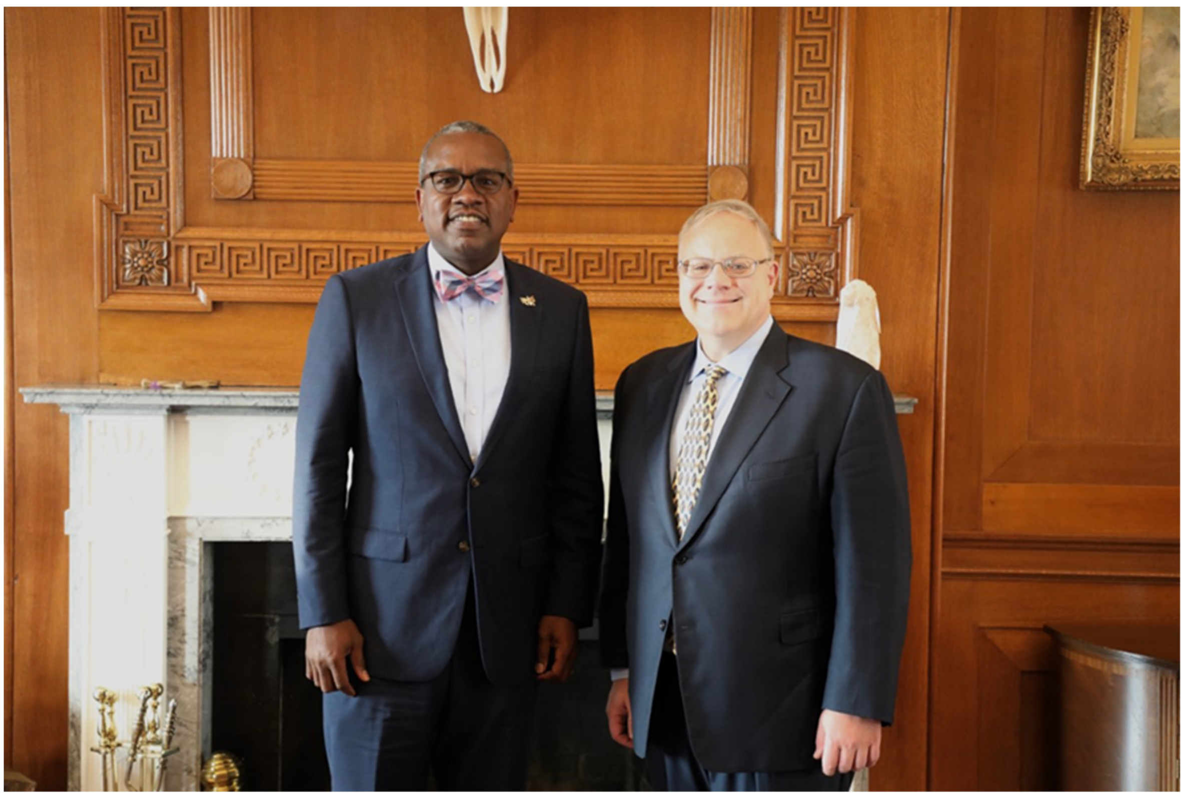
- Representative Richard Neal (D-MA) introduced H.R. 3300, Economic Mobility Act of 2019, on June 18, 2019. The Committee on Ways and Means reported the legislation to the full House by a vote of 22-19.

  - H.R. 3300 seeks to extend the EITC to Puerto Rico and American Samoa and to make the credit reimbursable to the mirror territories.

Potential Options

- Consider supporting H.R. 3300.

- Consider supporting Congressional action to make the current tax benefits to American Samoa and the U.S. Virgin Islands permanent.
- Establish an IGIA subgroup to measure the impact of Federal tax policy on the territories.
  - Guam and CNMI have the authority to decouple from "mirroring" the Code and it could prove useful to conduct a comprehensive analysis of the pros and cons of continuing to mirror.



Governor Albert Bryan of the USVI with Secretary of the Interior David Bernhardt

Members of the U.S. Government Section 902 Delegation,
Commonwealth of the Northern Marianas, CNMI

Foreign Worker Visas

Background

On May 8, 2008, the President signed the Consolidated Natural Resources Act of 2008 (Public Law 110-229), which included in Subtitle A of Title VII provisions for Federal administration of immigration in the CNMI. In transferring immigration administration from the CNMI to the Federal Government, Congress made clear that Federal officials were to tailor Federal immigration laws as follows:

- to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects of phasing-out the Commonwealth's nonresident contract worker program, and
- to maximize the CNMI's potential for future economic and business growth.

Congress also required the phasing out the CNMI's foreign labor pool, known as Commonwealth only Transitional Workers - or CW-1 - that was scheduled to end on December 31, 2014. The CNMI's economic rebound is, however, dependent upon meeting the labor demand and the required resident labor force is not available within the CNMI or the region. To address the CNMI's increasing labor needs, CNMI leaders lobbied Congress to extend the CW-I visa program. On July 24, 2018, **President Trump signed into law the Northern Mariana Islands U.S. Workforce Act of 2018** (Public Law 115-218), which extended the program for ten years, expiring on December 31, 2029.

This law also requires the Secretary of the Interior to submit a report to Congress biennially to provide technical assistance for (1) identify opportunities for economic growth; (2) provide assistance in recruiting, training, and hiring U.S. workers; and (3) provide other technical assistance, in consultation with the **Department of Commerce and Labor**, on diversifying the local economy. On October 1, 2019, ASIIA Domenech submitted **the Department of the Interior's report to Congress** describing its fulfillment or responsibilities to the Commonwealth of the Northern Mariana Islands. The report details what the Department has done.

On January 18, 2019, the Department of Homeland Security (DHS) published a notice in the Federal Register that the Philippines was no longer eligible to participate in the H-2A and H-2B Non-Immigrant Worker Programs effective from January 19, 2019 through January 18, 2020. DHS and the Department of State (DOS) believed that the overstay of H-2B visa holders and human trafficking were severe enough to warrant removal of the Philippines from the H-2A and H-2B programs.

This exclusion of Filipino nationals has severely impacted Guam and the CNMI and their critical need for skilled foreign workers. Foreign workers hired in Guam and the CNMI are largely hired from the Philippines because of their proficiency in English and ability to easily transition to the cultural norms. In Guam, they are needed on construction projects associated with the military buildup - both inside and outside the fence. In CNMI, they are needed for recovery from the devastations from recent natural disasters. And in both jurisdictions, Filipino workers are needed to fill critical positions in the health, utilities, tourism, and professional service industries.

On December 30, 2019, OIA learned that the 2020 installment of the H-2A and H-2 country eligibility lists from DHS would again not include the Philippines because of the same issues. On January 17, 2020, the Department of Homeland Security published its notice in the Federal Register excluding the Philippines from the list of countries whose nationals are eligible to participate in the nonimmigrant worker programs. The Notice is effective from January 19, 2020, until January 28, 2021.

<u>Actions Since the 2019 IGIA Session</u>

- On January 2, 2020, OIA provided suggested comments expressing concern about not including the Philippines in the H-2 country eligibility lists.

- On January 10, 2020, DOI participated in a conference call with the Department of Homeland Security to discuss the impacts to the CNMI and Guam and to explore potential remedies in order to address workforce needs and to limit the impact to the economies of the CNMI and Guam.

Potential Options

The Administration, through the IGIA, is encouraged to establish a subgroup on Immigration and Workforce Development to work with the territories in developing policies and strategies that address their long-term needs for foreign workers and the challenges with investing in the local workforce and attracting and retaining U.S. workers.

Secretary of Veterans Affairs Robert Wilkie and Governor Lourdes 'Lou" Leon Guerrero

The Guam World War II Loyalty Recognition Act

Background

The Guam World War II Loyalty Recognition Act (U.S. Public Law 114-328) directed the Secretary of the Treasury to establish a special fund (Claims Fund) in the Treasury for the payment of claims submitted by certified compensable victims and survivors of World War II in Guam. The Act specified that the Claims Fund will be composed of funds deposited from Section 30 of the Organic Act of Guam in the amount collected after FY 2014 over the amount collected during FY 2014.

The Section 30 account is a permanent indefinite appropriation fund composed of all customs, duties, and Federal income taxes derived from Guam. Under current law, OIA is required to advance to Guam, prior to September 30 each year, the amount of Section 30 taxes estimated to be collected in the upcoming year. For FY 2015, the amount was $72,325,419. This amount exceeded the FY 2014 baseline by $6,442,664.75.

This excess amount was withheld by OIA from the Section 30 advance payment made to Guam so that Treasury could deposit it into the War Claims Fund. Because of a technical problem in the Act, the Treasury Department believes that a legislative fix is necessary before they can disperse War Claims funds to survivors and beneficiaries under the Act.

Actions Since the 2019 IGIA Session

- Congressman San Nicolas (D-Guam) introduced H.R. 1365 to provide the technical language required to authorize Treasury to disperse War Claims funds to survivors and beneficiaries.

- On June 18, Secretary of the Interior David Bernhardt sent letters to Speaker Pelosi and Majority Leader McConnell requesting expedited consideration of H.R. 1365.

- The bill passed the House on July 24 by voice vote, with an amendment by the House Budget Committee to address the direct spending associated with the Congressional Budget Office score. The bill is now before the Senate for consideration.

- In May of 2019, the WHIA and OIA coordinated a meeting with Treasury to establish the facts of why funds could not be dispersed to survivors and beneficiaries and to determine potential administrative remedies.
    - Legal review of the statute determined that there was no available administrative remedies and legislation would be necessary to provide Treasury with the authority to disperse funds.

- In April 2019 Governor Guerrero proposed that Guam would use its general fund revenues to pay the War Claims due to survivors identified by the Department of Justice and certified by Treasury.
    - Guam would seek to be reimbursed once Treasury's authority to disperse funds was rectified.
    - On January 23, 2020, Governor Lou Leon Guerrero, on behalf of the Government of Guam (GovGuam), and the Commissioner of the Bureau of the Fiscal Service, on behalf of the U.S. Department of the Treasury, signed a memorandum of agreement in order to assist GovGuam in carrying out its plans to make payments to certain living persons whose claims have been adjudicated under Title XVII of Public Law 114-328 (the National Defense Authorization Act for Fiscal Year 2017)[December 23, 2016].

- Treasury and other Federal partners determined Guam's proposal would not adversely affect efforts to obtain a Congressional remedy or compromise the authorizing legislation.

- The Guam Legislature passed legislation to authorize the payment of War Claims to survivors from the general fund and the Governor has signed it into law.

- Guam and Treasury finalized the agreements and procedures on January 23, 2020, to allow for transfer of information between the Federal Government and Guam and the payment of identified survivors.

- Currently there is approximately $24.7 million at the U.S. Treasury for distribution to war claim survivors and beneficiaries. This is an estimate that is subject to annual adjustments.

Potential Options

- Federal agencies should continue supporting the Congressional remedy that clarifies Treasury's authority to disperse payments to survivors and beneficiaries.

