



**PROPOSED ECONOMIC DIVERSIFICATION  
INITIATIVES FOR GUAM  
BY THE GUAM CHAMBER OF COMMERCE**

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## INTRODUCTION

In March 2020 the Coronavirus Pandemic altered reality as we knew it. COVID-19's unfortunate arrival on our shores paved the way to the demise of several Guam businesses and temporarily shuttered the establishments of a great number of private companies impacting the livelihood of over 35,000 workers and thousands of businesses. The Government of Guam's coffers will undoubtedly be impacted by the shutdown of private businesses and an out of work workforce.

For years, the Guam Chamber of Commerce has recognized that industry diversification is vital to sustaining our local and regional economies in the Marianas and in Micronesia. With Tourism and Federal Government investment as the main economic drivers for Guam, any regional nuance or catastrophic event will impact the island's fragile tourism economy in a heartbeat. As fruitful as tourism has been for Guam and our neighboring islands, the fragility of the industry has tested Guam and the Region's business community over the years through natural disasters and global crises. The magnitude of the current global pandemic on tourism has forced us to fully examine initiatives to support our economy in spite of the current challenges. The uncertainties of this situation have clearly and painfully demonstrated to us how vulnerable our current economic model is and how imperative it is that we develop and sustain new industries that will capitalize on our existing strengths and encourage our workforce to seek higher skillsets.

The Chamber convened several business professionals from its membership to explore and discuss economic opportunities in the short and long term. Over the course of several weeks, the Chamber's Think Tank conducted research and held discussions with various industry experts and government entities on the feasibility of exploring these initiatives for Guam. This paper reports on the Guam Chamber's efforts in exploring the following undertakings for Guam:

- Alternative Dispute Resolution (ADR)
- Guam Captive Insurance
- Guam Trust Incentives Act Program
- Relocation of High Wealth Businesses/Individuals from Asia
- Pharmaceutical Manufacturing Relocation
- Construction & Labor
- Ship Repair Industry
- Safe Haven Port
- Silicon Village Initiative
- Satellite Launching Industry

The objectives of this paper are to:

- Identify potential new industries or ideas;
- Identify and address any barriers;
- Provide a suggested action plan for the implementation of each idea of industry; and,
- Demonstrate the benefit of each industry to our island.

## EXECUTIVE SUMMARY

The Guam Chamber of Commerce, in keeping with its vision of *“Being the catalyst for sustainable economic growth that improves the quality of life in Guam”*, has embarked on the mission to identify industries and ideas that can help with Guam’s economic recovery as the island works to rebound from the COVID-19 pandemic.

Guam’s main economic drivers are Tourism and Federal Government investment, with much of the federal dollars coming from the Department of Defense related to the realignment of U.S. Marine Forces to Guam. Guam’s Tourism Industry generates nearly \$3 billion annually and represents sixty percent (60%) of Guam’s annual business revenue. Tourism employs over 18,000 island residents or 31% of non-federal employment. The Department of Defense (DOD) continues to build Guam’s defense infrastructure capacity and will accelerate with preparation for the U.S. Marine Corps relocation among several national security programs slated for Guam. During the last decade, DOD construction contracts have totaled over \$2 billion and have averaged nearly \$240 million annually in the most recent years.

Guam is dependent on Tourism and the U.S. Military spending to power its economy and the current economic crisis COVID-19 has crippled our visitor industry. The Guam Visitors Bureau predicts 250,000 to 400,000 tourist arrivals in FY2021 compared to the 1.6 million tourist arrivals in FY2019. With the vast decrease in incoming tourists, many business closures have resulted due to the COVID-19 pandemic leaving thousands of residents unemployed for the unforeseeable future. The uncertainties of this situation have clearly demonstrated how vulnerable Guam’s current economic model is and how imperative it is that we develop and sustain new industries that will capitalize on our existing strengths and encourage our workforce to seek higher skillsets.

