

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

March 9, 2023

The Honorable Jesse Lujan
Senator, 37th Guam Legislature
259 Martyr Street
Suite 101A
Hagåtña, Guam 96910

**RE: Response to Letter Dated 3/7/2023, Relative to State of Emergency for Guam
Department of Education**

Håfa Adai Senator Lujan:

I am writing in response to your letter dated March 07 2023, requesting that I declare a state of emergency for the Guam Department of Education. I, too, am concerned about the state of our public schools. Prior to 1986, ultimate authority to establish, operate, and maintain public schools was delegated by the Organic Act to the governor of Guam. Now, that power rests with the Guam Legislature, which has established the public school system as an autonomous entity that is governed by the Guam Education Policy Board. While my authority over the Guam Department of Education is limited, the Lt. Governor and I are in close communication with GDOE and its leadership. We have offered our support and have been working with GDOE to overcome its challenges through a whole of government approach.

It is a common misconception that emergency procurements are only possible through an emergency declaration by the governor, when in fact they are available and regularly utilized by government agencies as needed, without intervention from the governor. Guam Procurement Law actually empowers the heads of agencies to certify an emergency to utilize emergency procurement measures. Another perhaps more pressing concern, is that while emergency procurements are intended to provide a more streamlined process for procuring necessary goods or services, it does not suspend these processes.

Guam Procurement Law requires that even emergency procurement be as competitive as is practicable under the circumstances. The emergency procurement process, outlined under 5 GCA § 5215, includes sending notices to contractors on qualified bidders lists who have provided responsive supplies or services to the government in the prior year, and the solicitation of three (3) positive written quotations or certification that such quotations could not be obtained. Ultimately, it still requires an award to the responsible contractor providing the lowest price and most expeditious delivery time. Perhaps most importantly, because construction projects to repair school facilities will likely be extensive and lengthy, they may trigger further statutory requirements for notices and public hearings to extend. These are requirements under Guam law,

and an emergency to address the safety of our schools, whether declared by me or certified by GDOE, will not suspend the application of these requirements.

Despite statutory hurdles to repairing our schools, I understand that the acting superintendent of GDOE is coordinating all available resources, engaging stakeholders, and diligently working to pursue procurements within the bounds set by the Guam Legislature. She is working under the Master Plan for facilities as approved by the Guam Education Policy Board. Though public schools are outside of my purview, Lt. Governor Tenorio and I stand with our superintendent and with our schools, and we intend to leverage all resources available to the Executive Branch in support of her efforts.

GDOE already has full authority under Guam law to pursue emergency procurements as necessary. While a declaration of emergency on my part will not open the door to additional avenues under Guam law that are not already available to GDOE, as always, I stand ready to assist in any way I can.

Senseramente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

cc: Therese Terlaje, Speaker, 37th Guam Legislature
All Senators, 37th Guam Legislature
Judith Won Pat, Acting Superintendent, GDOE