Cabotage

Former Secretary of the Interior Ryan Zinke in American Samoa

Background

The overall purpose of U.S. cabotage rules is to prohibit a non-U.S. aircraft traveling into the United States, picking up U.S. nationals or citizens, and then providing transportation between points within the United States. Under 49 U.S.C. 41703(c) and 49 U.S.C. 40109(g), the U.S. Department of Transportation (DOT) has the authority to grant any required exemption for approval of any foreign carrier or aircraft (private, corporate, or other) from U.S. cabotage rules. DOT may authorize a foreign air carrier to carry commercial traffic between U.S. points under limited circumstances and for a limited time. Specifically, the DOT must find (1) that the exemption is required in the public interest; (2) that, because of an emergency created by unusual circumstances not arising in the normal course of business, the traffic cannot be accommodated by U.S. carriers; (3) that all possible efforts have been made to place the traffic on U.S. carriers; and (4) that the transportation is necessary to avoid undue hardship to the traffic involved.

Only one U.S. airline serves the air transportation needs of American Samoa, and it provides no air service to the three Manu'a islands. There is no U.S.-owned airline operating within the islands of American Samoa, so Americans living in the territory depend on the Independent State of Samoa-owned carrier, Samoa Airways, to provide air service between Pago Pago International Airport on the Island of Tutuila and the airports on Ta'u and Ofu in the Manua'a Islands.

The American Samoa Government (ASG) must request a "cabotage" waiver every six months to ensure that the air transportation needs of the Manu'a residents are met. Prior to the enactment of Section 402 of the FAA Reauthorization Act of 2018 (Public Law 115-254), ASG needed to make this request every month. Section 402 streamlines the requirement of foreign carriers flying between Tutuila and Manu'a and promotes better intra-territorial air service.

In his prepared statement presented to the IGIA Senior Plenary Session held on February 25, 2019, Governor Moliga discussed the tremendous burden and debilitating impact that the Federal government's cabotage policy is placing on American Samoa's ability to develop its tourism industry and to effectively and efficiently serve the need of its residents. He stated, "For decades we have struggled to develop our tourism industry as one of American Samoa's economic pillars... The ongoing air transportation monopoly continues to be a major and significant deterrent, discouragement, disincentive, and impediment undermining investments dedicated to building this industry."

Actions Since the 2019 IGIA Session

- In April of 2019, WHIA and OIA coordinated a meeting with officials from the Department of Transportation to discuss the impact of Cabotage laws on American Samoa and the potential administrative remedies.

- DOT suggested it would support American Samoa's request to extend the current six-month waiver to twelve months.

- DOT offered that it believed legislation would be required to exempt American Samoa from the broader cabotage rules, but it was willing to meet with American Samoa to discuss the issues.

Potential Option

- Establish an IGIA subgroup on transportation to work with American Samoa to establish all administrative and legislative remedies.
    - It would be worthwhile to examine the case of how Alaska was able to obtain an exemption of various cabotage laws to allow it to receive and transfer goods from foreign airlines transiting on to other U.S. destinations.

Organization and Purpose of IGIA

The Interagency Group on Insular Areas (IGIA) focuses the Federal Government's attention on those policies which concern the U.S. territories of Guam, American Samoa, the U.S. Virgin Islands (USVI) and the Commonwealth of the Northern Mariana Islands (CNMI). Signed on April 14, 2010, Executive Order 13537 superseded Executive Order 13299 (May 8, 2003) and established the Secretary of the Interior and the Deputy Assistant to the President for Intergovernmental Affairs as IGIA's Co-Chairs, who convene and preside at IGIA meetings and direct its work.

IGIA does not circumvent existing channels of authority for the formulation of Federal policy. Instead, IGIA provides a mechanism for ensuring that the territories' circumstances are taken into account as Executive Branch agencies formulate Federal policy and that Federal agencies work together to make certain that Federal territorial policy is cohesive and coordinated.

The Executive Order is clear that IGIA does not act as a decision-making body. Furthermore, the Executive Order provides that "[n]othing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals." IGIA is not a deliberative body and does not make collective decisions. IGIA does not take positions on legislation or policy matters on behalf of the Administration or on the territories' behalf and cannot force action by any member agency.

IGIA consists of the heads of those Executive departments and such agencies as the Co-Chairs may designate. A head of a department or agency may designate another official to carry out his/her functions with respect to IGIA, but that designee must be a Presidential appointee or a member of the Senior Executive Service. For continuity, IGIA has welcomed and includes the participation of senior and mid-level career staff from each of the agencies.

The Executive Order directs IGIA members to provide, from time to time, recommendations regarding proposed or existing Federal programs and policies concerning the territories. IGIA's Senior Plenary Session serves as an important tool to "solicit that information and advice" from territorial leaders and is convened annually to coincide with the winter meeting of the National Governors' Association in Washington, D.C. Taking place within the White House Complex, this meeting hosts over one hundred Federal officials, Governors, Members of Congress, and staff.

The Executive Order requires IGIA to submit an annual report to the President containing recommendations regarding the establishment or implementation of territorial policies. This IGIA report highlights efforts that the Co-Chairs and IGIA members have taken in support of Executive Order 13537 requirements to solicit information and to consider the recommendations and concerns of the territories in the formulation and implementation of Federal programs and policies. IGIA also serves as a platform to bring awareness to territorial leaders of certain Federal projects which may impact their territories.

The IGIA Process

The Executive Order states that the purpose of the IGIA is to advise the President on the establishment or implementation of federal policies concerning the territorial insular areas. To achieve that mandate, the IGIA is required to:

- Solicit information and advice concerning the insular areas from the Governors of, and other elected officials within, the insular areas (including through at least one meeting each year with any Governors of the insular areas who may wish to attend) in a manner that seeks their individual advice and does not involve collective judgment, or consensus advice or deliberation;
- Solicit information and advice concerning the insular areas, as the IGIA determines appropriate, from representatives of entities or other individuals in a manner that seeks their individual advice and does not involve collective judgment, or consensus advice or deliberation;
- Solicit information from executive departments or agencies for purposes of carrying out its mission; and
- At the request of the head of any executive department or agency who is a member of the IGIA, with the approval of the Co-Chairs, promptly review and provide advice on a policy or policy implementation action affecting the insular areas proposed by that department or agency.

The figure below provides guidance to the process and practices that have been adopted to comply with the mandates of the Executive Order.

IGIA Annual Timeline

FEBRUARY	•Co-Chairs convene Annual IGIA Senior Plenary Meeting to coincide with National Governors Association Winter Conference to facilitate territorial Governors attendance.
MARCH October	•Co-Chairs review issues presented by territorial elected officials and coordinates working level meetings with relevant federal agencies to explore policy options and take action.
October	•IGIA staff begins review of federal actions to address territorial issues for compilation of annual report to the President.
November January	•Co-Chairs begin planning for next year's Senior Plenary Meeting. •Federal partners meet to review year's activities and to provide input.
December January	•Solicit input from Insular leaders for next meeting. •Solicit federal agency participation - presentations and briefing papers.

This page left intentionally blank

Appendix

- 2019 IGIA Agenda

- Governors' Written Statements
  - Governor Lolo Moliga of American Samoa
  - Governor Ralph Torres of the Commonwealth of the Northern Mariana Islands
  - Governor Lourdes Leon Guerrero of Guam
  - Governor Albert Bryan Jr. of the U.S. Virgin Islands

- Federal Presentations
  - Office of the Assistant Secretary for Preparedness and Response, Department of Health and Human Services
  - Medicaid and CHIP Payment and Access Commission

- List of Federal Attendees

- Executive Order No. 13537 (April 14, 2010)

2019 IGIA Agenda

INTERAGENCY GROUP ON INSULAR AREAS
2019 SENIOR PLENARY SESSION

Eisenhower Executive Office Building, Room 350
Monday, February 25, 2019, 1:30-4:30 p.m.

I. **Welcome: 1:30–1:45 p.m.**
- The Honorable Douglas W. Domenech, Assistant Secretary of the Interior for Insular and International Affairs
- The Honorable David Bernhardt, Acting Secretary of the Interior
- Douglas Hoelscher, Deputy Assistant to the President and Director of The White House Office of Intergovernmental Affairs

II. **Introduction of Federal Partners**

III. **Presentations**

Territorial Officials: 1:45–2:45 p.m.
- Governor Ralph Torres, Commonwealth of the Northern Mariana Islands
- Governor Lourdes "Lou" Leon Guerrero, Guam
- Governor Albert Bryan, U.S. Virgin Islands
- Governor Lolo Moliga, American Samoa
- Congresswoman Aumua Amata Coleman Radewagen, American Samoa
- Congresswoman Stacey Plaskett, U.S. Virgin Islands
- Congressman Michael San Nicolas, Guam
- Congressman Kilili Sablan, Commonwealth of the Northern Mariana Islands

Break: 2:45–3:00 p.m.

Federal Officials: 3:00–4:25 p.m.
- 3:00-3:20 p.m. Dr. Robert Kadlec Assistant Secretary for Preparedness and Response (ASPR), and Demetrios Kouzoukas, Principal Deputy Administrator and Director of the Center for Medicare
  - HHS Issues in the Territories: addressing the Medicaid cliff, Medicaid match requirements, TEFRA, etc.

  10 minutes Q&A
- 3:30-3:45 p.m. Medicaid and CHIP Payment and Access Commission (MACPAC) Anne L. Schwartz, Ph.D., Executive Director, and Kacey Buderi, Senior Analyst
  - Medicaid and CHIP in the Territories.
    - Program implementation in Territories vs. States.
    - Impacts to Territorial health care systems and Policy options.

  10 minutes Q&A
- 3:55-4:15 p.m. Mark Harvey, Senior Director for Resilience, National Security Council, and Carlos Castillo, Associate Administrator, FEMA Office of Resilience
  - Disaster Recovery and Resilience in the U.S. Territories.
    - What Governors should know about preparedness and recovery
    - Lessons learned from Irma and Maria and Gita, Mangkhut, and Yutu.

10 minutes Q&A

IV. Closing Remarks: 4:25–4:30 p.m.

- Douglas Hoelscher – Deputy Assistant to the President and Director of The White House Office of Intergovernmental Affairs
- The Honorable David Bernhardt, Acting Secretary of the Interior

U.S. Territories Governors and Members of Congress (2019)

This page left intentionally blank

Governor’s Written Statements

Governor Lolo Moliga

American Samoa

OFFICE OF THE GOVERNOR
AMERICAN SAMOA GOVERNMENT
Telephone: (684)633-4116 Fax: (684)633-2269

LOLO M. MOLIGA
GOVERNOR

LEMANU P. MAUGA
LIEUTENANT GOVERNOR

GOVERNOR LOLO M. MOLIGA'S
WRITTEN STATEMENT BEFORE THE
INTERAGENCY GROUP ON INSULAR AFFAIRS
EISENHOWER EXECUTIVE OFFICE BUILDING
WHITEHOUSE

February 25, 2019

Honorable David Bernhardt, Acting Secretary of the Department of the Interior, Honorable Douglas Hoelscher, Deputy Assistant to the President on Intergovernmental Affairs, Honorable Douglas Domenech, Assistant Secretary, Office of Insular and International Affairs, Mr. Nikolao Pula, Director of the Office of Insular and International Affairs,
Honorable Governors,
Honorable Members of Congress,
Heads of Federal Agencies,
Ladies and Gentlemen

I bring with me, from the people of the Territory of American Samoa, warm and sunshine greetings along with well wishes for flourishing economies for all the states and territories, thriving communities, and healthy populations during 2019.