The Guam Chamber in collaboration with a diverse group of industry professionals and experts in their fields came together over the course of several weeks to provide thoughtful discourse on possible opportunities that would benefit our island. The group identified the following industries that would be a good fit for Guam because of the current accessible infrastructure available to support industry needs; Guam’s geographic location; and, our relationship with the United States as a safe and secure place to do business. These initiatives are set to support our economic base and can be seen below in the following categories: Short Term (90 days), Mid Term (180 days), and Long Term (500 days).

### SHORT TERM

#### 1. **Alternative Dispute Resolution (ADR):**

In our global economy, international commercial disputes have become increasingly prevalent. Bypassing traditional litigation engagement which tend to be lengthy and costly, corporations are now seeking alternative dispute resolution (ADR) to resolve disputes and preserve relationships. ADR refers to a wide range of practices that allow disputing parties to reach a confidential agreement without litigation. ADR has proven benefits over formal litigation practices: ADR is less costly and more time efficient, but also less restrictive in relation to determining the processes and rules that govern the proceeding.

There is a growing opportunity on Guam to invest in developing and promoting the island as an ideal venue for international ADR and eventually establishing an arbitral institution by partnering with an internationally recognized arbitral entity. Through this partnership, the island will be able to use

administrative resources and gain access to a larger network of arbitrators and mediators to grow the industry.

Required Actions:

- Government of Guam to contact the UNCITRAL Secretariat about P.L. 27- 81 as a first step in achieving global recognition.
- Guam Judiciary to designate a sitting judge to serve as the head of arbitration-related court proceedings.
- The Guam Economic Development Authority (GEDA) to continue promoting Guam as a venue of choice for arbitration and mediation.

## **2. Captive Insurance:**

A captive insurance company is a wholly owned subsidiary company that provides risk-mitigation services for its parent company or a group of related companies. A captive insurance company may form if the parent company cannot find an outside firm to insure them against particular business risks, if the premiums paid to the captive insurer creates tax savings; if the insurance provided is more affordable; or it offers better coverage for the parent company's risks.

In 1996, former Governor Carl T.C. Gutierrez signed into law Bill 23-299 which established the Captive Insurance Industry on Guam. Since its inception, 4 captives have been established compared to 25 captive insurance companies in the Federated States of Micronesia (FSM) and 238 in the state of Hawaii. By revisiting the fees and regulations associated with the current law we must compare them with other domiciles to develop a strategy that will successfully attract Captives to the island.

The Guam Chamber, through its membership and affiliations, can assist in marketing this initiative to potential foreign companies interested in establishing a Captive Insurance Company on Guam.

Required Actions:

- GEDA to revisit fees and regulations associated with the mandate to develop a more attractive cost compared to other domiciles.
- GEDA and Guam Chamber to develop marketing materials and promote to potential foreign companies.

## **3. Guam Trust Law:**

Just as with the Captive Insurance Industry, Guam's laws have established the mechanism for the creation and regulation of trust companies on Guam. The law allows for "foreign" persons a place under U.S. law to secure the ownership of their assets. The income derived from the earnings of any Guam Trust asset are eligible to receive a 100% rebate from the Guam Economic Development Authority (GEDA).

The original concept for the law was to target "foreign" persons that lived in South East Asia. However, the definition of "foreign" person was broad enough to include U.S. Citizens that were not residents of Guam. The U.S. Treasury immediately ruled that Guam Trusts would be considered U.S. Domestic Trusts subjecting Trust earnings to U.S. Taxes, which effectively extinguished the program from existence.

Missing in this program was the original intent of the law which is to target only “non-U.S.” foreign persons. Many high net worth individuals in Asia work and own assets in locations where local ownership rules may threaten their ability to continue to own successful business enterprises and assets. The advantage for Guam is introducing itself to high net worth foreign investors to not only establish a trust company on Guam but to invest in Guam as well. Immediately, Guam would receive the interest free use of their tax payments for six months.