I also wish to extend to you, Honorable David Bernhardt, our belated congratulations on your recent appointment to take the helm of the Department of the Interior along with our prayers invoking God's blessing and divine guidance so your tenure of leadership will be laced with resounding, remarkable, and phenomenal success.

I am thankful and grateful to the leadership of IGIA for its decision to hold this forum amidst prevailing uncertainties as the threat of another federal shutdown still looms. Last year we cancelled this IGIA event because the territories were struggling to rally back from the devastation inflicted by hurricanes.

I would be remiss if I neglect to recognize, with profound appreciation, the efforts expended by the Department of the Interior and its Office of Insular and International Affairs demonstrating its continued commitment as reflected by its expedited actions dedicated to mitigating economic impediments stymieing our collaborative efforts to grow our economy and improve the quality of the lives of our people.

The Department of the Interior's stated vision for the Territory of American Samoa, rooted in building its self-sufficiency and self-reliance capacity, has been the roadmap directing our social, economic, and political journey since 1951 when the governing mandate was transferred from the Military to the Civil Administration.

Since that time, the economy of American Samoa today remains narrowly comprised by our remaining tuna fish cannery StarKist and the American Samoa Government with 100 percent of the private sector deriving its livelihood from these only two economic pillars.

Recognizing the economic peril of sole dependence on the tuna fish canning industry, only to be aggravated by the closure of two other canning plants in 2009 and 2016, emboldened our resolve to advance our economic diversification aspirations.

While the United States of America is posting record numbers in economic growth and prosperity; with its unemployment rate at its record low of 4%, and its soaring GDP, in contrast, American Samoa's unemployment rate is at 12.4% with its plummeting GDP of a negative 5.3% at the close of 2017.

Our declining economy, triggered by the closure of the two tuna fish canning plants, along with their lingering collateral effects, has left us with very few doable options which includes the tenacious pursuance of these practical economic diversification options.

True to its commitment to its vision of self-sufficiency and self-reliance for the insular areas of the United States, the Department of the Interior through its Office of Insular and International Affairs supported our capital funding request to supplement locally generated funds to forge the establishment of our third economic pillar, manifested in our investment in the Hawaiki Cable, which accords the opportunity for American Samoa to be the telecommunication hub in the South Pacific.

This investment also creates positive and favorable impacts on improving the quality of healthcare and educational service systems; notwithstanding the creation of a favorable business climate fostering the attraction of foreign investment to bolster American Samoa's economic diversification prospects.

For decades we have struggled to develop our tourism industry as one of American Samoa's economic pillars. In spite the debilitating impact of the "Cabotage" federal policy, it has not deterred or discouraged us from exploring ways to develop this potential economic pillar.

Facilitated by the "cabotage" policy, the ongoing air transportation monopoly continues to be the major and significant deterrent, discouragement, disincentive, and impediment undermining investments dedicated to building this industry.

The only airline, which services the air transportation needs of the Territory of American Samoa, has no air service to the three Manu'a islands. There is no U.S. owned airline operating in American Samoa, so Americans living in the Territory of American Samoa depend on the generosity of the Prime Minister of the Independent State of Samoa to provide air services to the

Manu'a Islands. American Samoa must request for a "cabotage" waiver every month to ensure that the air transportation needs of the Manu'a residents are met.

Incentivizing investments in building the requisite tourism infrastructure is negated and nullified by the unfavorable and adverse air transportation environment. This predicament is also compelling us to seek assistance from the Independent State of Samoa to use its national airline to help us develop our tourism industry as our fourth economic pillar.

Education continues to be one of the top priorities for the American Samoa Government as its future depends on the intellectual capacity of its populace.

We are thankful and grateful to the Department of the Interior and the Office of Insular and International Affairs for its continued commitment to improving the quality of educational offerings through its ongoing investments in classroom construction, sporting facilities, and other ancillary educational facilities.

The fact that English is the second language to over 90% of American Samoa's students and their scores place them three to four grades behind reading, writing, and comprehension to their Hawaii and mainland counterparts, a component of overall strategy to improve student performance, is to build more classrooms to reduce class size to increase teacher-student interaction. More funds are needed therefore to accomplish this objective and making funds available now will speed its implementation.

We are grateful as well for the Department of the Interior and the Office of Insular and International Affairs support for the construction of gymnasiums for elementary schools with large enrollments not only to tackle the obesity national crisis but also to nurture and develop raw athletic talents which could create access to post-secondary educational opportunities to colleges and universities. Additional funds are needed to accelerate the implementation of this strategy.

Healthcare is a necessity because the nearest U.S. Medical Facility is located in Hawaii: 2,300 miles away and accessible by only two flights a week. There is only one acute care facility; the Lyndon Baines Johnson (LBJ) Medical Center and four community health clinic centers.

American Samoa depends heavily on Medicaid and Medicare funds to supplement the cost of healthcare services provided to the people of American Samoa. While we are very thankful for the availability of Medicaid funds, the government must pay a 45% local fund match to access 55% of the Medicaid dollar spent on healthcare service. Moreover, a Medicaid funding CAP that is placed on Medicaid funding availability to the territory prevents full coverage of actual spending on medical services delivered to the people of American Samoa. We are fortunate that we are able to access Affordable Care Act funds when the Medicaid Cap is reached. Lamentably, our ACA fund allocation will lapse on September 30, 2019.

It appears that Congress will not extend the period of use for our ACA funds when they lapse but instead it will consider the establishment of Block Grants to support the healthcare needs of the territories. If this is the case, American Samoa hopes that a minimum of $30 million will be the amount of its block grant to minimally meet the healthcare needs of our people.

American Samoa's only acute care facility is 54 years old and the renovation campaign has been ongoing. The patient wards have been renovated along with our pharmacy, diagnostic imaging, dialysis, and laboratory have been renovated. The main operating theaters and the intensive care unit are in the process of being renovated. To fully complete the healthcare facility improvement programs for the Lyndon Baines Johnson Medical Center $26 million is needed.

It is our hope that the Veterans Administration will construct a healthcare facility in American Samoa to fully address the healthcare needs of our Veterans who must now travel to Hawaii to meet these needs.

Our infrastructural needs are numerous which entails the repair of the existing ones and construction of new facilities.

We are grateful and thankful for the financial support from the United States Department of Transportation, the Federal Aviation Administration, and the Federal Highway Administration for funds to improve our airports, ports, roads, and seawalls. Nonetheless, additional funds are needed to address our total infrastructural needs in the areas of harbors, docks, runways, seawalls, roads, and equipment.

We invested $13 million in the construction of a new vessel to improve transportation to the Manu'a Islands. The existing harbors are too shallow to allow the new vessel to enter the two harbors on the Island of Ta'u. Dredging is urgently needed for these two harbors. A minimum of $5 million is required to address this shortcoming.

American Samoa's dependence on the fishing industry has created a great need for additional docking space for fishing and other vessels. A new dock is being designed to address this need to entice more fishing vessels to homeport in American Samoa thereby supporting and expanding our tertiary industries. This project needs a minimum of $5 million to complete.

The Ronald Reagan Marine Railway is in dire need of repair to capture the economic opportunity inherent in the repair of purse seiners and long line fishing vessels which off-load their fish catches at the StarKist. To repair the 2,000 Ton main hauling chain, $11 million is needed.

To promote our tourism industry, our airport terminal along with the construction of a Jet-Bridge is being planned. American Samoa is the only territory without this type of facilities and our neighbor, 80 miles from us had its beautiful terminal and Jet-Bridge financed and constructed by China. It is estimated that the planned new airport terminal and jet-bridge will cost $15 million.

Homeland security is very important given that American Samoa is the only US Territory in the South Pacific with its neighbor welcoming the influx of the Chinese. The US Coast Guard currently has not ship to patrol our borders. The responsibility then falls to our government to perform this function. This brings up the need to purchase a vessel to petrol our bonders to stop drug trafficking, money laundering, smuggling of alcohol and tobacco. It is estimated that the cost of such vessel is $10 million.

I am proud to report that the territory of American Samoa has taken the lead in the utilization of alternative energy to reduce the importation of fossil fuel. All the three islands of Manu'a are now 100% powered by solar energy. Our American Samoa Power Authority has recently signed a purchase power agreement with a Canadian company for 20 Megawatts of Solar Power and in the process of sign a purchase power agreement for 42 Megawatts of Wind Power with another off-island company. When all these systems are fully functional, the cost of electricity to our people will be reduced by 50%.

It is my hope that the Department of the Interior, the Office of Insular and International Affairs and the White House will create a group or a unit to follow up on the requests being presented by all the territories during the IGIA forum to give us a sense that this platform is the springboard for positive outcomes relative to the elimination of economic development barriers preventing the attainment of our mutual and collective vision of building self-sufficiency and self-reliant capacities of the protectorates of the United States of America.

I want to reiterate and reaffirm our deep sense of gratitude to the President of the United States and his administration for the efforts to move our collective agenda forward particular to growing our economies and improving the lives of Americans living in the Territories of the United States.

I would like to recognize and thank former Secretary of Interior Honorable Ryan Zinke for hearing our pleas to reduce the scope of the Ocean Monuments to avail more fishing grounds to the U.S. Fishing Fleet to support our U.S. based canneries like StarKist.

Thank you for this opportunity to present the priority needs of the Territory of American Samoa.

SOIFUA (farewell) and FA'AFETAI (Thank You)

LOLO MATALASI MOLIGA
GOVERNOR
TERRITORY OF AMERICAN SAMOA

This page left intentionally blank

Governor Ralph Torres

Commonwealth of the Northern Mariana Islands

WRITTEN TESTIMONY
OF
RALPH DLG. TORRES
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

February 26, 2019

On behalf of the people of the Commonwealth of the Northern Mariana Islands, I want to thank Chairman Murkowski, Ranking Member Manchin and the distinguished members of this committee for recognizing the need of this important conversation about the priorities of the US territories and allowing for this submitted testimony for the record.

Many of the issues facing the territories today are unique to us. We all fight against issues of geography. Limited land mass, natural resource scarcity, distance from the United States, and import reliance are key among these issues. We face labor challenges, where our locations, economies, outward migration and population sizes are not suitable to build resiliency or strength in a globally competitive market. But I believe most important among these issues is our continual struggle to gain the federal government's understanding of the complexity of achieving substantial progress for the people living in the territories.

I thank Chairman Murkowski for her outstanding effort on behalf of the US Senate for organizing and encouraging participation in Congressional Delegation visits to the CNMI. Many of the challenges we face are difficult to comprehend if one does not travel the 8,000 miles across the Pacific Ocean to experience it for themselves.

Efforts such as these are critical when federal laws have such over-sized effects on the fragile state of the US territories. Territories, while not having full representation in our House of Representatives, no direct representation in the US Senate, and are unable to cast a vote for President, suffer the harshest side effects of the unintended consequences of federal actions that do not account for the vulnerability our communities.

The topic of today's hearing is on the state of our territories and the priorities for my administration going forward. While I have many goals for the next four years in office, I must be honest in recognizing the greatest obstacles toward improving the lives of the people of the CNMI are the actions of the federal government.

One of my most urgent priorities is the rebuilding of safe and resilient homes that were destroyed by Super Typhoon Yutu last October. Super Typhoon Yutu was the worst typhoon to hit US soil since 1935. According to damage assessments performed by the American Red Cross 5,910 homes were destroyed or suffered major damage after the October 25th disaster of last year. Nearly 4 out of every 10 homes on island were impacted by this disaster at a time where available housing stocks were already at capacity. These homes will require rebuilding and new construction to maintain the safety and security of their families, yet the availability of construction labor to do this necessary and critical work has been limited by federal actions preventing construction companies' access to the necessary foreign labor through the H2-B program.

In this situation, the prohibition of CW-1 positions for new construction workers combined with the federal government's position that the majority of construction contractors are ineligible to source their labor through the H2-B process, will result in fewer safe and sanitary homes in the CNMI. What should be of great concern is the wide-ranging implications that will follow for socio-economic mobility, education, and health throughout the islands. Down the road this will require even greater federal resources to support these families.

In my time, I had to lead my islands through two once-in-a-generation natural disasters. It is not a question of if another disaster devastates our islands, but when. This WILL happen again, and without the presence of construction labor to rebuild resilient homes, the cost to the federal government will be greater and greater in the years to come.

Already the cost of policies limiting access to construction labor has increased the cost to the federal government for disaster recovery.

After Typhoon Yutu, FEMA and the Department of Defense recognized the challenges of performing their work for the American citizens living in the CNMI by seeking out new and innovative solutions that conformed to our unique circumstances.

One week after the disaster, DoD and FEMA officials announced a program in collaboration with the CNMI called the Temporary Emergency Tent and Roofing Installation Support or TETRIS program. Under TETRIS, the Joint Task Force West, saw more than 1,000 uniformed service members mobilized in support of the relief efforts. Seabees from the 30th Naval Construction Regiment and the 254th Red Horse Squadron were activated in the hundreds to support the installation of tents and emergency roof repairs for the thousands of affected homes because local manpower and resources could not scale in the capacity necessary to prevent further loss of life, mitigate suffering and reduce the impact of the disaster.

If it were not for the 200 hundred men and women of the Seabees and the Red Horses, 184 homes in Tinian would be without roofs over their heads because there are no available construction workers there.

Further FEMA recently approved a Permanent Housing Construction Program that will source and provide labor and materials to reconstruct the homes of eligible households. Currently there are 9,400 applicants for this program and FEMA is in the process of looking toward bringing in labor from outside the CNMI because of the lack of local manpower. The homes that are selected will be fortunate. Now as FEMA and SBA resources have been released to the residents of the CNMI, the thousands of homes remaining will not be able to afford the cost of transporting labor nor will there be available contractors to help rebuild their lives.

The Department of Defense and FEMA have experienced the challenges we live with daily when it comes to labor and have created new pathways to work around them. I ask that you consider their experience and join it with the experiences of our private sector partners who are struggling to grow our economy and hire our people in the face of the restrictions imposed on us by Washington, DC.

Many in this committee are familiar with the CNMI's labor struggles. I thank this committee and Chairman Murkowski for your tireless efforts toward the enactment of Northern Mariana Islands US Workforce Act that recognized the CNMI's labor shortages and economic needs and provided additional time and resources for our community to grow. This was an important effort for the CNMI, and the process shows that the territories require specific solutions to their unique issues, but the conversation must continue.

The CNMI, more than ever, needs the federal government's recognition that there is a choice between the progress of the thousands of US citizens in the territories and the all-encompassing application of national laws and regulations, and that in many instances these two choices are mutually exclusive.

According to the most recent 2010 Census information, 52% of individuals in the CNMI lived beneath the federal poverty line, an increase of 6 percentage points from 10 years prior. Between these two surveys, federal actions to apply the federal minimum wage and federalize the immigration system were enacted. The prolonged economic depression that highlights that period was as a result of the elimination of the controversial garment industry, a dramatic contraction of our visitor arrivals, and the institution of strict government austerity as a result of reduced government revenues – three main pillars of the CNMI's economy.

Only recently has this trend begun to level off. Our economy has just recently rebounded to pre-depression levels but is just 5% the size of the smallest US state's economy. Our US labor force is steadily increasing beyond the 50% mark in 2017, increasing 11 percent from 2016, thanks in part to higher wages that are now on average above $12 per hour. Yet, the CNMI lags far behind the United States.

The median income of individuals in the CNMI is $18,000 lower than the national average. Rates of those without health insurance is 37 percentage points higher in the CNMI than the nation and the poverty rate is 39 percentage points higher than the national average.

It is a priority to reduce instances of poverty and increase wages and opportunities for my people, but the resources the CNMI has available to it to grow its economy to meet the needs of the population are slim. The CNMI is not rich in extractive resources, has limited fisheries stock for commercial fishing, and does not have enough land mass for competitive agriculture industries. The islands are too isolated to participate in global supply chains, we suffer from inflated costs for the importation of goods and materials, have lost our sole manufacturing sector, and experience exorbitant utilities costs due to a reliance on imported diesel.

The sole remaining economic driver in the CNMI is tourism but even in that field we are at a competitive disadvantage. The cost of air service to the CNMI is undercut by lower cost alternatives in the region. Philippines, Vietnam, Thailand and Indonesia are our direct competitors and our use of the US dollar increases costs for on-island expenses when tourists arrive. The limited economic resources because of these issues further reduces destination enhancement efforts and the competitiveness of the islands. The CNMI's tourism market is solely reliant on three source countries – Japan, Korea and China – to provide the revenue for our small economy.

The travel time and distance from the US mainland results in limited investment from American companies and a reliance on foreign investment to maintain economic viability.

And natural disasters represent a clear and devastating risk to economic activity and government resources.

Much of these issues are caused by the problem of scale. Too few consumers and investors are present in the CNMI to reduce cost and create a virtuous cycle toward greater levels of development and resiliency. These challenges are not unique to the CNMI around the world but are unique within the United States.

A little more than a half century ago, the Northern Mariana Islands was still war-torn agricultural community with no economy to speak of - isolated geographically and politically from the world.

And despite progress since joining the United States 40 years ago, the CNMI is still in many ways a developing country in all aspects except its relationship to the United States. Where the American government recognizes the economic challenges of developing states and supports a growth trajectory through stages of development, the CNMI is forced to support the needs of its people and attempt growth while under restrictions and rules developed through centuries of American economic history, all with a small fraction of the resources of the US mainland.

We are also required to strive to accomplish this possibly impossible task with fewer federal resources to support our population. The Medicaid program operates differently in the territories capping the total amount of Medicaid dollars given to the population and has a statutorily set federal match as opposed to the formula applied in the states. Employment services such as the Wagner-Peysor act are not available to the CNMI because we do not fall under the statutory definition of "State". Our infrastructure development fund, created to only support the economic development of the CNMI in 1978 has remained at $27.72 million dollars for 41 years and that limited pot is now shared between Guam, American Samoa and the U.S. Virgin Islands. Our sons and daughters fight alongside the sons and daughters of your states in our nation's military but receive less care and support as veterans solely because they live in the CNMI.

Whether it is possible to build a prosperous community when contending with such unmistakable limitations is still an open question.

Still, it is essential that we leverage what resources are available to us to build a stronger community. But federal government actions, such as the restrictions on labor access, threats to our essential tourism markets, and the growing competitiveness of the global economy is severely limiting our potential to succeed.

I make mention of these challenges to highlight a central point: The United States needs to recognize the unique challenges of its territories and work toward a new approach when dealing with territorial issues.

For the CNMI, immigration issues are front and center of our development. We cannot build enough scale within our community to lower the costs of living, increases the efficiency of government services, or support those in greatest need – our retirees, our students, our disabled and our mentally ill, without a sufficiently robust economy, and this economy cannot exist without workers and tourists.

The reality that the inflexible application of federal immigration law will be one of the greatest obstacles toward bettering the lives of the people of the CNMI.

I ask that we reconsider the prohibition of construction labor under the Northern Mariana Islands US Workforce Act to allow for the CNMI to determine the allowable cap on construction permits available to both safeguard the scarcity of these permits and allow for the necessary construction of our islands. And I ask that Congress replicate the program allowed for our neighboring island of Guam and their military buildup program and permit the entry of construction workers under the H2-B program to work with general contractors and construction companies as we continue the long rebuilding process ahead of us.

We must think of the practical application of requiring half of the current labor force to return to their countries of origin every two years while the economy sits and waits for the months of renewal processing.

And we should closely monitor the implementation of these new provisions, so they do not undermine the economy and US jobs we worked so hard to build and protect.

In order to have a chance at creating a viable economy, we must have a willingness to cooperate toward the development of a system that prevents the errors of the past from reoccurring but do so in a way that respects the special relationship the CNMI has with the United States.

Our people exercised their right to self-determination 40 years ago and voted to become Americans. Many of those who voted for our entry into the American family are still alive today and supported our status because of the promise that partnership with the United States would offer the standards of living equal to that of the larger American community.

In the process of joining the United States we relinquished critical areas of our autonomy and entrusted it with this body, under the hope that the members that fill its halls and chambers understand and care for the people of our islands.

The relationship since that point has had its successes and its conflicts and there is still much work to do in building a strong and viable US community in the Western Pacific.

I ask that this work begin with a belief that we are not a problem to be solved. Our problems require understanding of the nuanced and complex path that created them.

I ask that you allow us the opportunity to scale the development path. Recognize that we have only recently begun to step foot on this ladder, and that what works for California, Nevada, Idaho, or New Hampshire may not work for a community with such pronounced challenges like the CNMI.

And most importantly, I ask that the federal government treat us as partners in the goal of economic growth in the CNMI. We must acknowledge that the federal government has an incredible amount of power to influence the lives of the people living there. Using that power responsibly for the betterment of our people requires mutual respect in recognizing where failures exist and collaborating to address the underlying issues.

I am proud to say that we have made great progress in the CNMI over the course of the last years. We have enhanced public services, launched our first ever public transportation system, and increased social service benefits to our people. We have created our first substance abuse rehabilitation center to fight back against the spread of Crystal Methamphetamine addiction, we have more local funding appropriated for our public schools, maintained low public debt, decreased unemployment, and increased average wages. Our streets are safer, and our people have more opportunities to thrive and our islands' sole hospital has new equipment and resources to save lives. These successes are due to the growth in our economy, but this success hinges whether the federal government will allow this growth to continue or not.

We have made progress on issues discussed in this Committee over the course of my administration. I am pleased to say that the CNMI continues to make progress to ease concerns over money laundering as the Commonwealth Casino Commission and the newly established House and Senate Committees on Gaming moves forward on stronger legislation to protect our people from the harms associated with the gaming industry and my administration has worked closely with FINCEN to ensure our regulations are created with the primary goal of ensuring compliance with federal anti-money laundering and bank secrecy laws.

Additionally, our new CNMI Department of Labor has created the strongest relationship the CNMI has ever had with officials of the US Department of Labor and is actively pursuing all labor violation claims to ensure all workers are given an equal opportunity for success.

My priorities on infrastructure development, destination enhancement, upgrades to our education system, diversification of our economy, reduction in substance abuse and non-communicable diseases, reduction to instances of poverty, the strong and resilient recovery from Typhoon Yutu, and the improvements to core government services will be meaningless without the willingness of the federal government to understand our issues and address constraints within federal policy that hinder growth.