The Guam Trust Law is even more relevant today than it was when it was first established in 1999. Guam needs to take a proactive stance in marketing the Guam Trust Law to high wealth individuals in Asia. In recent discussions with GEDA, the organization is extremely interested in revitalizing the program and developing a marketing strategy to promote the Guam Trust program.

Required Action:

- Work with GEDA to pursue a robust marketing strategy for high wealth foreign individuals

## MID TERM

### 4. **Construction and Labor:**

The Government of Guam has roughly \$750 million in infrastructure projects approved for funding which have remained stagnant primarily due to the labor shortage on island. There are three solutions to the current labor shortage:

1. In coordination with Guam Community College and GCA Trades Academy, there is opportunity to retrain the local unemployed workforce that have been laid off due to the COVID-19 pandemic.
2. In coordination with U.S. recruiting agencies, there is opportunity to attract an affordable workforce from the U.S.
3. The initiative to extend H-2B workers on Guam from military realignment to much needed civilian projects.

Required Actions:

- Identify potential alternate labor sources (interested local workforce currently unemployed / U.S. workforce through a recruiting company) and connect with local contractors.
- Push project workload out to local contractors for execution.

### 5. **Ship Repair:**

Guam plays a strategic role in the defense of the United States which is driving the increasing development on Guam. Throughout this ongoing pandemic, heavy restrictions have been implemented on American travel in countries that previously allowed U.S. Military vessels to pull into foreign ports. This restriction offers an opportunity for Guam to capitalize on the influx of U.S. military vessels pulling into Guam’s port by demonstrating capabilities on afloat repairs and maintenance for the vessels because of our “Safe Haven” designation.

Required Action:

- Identify upcoming military vessels routine maintenance schedule in the region.
- Market Guam’s capabilities for providing maintenance and repair for military vessels to contracting officers.

### 6. **Safe Haven Port:**

Guam proved its ability to be a safe haven port with the crew of the U.S.S. Theodore Roosevelt (CVN-71), which has resulted in very positive media and U.S. Federal Government attention for the

island. The impact of the quarantine measures implemented for each military personnel, sustained the employment of many of our residents and provided much needed business for supporting services.

The Guam Chamber's Armed Forces Committee (AFC) has advocated for ship visits since its inception in 1998. These visits not only boost Guam's economy, the visits are an important factor in the health and well-being of each visiting military personnel. In the AFC annual visits to the Pentagon and Capitol Hill in Washington DC, the topic of continued presence and activity of allied ships and assets is recognized as crucial to the mission and important for business. The AFC's continued advocacy of Guam as a safe and welcoming destination has been well received by the DoD and is echoed by the positive feedback of its sailors, airmen and corpsman and has earned Guam's designation as a favored port call.

The Coronavirus health crises has restricted ports of call for all military ships worldwide. Because of Guam's low risk and high safety protocols in place, Guam has been designated a "Safe Haven" port. Guam's public and private sectors should continue to work collaboratively with Joint Region Marianas and U.S. Indo-Pacific Command to support future visits, especially as the island remains closed to tourism.

## LONG TERM

### 7. **Relocation of high wealth individuals & businesses from Asia:**

Businesses operating in Guam have a distinct advantage over other region locations because of Guam's U.S. dollar-based economy, U.S. judicial system, U.S. banking regulations, and proximity to regional economic hubs. Additionally, Guam is home to state-of-the-art communications, and growing business infrastructure.

With China's recent enactment of the National Security Law, which has caused national unrest and instability in the Territory and the United States' revoking of the US-HK special economic status as well as the ending of Controlled Defense Exports to Hong Kong, there is good reason for American businesses in HK to look at Guam as a potential place to relocate offices and potentially whole subsidiaries.

Guam has an opportunity to showcase itself as USA in Asia, with the stability and the security of the American Flag. Additionally, doing business from Guam makes doing business with Asia more advantageous as the time zones are just a few hours apart and travel time to most major cities in Asia is convenient. The Chamber seeks opportunities to relocate Hong Kong's capital, assets, and business operations to Guam as a haven from that city's political uncertainty. These potential industries would include financial services and technology. The Chamber is also exploring incentives to entice individuals and businesses from the industrialized countries of Taiwan and South Korea to expand on Guam.