As a key actor toward the accomplishment of these priorities, I look forward to speaking with you further about the obstacles we are facing with our immigration system, our continued access to tourism markets, and the complications of building an economy in a remote US territory.

Together I know we can work toward redefining our relationship with the federal government and carve a path forward that maintains the partnership our forbearers envisioned 40 years ago.

Thank you for the opportunity to provide you with this testimony. I sincerely appreciate the efforts being made to increase communication with the US territories and am committed to continuing these important discussions in the months and years ahead.

This page left intentionally blank

Governor Lourdes Leon Guerrero

Guam

Testimony of the Honorable Lourdes A. Leon Guerrero
Governor of Guam
United States Senate - Committee on Energy and Natural Resources
February 26, 2019

Hafa Adai and Si Yu'os Ma'ase for the opportunity to present testimony to this Committee. I am Lou Leon Guerrero, I Maga Hagan Guahan, the Governor of Guam. In the less than two months of my Administration, I have been working tirelessly to address issues and priorities that will provide significant and lasting change to our island and shape a brighter future for all who call Guam home --including economic diversity, public safety, education, healthcare, and financial discipline. I want to provide testimony about issues that require immediate attention from Congress.

H-2B

As you know, Guam is among the most patriotic places in the entire country. Per capita, we have one of the highest enlistment rates and veteran populations in the nation. We welcome the military buildup and the economic impact it will bring, but it must be done at a pace that will benefit our local people, our island, and the U.S. military.

The Department of Homeland Security's recent administrative action that removed the Philippines from a list of countries eligible for the H-2B program effective January 19, 2019 affects us greatly. While the new policy provides the U.S. Citizenship and Immigration Services (USCIS) with discretion on a case-by-case basis to approve H-2B petitions that serve the national interest, including petitions that qualify under section 1045 of the National Defense Authorization Act (NDAA) for FY 2019, it is clear that the ban on foreign skilled labor from the Philippines will have a detrimental impact in Guam.

Since the end of World War II, Guam has been a primary focus for U.S. military investment because of its high strategic value in the Asia-Pacific region. Guam is home to Naval Base Guam, Andersen Air Force Base, THAAD Missile Defense System, and, in the near future, Marine Corps Base (Camp Blaz). Alongside these strategic military investments, Guam has developed into a tourist destination with 1.7 million visitors annually and a projection to surpass the 2 million mark sometime between 2025-2027. Guam's military and civilian growth has been supported by foreign skilled labor. Given Guam's close proximity to the Philippines, local employers have come to rely on the Philippines as the primary source of supplementary skilled labor when utilizing the H-2B program.

We have already experienced the impact that a loss in skilled foreign workers has on our island. Beginning in late 2015, USCIS' seemingly arbitrary denial of nearly all H-2B petitions for Guam, which previously had routinely been approved at a 95% rate, resulted in a severe shortage of skilled foreign labor for the island's construction industry. From an average of 1,500 foreign workers yearly prior to the blanket denials, the H-2B workforce dwindled to 252 in 2017 and 71 in 2018. In May 2018, Guam reached an unprecedented zero H-2B workers on the island.

The FY 2019 NDAA partially addressed this issue through Section 1045, but such language primarily was passed to ensure that the U.S. military and its projects funded by military construction dollars, maintained access to foreign labor. However, uncertainty of approvals on the civilian side has led to delays in ongoing projects and discouraged contractors from bidding on new ones. This scenario has driven up construction costs, stifling private sector development and causing irreparable harm to the local economy and the military buildup.

Specifically, DHS cited a national 40% overstay rate and a high volume of trafficking of visa holders from the Philippines as reasons for the country's removal from the programs. This is not the case for Guam. The island's rate of H-2B workers who intentionally overstay is negligible and there are no known trafficking cases involving Philippine citizens.

For decades and up until today, Guam understands that our location provides our country with a valued location in which to monitor and project military force in the Asia Pacific region. Whether one agrees or disagrees with U.S. military presence on our island, it is inarguable that we possess strategic value and contribute to the national security of our nation.

Because of this, I submit to this Committee that Guam's economic security is equally important to the country's national security. For many years, this Committee, and the Congress has worked to develop policies to assist all territories develop our respective economies.

Today I present to you that the more than $8 billion of U.S. military construction dollars is generating considerable interest of others to invest in Guam. We welcome this interest and want to capitalize on this opportunity to increase the quality of life for our people, our visitors, and the military men and women who call Guam home.

Along with our military partners, we are taking a One Guam approach. However, not everyone in the federal family is on the same page. Segregating our community to further the perception of "Inside the fence" and "outside the fence" attitudes do not work on an island 30 miles long and 8 miles wide.

As Congress considers the 2020 National Defense Authorization Act, I ask for legislative or administrative clarification that Guam, along with our sister territory of the Northern Mariana Islands, be exempted from prohibitions in accessing foreign labor from the Philippines.

As One Guam, ALL projects on Guam must be considered as associated with the military realignment and under Section 1045 of the FY 2019 NDAA. I respectfully request that further amendments to Section 1045 be made to allow for the approval of workers from the Philippines notwithstanding the regulations associated DHS's H-2B approved countries list.

Compacts of Free Association

The Compacts of Free Association Act authorize unrestricted immigration of citizens from the Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI) and Palau, allowing them to work and establish residence on Guam as non-immigrant aliens. While we welcome our neighbors from the outer Micronesian islands as part of the Compacts of Free Association Act, our local social services and infrastructure have been overly taxed by their influx - while promises from Congress to cover the costs go unfulfilled.

The Compact Impact cost from FY 1987 to FY 2003 totaled $269 million, including $178 million for education, $48 million for health, welfare and labor, and $43 million for public safety. Yet Guam's request for $200 million in debt relief was declined. Since then, a total of $1.4 billion in costs were incurred from FY 2004 through FY 2018, with Compact Impact Assistance Grants awarded to Guam totaling only $229.2 million.

We cannot continue to support this unfunded mandate. Our local services and infrastructure are being stretched too thin and we need the federal government to step up and keep their promise.

Earned Income Tax Credit

The Government of Guam receives over 55,000 tax returns annually from taxpayers and refunds about $120 million, with over $50 million for Earned Income Tax Credit reimbursements. EITC is our second-largest unfunded mandate, second only to the costs associated with providing services to citizens of the Freely Associated States.

While the states are reimbursed by the federal government, Guam is required to pay EITC reimbursements from its General Fund, without federal reimbursement. EITC claims have substantially increased over the years. In tax year 2016, $55.2M, or 43 percent of all tax reimbursements, were EITC payments. Further, while states have been reimbursed for their payments to FAS citizens living in the mainland, Guam has been burdened with paying EITC to eligible FAS citizens from its General Fund. I ask Congress to fund this mandate and ensure that the Compact reimbursement funds account for EITC payments to FAS citizens.

Medicaid

The Guam Medicaid Program, like other U.S. Territories, operates differently than it does in the states. Because Guam's Medicaid operates essentially as a block grant with an annual ceiling, we would often exhaust our federal funding allocation. The Affordable Care Act changed this by increasing the federal allocation to ensure that Guam would have the resources to provide essential health services, without depleting the federal dollars in the Medicaid program.

While states' Federal Medicaid Assistance Percentage are calculated annually and use a formula that takes into account per capita income, the calculation for Guam is limited by statute. The

ACA increased the Medicaid dollar allotment and increased the FMAP by 5%, but this is not enough. Although Guam received additional funding of $268 million to help alleviate its Medicaid funding shortfall, our government cannot provide the local match to fully expand the program and utilize the $268 million, which will expire on September 30, 2019.

If ACA funding is not extended or replaced, the Guam Medicaid Program could be forced to decrease its income guideline and terminate more that 50 % of its current eligible population. We cannot allow our most vulnerable to fall off this fiscal cliff.

I ask Congress to raise or eliminate the Medicaid funding cap as well as the 55% Federal Medical Assistance Percentage and to give our island the highest FMAP applicable under law.

Guam World War II Loyalty Recognition Act

Finally, many of you may not be aware that residents of Guam were subject to rape, severe personal injury, forced labor, forced march, internment, and even execution as a result of the occupation of Guam by Japan during World War II. The Guam World War II Loyalty Recognition Act authorizes Section 30 funds to be set aside for war claims compensation. However, the U.S. Department of Treasury is now claiming that they are unable to issue final award payments based on their interpretation that the Act does not contain appropriations language.

With this inaction, the federal government is not just withholding payments of war claims, they are withholding parity and closure for Guam's remaining survivors. I ask you to support H.R. 1141, which was introduced by Guam delegate Congressman Mike San Nicolas, that provides language for these compensation payments to be made. I ask you to right the wrongs of the past for these fellow Americans on the 75th anniversary of the Liberation of the people of Guam.

Closing

We look to your leadership and assistance in addressing these issues for the island of Guam. Si Yu'os Ma'ase.

This page left intentionally blank

Governor Albert Bryan Jr.

U.S. Virgin Islands

GOVERNOR ALBERT BRYAN, JR.
U.S. VIRGIN ISLANDS

Written Testimony of Governor Albert Bryan, Jr. of the United States Virgin Islands Before the Senate Committee on Energy and Natural Resources

Good morning Chairwoman Murkowski, Ranking Member Manchin, and members of the Committee:

Thank you for the opportunity to appear before you today to discuss the state of the United States Virgin Islands and our Territory's priorities for 2019.

On behalf of the people of the U.S. Virgin Islands, I wish to thank you and your colleagues in Congress for your concern and support in our recovery from the unprecedented damage, estimated in excess of $10 billion, caused by two back-to-back Category 5 hurricanes—Hurricanes Irma and Maria—in September 2017. It is ever important to remember that our recovery is not only physical but economic and social as well. With our federal partners, we have made great strides in dealing with the immediate impacts of the hurricanes. And we are on the path to longer-term recovery, but that recovery will take several years. Your continued support and assistance is critically needed for us to recover from the hurricanes and rebuild our Territory to be stronger and more resilient in the face of constant economic challenges and increasing occurrence of natural disasters.

Even before the hurricanes, the Virgin Islands and the other Territories faced unique challenges not encountered on the U.S. mainland. Many of these challenges are the result of factors beyond the control of the federal government, such as geographic distance and isolation, lack of natural resources, and general small island limitations on scale and their related impact on economic development options. But some challenges we face are exacerbated by—and, in some cases, the direct result of—federal policies, which are within the power of Congress to change. I will focus my comments today on the more pressing issues we face and how Congress can and should act to address them.

Healthcare

Federal healthcare policy is a prime example of an area where Congress can and should act as soon as possible. Healthcare funding in the Virgin Islands was under great stress even before the two hurricanes. We are grateful for the temporary disaster-related waiver of the local match (and additional allotments, all of which we will expend) in the Bipartisan Budget Act of 2018, which have allowed our Medicaid program to continue to operate during these trying times. However, unless Congress acts before September 30, 2019, two events will cause potentially catastrophic damage to our Medicaid program.