#### Required Actions:

- Introduce and promote Guam as a business hub "America in Asia".
- Highlight the strength of the Guam EB-5 program, which offers attractive tax incentives compared with other states of the U.S.

- Work with local government entities including the Guam Economic Development Authority and the Guam Visitors Bureau to review local laws and policies that are prohibitive to starting a business on Guam.

#### **8. Pharmaceutical manufacturing relocation to USA territories:**

U.S. Senators drafted a bill to incentivize pharmaceutical companies and increase U.S. drug manufacturing. The Bring Entrepreneurial Advancements to Consumers Here in North America (BEAT CHINA) Act's goal is to reduce the country's over-dependence on China for critical medications and increase U.S. manufacturing of prescription drugs. The pharmaceutical industry in Puerto Rico, a U.S. Island territory in the Caribbean, has become the most prominent industry. It generates over 18,000 jobs, pays more than \$3 billion USD in taxes, comprises about half of total exports, and has generated more than 25% of the island's GDP for the past four decades. Guam, having similar tax incentives as Puerto Rico, would be able to attract pharmaceutical companies to establish manufacturing operations on island.

The current pandemic has created significant concerns about the international supply chain for face masks, pharmaceuticals, and other critical medical supplies. There has been a staggering 75% rise in U.S. imports of pharmaceuticals from China between 2010 to 2018. This concern has renewed interest for tax incentives to lure manufacturers back to the U.S. According to a recent Bloomberg report, lobbyists and advocates see the next pandemic relief package as a potential vehicle for the new tax benefits for pharmaceutical and medical manufacturing companies.

Incentivizing pharmaceutical manufacturers, along with medical device and supply manufacturers would mean significant tax breaks to spur relocation to the United States, including U.S. Territories. The last two decades have witnessed a massive shift in our manufacturing overseas. While this has minimized costs, it has also meant jeopardizing our supply chains, losing American jobs, and created dependency on the competitor. Guam has similar tax incentives as Puerto Rico and should be able to attract some light pharmaceutical manufacturing by providing various tax and economic incentives to Asian companies. The economic multiplier impact for Guam could be relatively significant both directly and indirectly.

Required Actions:

- Promote Guam as an ideal location for pharmaceutical companies to conduct production and packaging to export drugs to the continental U.S.
- Seek opportunities from pharmaceutical companies from Japan, South Korea, the Philippines, Taiwan, etc.

#### **9. Silicon Village Initiative:**

Due to Guam's location as the United States' westernmost territory with close proximity to Asia, as well as an abundance of global subsea internet cable connections, we are in an ideal environment to attract Technology-related companies to establish a presence. Creating new opportunities for digital connectivity through the region will help create new jobs and additional economic activity benefitting our island community.

The Silicon Village initiative was started in 2016 by the Chamber to explore the possibility of adding a third pillar to Guam's economy: Information Technology. This initiative is divided into two main

objectives: grow and develop local talent to build a skilled workforce to support the industry and explore opportunities and develop demand for tech investment into Guam.

Required Actions:

- Invest in local labor force to support the IT-focused economic driver.
- Workforce development in technology field education both at the high school and post-secondary level.
- Promote the Guam Chamber and Guam Community College's "Partners in Excellence" program.

#### **10. Satellite Launching:**

While Virgin Orbit announced in April 2019 that Guam was chosen as one of its newest launch sites, the reality is that there is so much opportunity for growth. With the increasing demand for high speed mobile communication networks, high definition TV conversion, remote sensing, and so much more in technology, the global market for satellite launching continues to emerge. It has been reported that due to a number of factors including the ongoing Coronavirus pandemic, the industry has been sluggish but expects to ramp up in 2021. Because of Guam's proximity to the equator, the island has become an attractive launch destination, thus a focus on developing a marketing campaign to attract more players to the island should be provided some serious consideration.

Required Actions:

- Work with the Department of Public Works and other Government of Guam entities on current regulations that are prohibitive in the hauling, transport and warehousing of satellite launching equipment and assets.
- Develop a marketing and incentives program with the Guam Economic Development Authority to attract companies in the satellite launch industry to consider Guam as a future launch site.

This report concludes that each of the initiatives is worthwhile and has merits worth exploring for the positive growth of our island and the Region. The groundwork has been set to forge ahead in setting the infrastructure for long term prospects as outlined in this report. While Guam's tourism industry recovery is slated to take up to two years, it is imperative for our island to act swiftly on these initiatives as other countries in Asia and Oceania are also exploring ways to diversify their own economies during this time of economic vulnerabilities associated with COVID-19.

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## **ALTERNATIVE DISPUTE RESOLUTION (ADR):**

### **INTRODUCTION**

In our global economy, international commercial disputes have become increasingly prevalent. Traditionally, corporations would engage in litigation to resolve their disputes. However, these legal proceedings have proven to create an unnecessary strain for both parties to navigate, as they can be lengthy and costly to finalize with the possibility of permanently severing relationships. This has created a growing trend in the usage of alternative dispute resolution (ADR) with more commercial contracts including provisions that require ADR before litigation can be sought.

Alternative dispute resolution refers to a wide range of practices that allow disputing parties to reach a confidential agreement without litigation. ADR is not only less costly and more time efficient, but also less restrictive in relation to determining the processes and rules that govern the proceeding. The two most common methods of ADR are mediation and arbitration. In mediation, parties meet with a mediator who serves as only a facilitator for the negotiation process. The mediator does not have the power to impose a judgement on the case. Therefore, mediation is a non-binding process, and no conclusion is reached until both parties are satisfied and agree to sign a mediation settlement agreement. In contrast, arbitration is a slightly more formal process where both parties present their arguments and evidence to an arbitrator who then decides on an award for the dispute. The arbitrator's award can be binding or non-binding contingent on what the parties agree to beforehand.

Today, many organizations, referred to as arbitral institutions, provide administrative support for international ADR proceedings. The five most preferred arbitral institutions worldwide are the International Chamber of Commerce (ICC), London Court of International Arbitration (LCIA), Arbitration Institute of the Stockholm Chamber of Commerce (SCC), Singapore International Arbitration Centre (SIAC), and the Hong Kong International Arbitration Centre (HKIAC).

With the ongoing political unrest between Hong Kong and mainland China, international corporations that conduct their alternative dispute resolutions in Hong Kong may be inclined to find other countries nearby with more stable and democratic institutions for these proceedings. In addition, ASEAN countries have been experiencing rapid economic growth and a shift away from manufacturing in China which will likely result in an increase in cross-border commercial disputes. For these reasons, there exists a growing opportunity to invest in developing and promoting Guam as an ideal venue for international alternative dispute resolution.

This report will focus on delineating the requisite first steps to develop and sustain a thriving ADR industry on Guam by analyzing Guam's strengths and weaknesses and studying the factors other countries have attributed their success to in this endeavor.

### **UNCITRAL OBJECTIVES**

Founded in 1966 as a subsidiary body of the General Assembly of the United Nations, UNCITRAL aims to address the disparities in national laws on international trade. Regarding ADR, the Commission has created legislative and non-legislative texts to propagate modernization and harmonization. Legislative texts are divided into 3 categories: model laws, conventions, and legislative guides. UNCITRAL states that model laws are a suggested pattern for lawmakers in national governments to consider adopting as part of their domestic legislation, while conventions are a binding instrument under international law on States and other entities with treaty-making capacity that choose to become a party to that instrument. On the other hand, non-legislative texts are categorized as either contractual or explanatory texts, which are used by parties to international trade contracts. In an effort to establish Guam as a potential venue to hold international arbitral proceedings, the 27th Guam Legislature passed Bill No. 172, which was signed into law by Governor