First, the temporary Medicaid relief is scheduled to end as of September 30, 2019. The Territory's severe disaster-related revenue losses are projected to extend well beyond that date—for at least another two years. Consequently, the Virgin Islands simply cannot afford to meet local match requirements for Medicaid (generally 45%) after September 30, 2019. We urge Congress to extend the disaster-related Medicaid relief in the Bipartisan Budget Act —the local match waiver and the additional Medicaid allotment of 100% federal funding—by one year and thereby allow the USVI's Medicaid program to continue to operate through the end of FY 2020. I would also like to bring to your attention that our citizens have only one hospital that they can access for healthcare on each island.

In addition, all of the Territories face the "fiscal cliff" on September 30th, when their Affordable Care Act Medicaid allotments expire. (The requested additional disaster-related allotment for the Virgin Islands would delay the "fiscal cliff" for only one year.) Until Congress eliminates the Medicaid cap for the Territories, or at least provides additional allotments (and allows a Territory to access its remaining ACA allotment, if any), the results will be severe. Up to 30,000 U.S. citizens in the U.S. Virgin Islands—30% of the Territory's population—could lose access to healthcare coverage under Medicaid. And because there is no viable private healthcare insurance market in the Territory, those citizens will add to the already precarious fiscal situations of our hospitals and potentially cause our public healthcare system to collapse. We urge Congress to act to prevent this potential calamity well before September 30, 2019.

Further, the Medicaid match rate needs to be addressed. The arbitrarily low federal matching rate ("FMAP") of 55%—and the corresponding arbitrarily high local matching requirement of 45%—for the Territories has imposed severe and unsustainable financial demands on the Territories. In contrast, the Territories would qualify for an FMAP of 83% if they were treated equally with the States. The bipartisan Congressional Task Force on Puerto Rico recommended more equitable treatment for the Territories under Medicaid. We urge the Committee to follow the Task Force's recommendations and support a state-like FMAP for the Territories.

Disaster Funding Cost-Share

The Insular Areas Act, 48 U.S.C. § 1469a, provides FEMA and all other federal agencies the discretion to waive for Insular Areas, including the U.S. Virgin Islands, any and all local match otherwise required by law for federal funding programs. The policy reasons for the waiver are obvious. While the Insular Areas are in great need of federal funding, they do not have the resources available to come up with the local match in order to access those funds.

FEMA staff confirmed that the Insular Areas Act applies to FEMA disaster funding, and there is ample precedent for FEMA to waive the local match under the Insular Areas Act. Indeed, in recognition of the severity of Hurricanes Irma and Maria, FEMA has already invoked the Insular Areas Act to waive the 25% non-federal matching requirement for the Hazard Mitigation Grant Program in the Territory, for which we are grateful. However, FEMA has prematurely ended the 100% federal funding for Public Assistance Categories A and B projects, even though the Territory had a reasonable expectation—because FEMA had issued Mission Assignments to the U.S. Army Corps of Engineers to undertake this work—that many of the projects would have been completed by the 100% federal share deadline. Indeed, as of today, Mission Assignments for Temporary Medical Clinics and Debris Removal are more than a year behind schedule, and some—such as the St. Thomas medical clinic and the removal of damaged trees dangerously leaning over public rights-of-way—still have not even started. We have administratively appealed FEMA's decision, and are hopeful that these issues can be resolved in a cooperative manner.

Further, FEMA has been reluctant to agree to waive the local match for the Territory for FEMA Public Assistance Categories C through G ("permanent work") projects, such as the permanent repair or reconstruction of key facilities like roads, bridges, buildings and equipment, and utilities. The policy reasons for invoking the Insular Areas Act waiver are at least as compelling for these projects. It would be extremely difficult if not impossible for the Virgin Islands to provide local matching funds for Public Assistance Categories C through G. As a result of the hurricanes, our financial resources and ability to borrow have been exhausted. Indeed, we have relied on FEMA Community Disaster Loans in order to maintain our basic governmental functions.

Therefore, we respectfully request that Congress direct FEMA to exercise its discretion under the Insular Areas Act and waive the local share for grants awarded to the USVI under the Public Assistance program for Hurricanes Irma and Maria. Rest assured, we understand the federal government's concern about states and territories not having "skin in the game" without a local cash contribution, but we have the lives of 110,000 Americans who do not have an option to evacuate in the face of natural disasters. We must rebuild quickly, and can ill afford not to be fully prepared as another hurricane season looms. We have nowhere else to run. The U.S. Virgin Islands is prepared to maximize use of Section 428 of the Stafford Act for large Public Assistance projects and implement other measures that would create cost savings for the taxpayer equivalent to a local match.

Building Back to Industry Standards

Section 20601of the Bipartisan Budget Act authorizes FEMA to provide assistance to restore many Hurricane Irma and Maria-damaged facilities and systems in the Virgin Islands to an industry standard without regard to pre-disaster condition. FEMA has issued formal guidance interpreting that provision that appears generally consistent with the statute.

In support of recovery efforts, the Virgin Islands has engaged with nationally recognized industry experts and local stakeholders to devise reasonable industry standards appropriate to conditions in the Virgin Islands as directed by law. The Territory intends to continue to fully cooperate with FEMA in ensuring that Section 20601 is implemented to the maximum extent permitted by law, but we may need support in clarifying Congressional intent for FEMA.

Territorial administration of the permanent housing construction program

I congratulate Congress for passing the Disaster Recovery Reform Act, which was part of the FAA Reauthorization Act of 2018. An important disaster recovery reform provision in that law is Section 1211, which allows a State or Territory the option of administering its own permanent housing construction program for owner-occupied primary residences pursuant to Section 408 of the Stafford Act. Because it will take some time for FEMA to promulgate regulations to formally implement Section 1211, the Act authorizes FEMA to enter into pilot programs with States and Territories in the interim. The Virgin Islands Government has applied for FEMA approval of such a pilot program. Once approved, we will be able to undertake these repair and reconstruction projects more expeditiously and at a far lower cost than would otherwise be possible. We are hopeful that FEMA will approve our pilot program as soon as possible.

Improvements to FEMA reimbursement mechanism

The U.S. Virgin Islands is extremely grateful that FEMA has already obligated more than $3 billion of disaster assistance directly to our citizens and their families and for a wide range of response, recovery, and mitigation projects. There are a couple of simple steps that FEMA could take that would not cost anything, and yet would significantly expedite our recovery.

First, the FEMA Public Assistance program is a reimbursable program requiring the Territory to submit paid contractor invoices prior to being able to request reimbursement of federal funds. As the pace of recovery quickens in 2019 and many individual invoices totaling many millions of dollars are being received each month, the Territory's severe cash flow problems make it extremely difficult to advance the cash to pay our contractors, leading to long delays in starting work and widespread contractor dissatisfaction that will drive up the cost of recovery if not resolved. We request assistance, either administrative or legislative, that will enable FEMA to advance funding for our major recovery projects. We are confident that we have the financial systems and accounting mechanisms in place to track and reconcile these funds in accordance with federal requirements.

Second, every project from every disaster in the nation with a cost of one million dollars or more must go into a FEMA headquarters queue, known as the OLA (Office of Legislative Affairs) queue, for a review process that takes many months to complete. This review process is after the USVI-based FEMA staff have devised, reviewed, and approved the project scope and costs collaboratively with Territorial staff. We fully understand and appreciate the need for due diligence; however, with so many major disasters nationwide and so many projects costing over a million dollars, the FEMA OLA queue team seems unable to keep pace and complete its reviews in a timely fashion. For example, we have been waiting for a $296 million Project Worksheet to clear OLA for more than five months for our STEP Housing Recovery Program, causing long delays in paying contractors. Contractors who have completed repairs on thousands of homes over the past half-year still cannot be paid pending the OLA review. To resolve this pressing problem, we request Congressional assistance in encouraging or requiring FEMA to streamline its project approval processes (perhaps by increasing the threshold amount for OLA review, or by devoting additional resources to the review process) to better serve the project beneficiaries.

We would greatly appreciate any assistance in resolving these issues. The money is there, FEMA is in agreement that the work is eligible and the costs are reasonable, but we still are unable to access the funds expeditiously which is unnecessarily hampering recovery.

Territorial Highway Program

In the final years of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" ("SAFETEA-LU") and extensions thereof, Congress allocated $50 million annually to the four small Territories under the Territorial Highway Program (in addition to amounts equivalent to the funding for High Priority Projects in the Territories). In July 2012, the Moving Ahead for Progress in the 21st Century Act ("MAP-21") maintained highway funding levels for all states, as well as the District of Columbia and Puerto Rico, but inexplicably cut the Territorial Highway Program funding by 20% (to $40 million). Singling out the four small Territories for funding cuts was unfair, discriminatory, and ignored the substantial pressing transportation funding needs of the Territories. The subsequent bill (FAST Act) did not restore the funding cut in MAP-21; it provided only a small increase over the reduced MAP-21 allocation for the small Territories.

We urge Congress to correct this inequity in the next infrastructure bill, by increasing funding levels for the Territorial Highway Program, including restoring the SAFETEA-LU funding levels and providing post-SAFETEA-LU increases similar to those provided to states and the District of Columbia.

Economic Development

Federal tax policy plays a crucial role in creating the investment climate to create jobs, generate sustainable economic growth, and improve the Territory's long-term fiscal health. In any tax legislation, Congress should consider the unique status and circumstances of U.S. Territories.

For example, under the Internal Revenue Code, the Virgin Islands is considered a foreign jurisdiction and not part of the United States, even though Virgin Islanders are U.S. citizens and Virgin Islands businesses are U.S. businesses. In addition, the Virgin Islands' income tax system is based on a "mirror system" of taxation, in which the Internal Revenue Code is used as the Territory's tax code ("Mirror Code"). As a consequence, any change to the U.S.

Internal Revenue Code automatically impacts the Mirror Code Territories. Consequently, great care should be taken by Congress in enacting tax legislation, in order to avoid unintentional and harmful effects on the Mirror Code Territories.

Further, specific federal tax provisions have unnecessarily harmed the Territories and impeded their economic development efforts. The U.S. Territories, as part of the United States, should always be treated more favorably than foreign jurisdictions under federal tax law, but that is not always the case. As a result of unduly harsh provisions in the JOBS Act of 2004, the Territories are treated worse than foreign jurisdictions. In particular, the (effectively connected) income sourcing rules imposed by the JOBS Act have unfairly restricted our Economic Development Commission program and inhibited our ability to attract new employers and grow our economy.

The Virgin Islands Government has been working with the U.S. Department of the Treasury and Congress to revise the overly restrictive JOBS Act rules by making modest corrective changes to the JOBS Act. I urge your support for inclusion of these changes in legislation.

Further, the Tax Cuts and Jobs Act of 2017 inadvertently disadvantaged U.S. investments in the Virgin Islands with respect to new taxes imposed by that Act. We request the Committee's support for a technical amendment to provide parity for such investments in our Territory.

Energy

A major impediment to our economic development and quality of life for our citizens is the high cost of electricity in our Territory. We urge Congress to take two actions that would help lower the cost of electricity while at the same time improving our grid resiliency. First, Congress should support our efforts to secure USDA or other federal assistance to allow our Water and Power Authority to convert from burning fuel oil to alternative fuels for generation of electricity. Second, Congress should direct HUD to allocate to the Virgin Islands a fair share of the $2 billion in CDBG-DR funding for electrical systems damaged as a result of Hurricane Maria.