Felix Camacho on May 6, 2004 as Public Law 27-81. Other parties involved in supporting the enactment of this legislation were the Guam Judiciary and the Guam Bar Association. Chapter 42-A of P.L. 27-81, known as the Guam International Arbitration Chapter, is based on the UNCITRAL Model Law on International Commercial Arbitration. However, UNCITRAL adopted amendments and new additions to the Model Law in 2006, 2 years after the enactment of P.L. 27-81. For this reason, it is recommended that these revisions are identified by Guam lawmakers and the necessary changes be made to P.L. 27-81 to improve Guam's position relative to international standards. Comprehensive information can be found on UNCITRAL's website at the following link:

[https://uncitral.un.org/en/texts/arbitration/modellaw/commercial\\_arbitration](https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration)

Furthermore, the UNCITRAL documents on its website different States that have enacted domestic legislation based on the Model Law. However, Guam is currently not included on this list, which can be found at the following link:

[https://uncitral.un.org/en/texts/arbitration/modellaw/commercial\\_arbitration/status](https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration/status)

This may affect the credibility of Guam in its marketing efforts, since UNCITRAL cannot attest to P.L. 27-81's accordance with the Model Law. Inclusion on the UNCITRAL's list only requires the UNCITRAL Secretariat to be informed of Guam's domestic legislation. It is recommended that the Government of Guam contact the UNCITRAL Secretariat about P.L. 27-81 as a first step in achieving global recognition.

Below is the contact information of the UNCITRAL Secretariat:

UNCITRAL Secretariat

Vienna International Centre

P.O. Box 500  
A-1400 Vienna, Austria  
Telephone: 43-(1) 26060-4060 or 4061  
Fax: 43-(1) 26060-5813  
Email: [uncitral@un.org](mailto:uncitral@un.org)

## THE GUAM JUDICIARY'S RESPONSIBILITIES IN P.L. 27-81

In P.L. 27-81, the Superior and Supreme Court of Guam were tasked with specific responsibilities in relation to establishing the legal infrastructure for arbitral proceedings.

Section 42302 of the Guam International Arbitration Chapter states that the Superior Court of Guam must assume the appointment of an arbitrator if the parties fail to do so. It is crucial that the Superior Court of Guam has a strategy in place for this scenario by either maintaining a list of qualified and ready arbitrators or establishing a partnership with an arbitral institution. It is unclear from online research on the Guam Judiciary's website whether this has been accomplished. The failure of parties to appoint an arbitrator is a rare case. However, no strategy in place by the time the Superior Court of Guam must practice this responsibility will be detrimental to Guam's reputation in the international arbitration community, since it will result in delays and added costs for both disputing parties. It is recommended to contact the Superior Court of Guam to confirm the status of its strategy to appoint arbitrators.

Section 42309 states that the Supreme Court of Guam must adopt ethical and training standards for all neutral arbitrators and mediators. The Local Rules of the Superior Court of Guam reveals the adoption of the 2005 Model Standards of Conduct for Mediators as the standards of conduct for mediators in Guam. However, no ethical and training standards for arbitrators were found on the Guam Judiciary's website. It is recommended to contact the

Supreme Court of Guam to confirm the adoption of ethical and training standards for arbitrators. If no standards exist, the adoption of the American Arbitration Association's Code of Ethics for Commercial Arbitrators is an option worth considering.

#### APPOINTMENT OF SUPERIOR COURT JUDGE TO HEAD OF ARBITRATION-RELATED PROCEEDINGS

For the development of Guam's international ADR industry, the Guam Judiciary's continued involvement and support are required to create the most conducive legal environment. It is recommended that the Guam Judiciary designates a sitting judge to serve as the head of arbitration-related court proceedings. This judge will ensure that the Guam courts retain a consistent, pro-arbitration stance. With all arbitration-related litigation directed to a single judge, he or she will be able to better identify and propose changes that can improve the neutrality, operational efficiency, deployment of resources, and effectiveness of the Guam courts. According to the 2018 International Arbitration Survey by Queen Mary University of London and White & Case LLP, users' perception of a country's formal legal infrastructure is one of the primary determinants in choosing a given country as the seat of arbitration. The appointment of a specialist judge will be a tangible step in actively improving Guam's formal legal infrastructure. Hong Kong employs a similar strategy with the Honourable Justice Mimmie Chan as the official in charge of its Construction and Arbitration List of the Court of First Instance.

#### IMPROVE GEDA'S ONLINE PROMOTIONAL EFFORTS ON ADR

The Guam Economic Development Authority (GEDA) has continued to promote Guam as a venue of choice for arbitration and mediation in the "Legal Advantages" and "Investment Opportunities" sections under the "Business in Guam" tab of its website. Although these resources provide adequate information on P.L. 27-81, more information should be included on the merits of Guam's court system, specifically its track record in enforcing agreements and arbitral awards as well as evidence that supports the neutrality and impartiality of the local legal system.

Listed below are different arbitration-related court proceedings from the Guam Compiler of Laws' website found using the word "arbitration" in the search function:

\*medical malpractice arbitration cases are not included

- 2019 Guam 4 (Supreme Court Opinion on Dresser-Rand Company v. Guam Industrial Services, Inc. dba Guam Shipyard)
  - Conclusion: Supreme Court of Guam affirms the Superior Court of Guam's Decision and Order denying Shipyard's Motion to Vacate a Domesticated Judgment
- Hargopal S Sachdev v. Amarjit S. Sachdev, Pichet, Paul's (Guam) Inc, CV0626-11
  - Conclusion: The Court AFFIRMS the Referee's Decision and Recommendation on Plaintiff's Order to Show Cause and adopts the findings and conclusions contained therein. Thus, the Court finds the Defendants in contempt for willfully failing to comply with the terms of the Judgment.
- Rong Chang Co. v. M2P, Inc., CV1450-08
  - Conclusion: The Court finds that the parties have agreed that there are no viable claims against Becco, Guam, Inc., and arbitration between Plaintiff Rong Chang and Defendant M2P is required by the disputed contract in this case and 7 GCA 5 42202. Based upon the foregoing, the motion to dismiss all claims against Becco, Guam, Inc., and stay the case pending arbitration is GRANTED.
  - Conclusion: The Court DENIES the Plaintiffs Motion for Reconsideration and Motion to Set Aside Judgment on the basis that the Court was not required to hold a hearing on the untimely and improperly filed Motion to Vacate Arbitrator's Award, and therefore, the motions fail to set forth a valid basis for "reconsideration" under Rule 60(b)(6).
- Guam Yooshin Corp. v. Lee, CV1986-10