* * *

We have an opportunity to liberate the Virgin Islands once and for all from fiscal distress through the collective impact of this recovery. The recovery opportunities that have been presented will make us resilient economically and physically. As we recently celebrated our 100th anniversary of being an American

Territory, you can ensure that we are prepared for the next 100 years. Strengthening our infrastructure and ability to eliminate poverty, provide healthcare, and give us a fighting chance to compete and do more for ourselves is of our highest priority. All we ask is your gracious assistance.

Thank you for considering this testimony and for your support of your fellow Americans in the U.S. Virgin Islands.

This page left intentionally blank

Federal Presentations

This page left intentionally blank

ASPR

ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE

ASPR

Interagency Group on Insular Areas (IGIA)

Dr. Robert Kadlec

February 25, 2019

21st Century: An Increasingly Complex & Dangerous World





ASPR's Mission

Save Lives
and Protect
Americans from
21st Century
Health Security
Threats

ASPR's Key Priorities

Providing Strong Leadership

Building a Regional Disaster Health Response System

Sustaining Public Health Security Capacity

Enhancing the Medical Countermeasures Enterprise

Typhoon Wutip

- Deploying to IMT
  - 2 R9 LNOs
  - Regional Incident support Team (RIST)
- On Alert
  - DMAT on alert: CA-6
  - IMT staff

- Working with Guam and CNMI territory health care partners to assess readiness

22 Feb 19

Hurricane Maria USVI Medical Evacuation

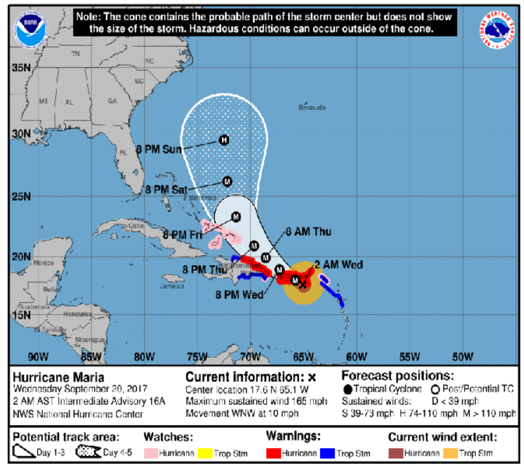
- 807 Total Medically Evacuated Residents (MERs) transported to mainland US

  St. Croix and St. Thomas
  - 211 dialysis evacuees moved to Atlanta
  - 265 non-medical attendants
  - Last outpatient dialysis patient returned to USVI Dec. 2018
- 331 people needing hospitalization are evacuated & treated on mainland US
- USG spent approximately $3 million a month to house and care for the patients and their caregivers

Hurricane Maria USVI

emPOWER

- Uses Geographic Information System maps, real-time weather feeds, and Medicare claims to help individuals who live independently in the community AND
- rely on any of 14 types of power-dependent medical equipment (e.g. oxygen concentrators, ventilators, and power wheelchairs), dialysis, and home health care services.
- We used emPOWER in USVI to go door-to-door with USAR to find & evacuate residents who rely on dialysis



EPAP Activation Nov. 2, 2017 – Sept. 15, 2018

- 38,957 claims for prescription drugs and durable medical equipment
- 4,816 patients were served
- Average patient age was 49 years old
- Average of 8.1 prescriptions per patient

Typhoon Manghut: Guam & CNMI

HHS Response:

- Augment the Commonwealth Health Center hospital and shelters.
- Coordinate with CNMI partners to conduct medical outreach as requested.
- Conducted public health and environmental health missions and provide subject matter expertise in coordination withCNMI partners.
  - Deployed personnel: 88
    - ✓ 1 Incident Management Team (IMT)
    - ✓ 1 DMAT
    - ✓ ASPR Regional Emergency Coordinators (RECs) for Region 9 engaged with State, Tribal and local partners
    - ✓ Deployed to Guam with one IMT-F and one DMAT deploying to Guam with 1 DMAT staged in HI
    - ✓ No patient encounters

Typhoon Yutu: Guam & Saipan

- For Typhoon Yutu, there were 4764 encounters
  - 70 Responders deployed
  - nine medical missions reporting encounters
    - ✓ shelter missions
    - ✓ health clinic decompression
    - ✓ community outreach missions
  - 478 encounters included vaccination administration
  - EPAP activated – 1,191 claims 589 lives served
  - CDC worked with local health departments on long-term public health and environmental health effects

HHS Recovery Operations

HHS Recovery Support Overview

- HHS leads the coordination of 17 federal departments and agencies through the Health and Social Services (HSS) Recovery Support Function to support the recovery needs.
- Recovery support focuses on four primary areas: public health; healthcare systems; behavioral health; and human services (including education).
- HHS coordination is designed to build local capacity to lead their recovery, reduce duplication of effort, improve efficiency, and shorten the distance between resource need and resource provider.

HHS Recovery Support Overview

U.S. Virgin Islands

- Facilitated the safe and effective transition of medically fragile and dialysis patients back to the territory after being cared for in CONUS.
- Equipped faith-based organizations with data, ESF-6 education, and VOAD information to enable a planning opportunity to reach populations during an emergency and make USVI more resilient for hurricane season.
- Supporting on-going planning for bolstering the recovery of vulnerable populations (children, elderly, disabled, etc.).

CNMI

- Supported recovery impact analyses, targeting behavioral health needs.
- Continue to provide on-going consultation on recovery coordination and planning activities.

This page left intentionally blank

MACPAC

Medicaid and CHIP Payment
and Access Commission

Medicaid & CHIP in the U.S. Territories

Medicaid and CHIP Payment and Access Commission

Kacey Buderi

February 25, 2019 www.macpac.gov @macpacgov

About MACPAC

- Independent, nonpartisan commission in the legislative branch
- 17 commissioners appointed by Comptroller General
- Advise Congress on wide range of issues affecting Medicaid and CHIP (§1900 of the Social Security Act)
  - issue reports to Congress each March and June
  - conduct research on policy issues
  - make non-binding recommendations
- No role in Medicaid program operations

Medicaid and Other Health Coverage Programs

- Medicaid
  - individual entitlement to low-income children, adults, pregnant women, elderly, and people with disabilities
- State Children's Health Insurance Program (CHIP)
  - covers otherwise uninsured low- to middle-income children whose family income exceeds Medicaid eligibility levels; not an entitlement
- Medicare
  - covers elderly and people with disabilities or end-stage renal disease; not income-based; entirely federal

Federal-State Partnership

- Medicaid and CHIP are jointly administered by states and the federal government
- States have flexibility to design and run programs within broad federal guidelines
  - eligibility standards
  - benefits
  - provider payment policies
  - administrative structures

Medicaid and CHIP Financing

- Financing is shared responsibility of the federal government and the states
- In general, federal share is determined by the federal medical assistance percentage (FMAP) that provides higher federal match to states with lower per capita incomes
  - Medicaid FMAPs currently range from 50 to 76.4 percent
  - CHIP enhanced FMAPs currently range from 88 to 100 percent (will drop to 76.5-92.5 percent in FY 2020 and 65-81 percent in FY 2021)
- Medicaid financing: open-ended
- CHIP financing: capped allotment
  - determined by CMS based on prior year spending adjusted to account for child population growth and medical inflation

Process for Drawing Down Federal Funds

- States must spend their own funds in order to draw down federal matching funds at their designated FMAP
  - state share can come from a variety of sources
  - expenditures must be on behalf of eligible individuals for allowable services
- Centers for Medicare & Medicaid Services (CMS) calculates a quarterly grant award based on expenditures and estimates submitted by the state
  - authorizes states to draw funds through a commercial bank
  - the “draw” is a continuing line of credit certified to the Secretary of the Treasury in favor of the state
- Quarterly grant award amount is for budgetary and planning purposes (not a binding upper limit)

Differences Between State and Territory Medicaid Programs

- Territories are considered states for the purposes of Medicaid and CHIP, unless otherwise indicated
  - American Samoa and the Northern Mariana Islands are exempt from most federal requirements (§1902(j) of the Social Security Act)
- Eligibility criteria
  - Guam, Puerto Rico, U.S. Virgin Islands use local poverty levels
  - Northern Mariana Islands uses Supplemental Security Income (SSI) income and resource standards
  - American Samoa does not make individual eligibility determinations
- Only Guam covers all mandatory benefits
- Territories report less data
- Financing structure

Territory Financing

- Statutory FMAP of 55 percent
- Can access federal dollars only up to a designated dollar amount (referred to as Section 1108 cap)
  - amounts are specified in Section 1108 of the Social Security Act
  - set in 1968 and grow annually with medical component of the consumer price index for urban consumers (CPI-U)
  - limited exceptions
- Territories receive a CHIP allotment determined in the same way as for states

Additional Federal Medicaid Funding Sources for Territories

- Territories have historically exhausted Section 1108 caps and covered remaining Medicaid costs with unmatched local funds
- In recent years, Congress has provided the territories with additional federal Medicaid funding
  - Bipartisan Budget Act of 2018 (BBA 2018, P.L. 115-123)
  - Consolidated Appropriations Act of 2017 (P.L. 115-31)
  - Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended)
    - Section 2005 provides funds available July 2011- September 2019
    - Section 1323 provides funds available following exhaustion of Section 2005 funds until December 2019

Sources of Federal Medicaid Funding for U.S. Territories and Periods Available as of FY 2019

	FY 2019 §1108 funding	ACA			Omnibus	BBA
		§2005	§1323	Total ACA funds		
Period available	Grows with CPI-U annually	July 2011-September 2019	Upon exhaustion of Section 2005 funds, until December 2019	July 2011 - September/December 2019	May 5, 2019 – September 30 2019	FYs 2018 & 2019
American Samoa	$12.31 million	$181.3 million	$16.5 million	197.8 million	None	None
Guam	$18.21 million	$268.3 million	$24.4 million	$292.7 million	None	None
Northern Mariana Islands	$6.79 million	$100.1 million	$9.1 million	$109.2 million	None	None
Puerto Rico	$366.7 million	$5.4 billion	$925 million	$6.3 billion	$295.9 million	$4.8 billion
U.S. Virgin Islands	$19.04	$273.8 million	$24.9 million	$298.7 million	None	$142.5 million

Notes. BBA is the Bipartisan Budget Act of 2018 (P.L. 115-123). Omnibus is the Consolidated Appropriations Act of 2017 (P.L. 115-31).CPI-U is the consumer price index for all urban consumers. FY is fiscal year. For American Samoa, Guam, and the Northern Mariana Islands, the FY 2019 1108 cap is estimated by trending the FY 2018 cap amount by the increase in the medical care component of the Consumer Price Index for the 12-month period ending March 2018.
Source: MACPAC analysis of the ACA. BBA, and Omnibus; CMS regional office narrative reports for FY 2018; and correspondence with CMS.

Using Additional Funds

- Territories can choose whether to use Section 1108 funds or supplemental funds first
- Supplemental funds must be drawn down in a specific order
  - ACA Section 2005 funds must be exhausted or expire prior to drawing down ACA Section 1323 funds
  - Puerto Rico and U.S. Virgin Islands can use BBA funds in any order
- FYs 2011-2019: territories use Section 1108 allotments prior to drawing down supplemental funds
  - exception is Puerto Rico and U.S. Virgin Islands in FYs 2018-2019: drawing down BBA funds first due to 100 percent matching rate
- FY 2020: expected to use supplemental funds under Section 1323 before using annual Section 1108 funds
  - Section 1323 funds only available through December 2019; Section 1108 funds available all fiscal year

Medicaid and CHIP Funding and Spending in the Territories, FY 2017 (millions)

	Medicaid				CHIP			
		Spending				Spending		
Territory	§1108 cap	Federal	Territory	Total	Federal allotment	Federal	Territory	Total
American Samoa	$11.5	$19.4	$15.1	$34.5	$2.9	$3.6	$0.1	$197.8
Guam	17.0	53.8	29.4	83.2	26.6	30.2	2.6	292.7
Northern Mariana Islands	6.3	17.0	13.4	30.5	6.7	9.6	0.7	109.2
Puerto Rico	347.4	1,631.5	804.8	2,436.4	192.5	168.7	15.7	6,325
U.S. Virgin Islands	17.3	46.7	22.9	69.6	6.9	8.2	0.8	298.7

Source: MACPAC analysis of CMS-64 financial management report net expenditure data as of July 2018, CMS regional office narrative reports for FY 2017; correspondence with CMS.

Notes: The §1108 cap refers to the annual ceilings for federal funds that territories receive under Section 1108(g) of the Social Security Act, while the actual federal spending reflects utilization of the additional allotments provided by the ACA, as well as a small amount of spending not subject to the cap. For CHIP, federal spending in excess of the federal allotment reflects instances where territories have received redistributed funds from unused CHIP allotments. American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands received these redistributed funds in FY 2017.

Date of Expected Federal Medicaid Funding Shortfall by Territory

Territory	Date range	Federal funding shortfall expected in FY 2020
American Samoa	April – July 2021	No
Guam	April – July 2020	Yes
Northern Mariana Islands	March 2019 – September 2020	Unclear
Puerto Rico	March 2020	Yes
U.S. Virgin Islands	April – July 2020	Yes

Source: MACPAC 2018 analysis of CMS-64 financial management report net expenditure data and CMS-37 projections of spending for FYs 2018-2020; CMS regional office narrative reports for FYs 2011-2018; correspondence with CMS and the Puerto Rico Health Insurance Administration.
Notes. FY is fiscal year. Funding shortfall date indicates the timeframe in which the territories will exhaust available federal funds. It should not be interpreted that sufficient funds will be available for the entirety of the timeframe. Territories may exhaust their available funds earlier or later in the period depending on actual spending and other specific circumstances.

Key Challenges in Each Territory

- American Samoa: more limited use of ACA funds than other territories
  - challenges raising non-federal share through certified public expenditures
  - unique structure of Medicaid program (presumed eligibility, claiming percentage)
- Guam: expected to have significant amounts of unspent ACA funds by expiration date
  - challenges raising non-federal share through general funds
  - expected funding shortfall in Quarter 3 FY 2020 (April to July)
- Northern Mariana Islands: may exhaust funds prior to expiration
  - uncertainty about FY 2019 and 2020 spending due to changes in projections; effects of Super Typhoon Yutu
  - uncertainty about exact amount of ACA funds used (awaiting final CMS determination)
  - possible federal funding shortfall as early as March 2019; possibility of no funding shortfall in FY 2020

Key Challenges in Each Territory (cont.)

- Puerto Rico: significant amounts of unspent BBA and ACA funds will expire
  - funding shortfall expected in March 2020
  - cannot contribute additional local share due to fiscal control board, lack of tax revenue, lack of access to capital markets
- U.S. Virgin Islands: possibility that significant amounts of unspent BBA and ACA funds will expire
  - funding shortfall expected quarter 3 FY 2020 (April to July)

Additional MACPAC Resources

- Issue brief: *When will territories exhaust federal funds?* 2019 (forthcoming).
- Fact sheet: *Medicaid and CHIP in the Territories* (accompanied by individual territory-specific fact sheets). 2018 (update forthcoming). https://www.macpac.gov/publication/medicaid-and-chip-in-the-territories/.
- October 2018 MACPAC meeting presentation: *Mandated report: Medicaid in Puerto Rico*. 2018. https://www.macpac.gov/publication/mandated-report-medicaid-in-puerto-rico/.
- Slide deck: *Medicaid Financing and Spending in Puerto Rico.* 2017. https://www.macpac.gov/wp-content/uploads/2017/09/Medicaid-Financing-and-Spending-in-Puerto-Rico.pdf.
- Webpage: Medicaid 101. https://www.macpac.gov/medicaid-101/.
- Webpage: Financing. https://www.macpac.gov/topics/financing/.

Additional Resources

- Assistant Secretary for Planning and Evaluation (ASPE). U.S. Department of Health and Human Services. 2017a. *Evidence indicates a range of challenges for Puerto Rico health care system.* January 12, 2017. Washington, DC: ASPE. https://aspe.hhs.gov/system/files/pdf/255466/PuertoRico_Assessment.pdf.
- Hall, C., R. Rudowitz, and K. Gifford. 2019. *Medicaid in the Territories: Program features, challenges, and changes.* January 25, 2019. Washington, DC: Kaiser Family Foundation. https://www.kff.org/medicaid/issue-brief/medicaid-in-the-territories-program-features-challenges-and-changes/.
- Perreira, K., R. Peters, N. Lallemand, and S. Zuckerman. 2017. *Puerto Rico health care infrastructure assessment: Site visit report.* January, 2017. Washington, DC: The Urban Institute. https://www.urban.org/sites/default/files/publication/87011/2001050-puerto-rico-health-care-infratructure-assessment-site-visit-report_1.pdf.
- U.S. Government Accountability Office (GAO). 2016. *Medicaid and CHIP: Increased funding in U.S. territories merits improved program integrity efforts.* GAO-16-324. Washington, DC: GAO. http://www.gao.gov/assets/680/676438.pdf.
- U.S. Government Accountability Office (GAO). 2014. *Puerto Rico: Information on how statehood would potentially affect selected federal programs and revenue sources.* GAO-14-31. Washington, DC: GAO. https://www.gao.gov/assets/670/661334.pdf.

MACPAC

Medicaid & CHIP in the U.S. Territories

Medicaid and CHIP Payment and Access Commission

Kacey Buderi

This page left intentionally blank

List of Federal Partners

Principal Representatives of Federal Agencies			
First Name	**Last Name**	**Title**	**Office**
Donald	Benton	Director, Selective Service System	U.S. Selective Service System
David	Bukrholder	Deputy Director for International Affairs	Federal Aviation Administration
Richard	Button	Chief Coordination Division, Office of Search and Rescue	United States Coast Guard
Steve	Chalk	Deputy Assistant Secretary - Renewable Power and Energy Efficiency	Department of Energy
Shoshana	Chatfield	Regional Commander	Joint Region Marianas
Douglas	Fears	White House Homeland Security Adviser	National Security Council
Aurora	Fleming	Commander	United States Coast Guard
Gary	Grippo	Depurty Assistant Secretary	Department of the Treasury
Mark	Harvey	Director for Resilience for the NSC	National Security Council
Andrew	Horn	Acting Assistant Secretary - Office of International Affairs	Department of Energy
Gigi	Jones	State Director, Rural Development	Department of Agriculture
Robert	Kadlec	Assistant Secretary - Preparedness & Response (ASPR)	Department of Health and Human Services
Demetrious	Kouzoukas	Principal Deputy Administrator, Director - Center for Medicare	Department of Health and Human Services
David	Loines	Director, Office of Government Contracting	Small Business Administration
Robert	McMahon	Assistant Secretary of Defense for Sustainment	Department of Defense
Michael	Platt	Assistant Secretary - Legislative and Intergovernmental Affairs	Department of Commerce
Nikolao	Pula	Director, Office of Insular Affairs	Deoartment of the Interior
Lisa	Ramirez	Deputy Assistant Secretary - Office of Elementary and Secondary Education	Department of Education
Mary Brett	Rogers-Spring	Deputy Director for Division of Energy Transformation	Department of State
Michael	Stoker	Region IX Administrator	Environmental Protection Agency
David	Woll	Acting Assistant Secretary for Community Planning and Development	Department of Housing and Urban Development

This page left intentionally blank

Executive Order

Federal Register

Vol. 75, No. 74

Monday, April 19, 2010

Presidential Documents

Title 3—

The President

Executive Order 13537 of April 14, 2010

Interagency Group on Insular Areas

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Interagency Group on Insular Areas.*

(a) There is established, within the Department of the Interior for administrative purposes, the Interagency Group on Insular Areas (IGIA) to address policies concerning Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands (Insular Areas).

(b) The IGIA shall consist of:

(i) the heads of the executive departments, as defined in 5 U.S.C. 101;

(ii) the heads of such other executive agencies as the Co-Chairs of the IGIA may designate; and (iii) the Deputy Assistant to the President and Director of Intergovernmental Affairs.

(c) The Secretary of the Interior and the Deputy Assistant to the President and Director of Intergovernmental Affairs shall serve as Co-Chairs of the IGIA, convene and preside at its meetings, direct its work, and establish such subgroups of the IGIA as they deem appropriate, consisting exclusively of members of the IGIA.

(d) Members of the IGIA may designate a senior department or agency official who is a full-time officer or employee of the Federal Government to perform their IGIA functions.

Sec. 2. *Functions of the IGIA.* The IGIA shall:

(a) advise the President on establishment or implementation of policies concerning the Insular Areas;

(b) solicit information and advice concerning the Insular Areas from the Governors of, and other elected officials in, the Insular Areas (including through at least one meeting each year with any Governors of the Insular Areas who may wish to attend) in a manner that seeks their individual advice and does not involve collective judgment, or consensus advice or deliberation;

(c) solicit information and advice concerning the Insular Areas, as the IGIA determines appropriate, from representatives of entities or other individuals in a manner that seeks their individual advice and does not involve collective judgment, or consensus advice or deliberation;

(d) solicit information from executive departments or agencies for purposes of carrying out its mission; and

(e) at the request of the head of any executive department or agency who is a member of the IGIA, with the approval of the Co-Chairs, promptly review and provide advice on a policy or policy implementation action affecting the Insular Areas proposed by that department or agency.

Sec. 3. *Recommendations.* The IGIA shall:

(a) submit annually to the President a report containing recommendations regarding the establishment or implementation of policies concerning the Insular Areas; and

(b) provide to the President, from time to time, as appropriate, recommendations concerning proposed or existing Federal programs and policies affecting the Insular Areas.

Sec. 4. *General Provisions.*

(a) The heads of executive departments and agencies shall assist and provide information to the IGIA, consistent with applicable law, as may be necessary to carry out the functions of the IGIA. Each executive department and agency shall bear its own expenses of participating in the IGIA.

(b) Nothing in this order shall be construed to impair or otherwise affect:

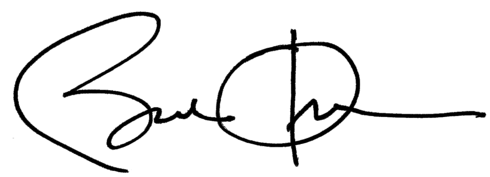
(i) authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order shall supersede Executive Order 13299 of May 8, 2003.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
April 14, 2010.

[FR Doc. 2010–9078
Filed 4–16–10; 8:45 am]
Billing code 3195–W0–P