- Conclusion: Defendant's Motion to Stay the Proceedings Pending Arbitration is hereby GRANTED.
- Oxford Properties & Finance Ltd. v. Lee, CV1049-16
  - Conclusion: The Court hereby GRANTS Defendants' Motion to Stay Litigation Pending Mediation and Arbitration
- AB Won Pat Int'l Airport Auth v. DFS Guam, CV0371-16, CV0595-16, SP0128-16
  - Conclusion: The Court DENIES GIAA's Motion to Vacate Arbitration Award. Accordingly, pursuant to 7 GCA § 42A702, the Court GRANTS DFS's Application for Order to Confirm Arbitration Award, and CONFIRMS the Tribunal's Final Award
- Reyes v. Guam Education Policy Board and Guam Public School System for the Government of Guam, SP0160-08
  - Conclusion: Petitioner motion to confirm arbitration award is granted. Based upon the amount of economic damages proposed in Petitioner's memoranda presented to it the court is unable to find that the arbitrators exceeded their authority.
- Melwani & Pacific Tri Star INC. v. Arnold dba Pacific Superior Enterprises Corp., SP0057-07
  - Conclusion: The court denies Defendant's motions for relief from judgment (that confirmed the arbitrator's award).
- Perez and Perez, Perez v. Abraham; Nilasoni Landscape, INC.; Chung Kuo Insurance Company, LTD., and Does 1-10, Inclusive, CV0928-05
  - Conclusion: Defendant Chung Kuo Insurance Co., Ltd.'s Motion to Stay Pending Arbitration is hereby GRANTED.
- Asia Pacific Hotel Guam, Inc. v. Dongbu Insurance Co., CV0194-06, CV0303-06
  - Conclusion: Asia Pacific's motion to vacate the arbitration award is hereby DENIED. Further, Dongbu's motion to confirm the award is hereby GRANTED.
- 2015 Guam 3 (Supreme Court Opinion on Asia Pacific Hotel Guam, Inc. v. Dongbu Insurance Co.)
  - Conclusion: The Court affirms the trial court's denial of Asia Pacific's motion to vacate the arbitration award
- 2011 Guam 18 (Supreme Court Opinion on Asia Pacific Hotel Guam, Inc. v. Dongbu Insurance Co.)
  - Conclusion: Pursuant to the provisions of the GIAC, the trial court erred in confirming the arbitrators' award, as the award was impermissibly indefinite or non-final under the standards of 7 GCA 42701(b)(4). Accordingly, the judgment of the trial court is REVERSED and the matter is REMANDED to the Arbitration Panel for further proceedings consistent with this opinion.
- Kim v. Kim et al., CV0710-11
  - Conclusion: Movants' request that the Court enter an order denying the portion of Defendants Jeong's pleading entitled Demand for Arbitration was denied.
- Marianas Properties v. Estate of Lujan et al., SP0019-11
  - Conclusion: The court DENIES Defendant's motion to dismiss and find Marianas Property did not impliedly waive their right to arbitrate
  - Conclusion: The court grants Plaintiffs motion to remove Douglas B. Moylan as the Estate's arbitrator.
- Guam YTK Corp. v. Port Authority of Guam, CV1170-12
  - Conclusion: The Court DENIES the Defendant's Motion to Vacate Arbitration Award and GRANTS the Plaintiffs Motion to Confirm Arbitration Award.
- 2014 Guam 7 (Supreme Court Opinion on Guam YTK Corp. v. Port Authority of Guam)
  - Conclusion: The Court finds that the Arbitration Agreement is valid and enforceable and that arbitration is not barred by sovereign immunity and the Government Claims Act.
- Reaction Co. v. Sofintek Inc., SP0078-15
  - Conclusion: The Court hereby GRANTS Petitioner's motion to confirm the arbitration award rendered on June 3, 2015.
- IMCO General Construction v. DCK Pacific Guam LLC et al., CV1168-15
  - Conclusion: The Court GRANTS Defendant DCK's Motion to Stay Pending Arbitration, and further GRANTS Defendant DCK's Motion to Stay Cross Complaint Pending Arbitration.
- Association of Apartment Owners of Guam Yamanoi Condominium v. Guam Yamanoi Inc., CV0097-16
  - Conclusion: The Court finds the arbitration clause of the HPR valid, but chooses to grant the Plaintiff's Motion for Summary Judgment
- Melwani v. Arnold, CVA08-001 (consolidated with CVA09-007)

- Conclusion: The decisions of the trial court confirming the arbitrator's award and denying Arnold Rule 60(b) relief are hereby AFFIRMED.
- 1997 Guam 08 (Supreme Court Opinion on Sumitomo Construction Co., Ltd. v. Zhong Ye, Inc.)
  - Conclusion: The Judgment of the Superior Court confirming the arbitration award is AFFIRMED.
- 2005 Guam 18 (Supreme Court Opinion on Fletcher Pacific Constr. Co. v. Sherwood Ltd.)
  - Conclusion: The Superior Court's confirmation award did not include the cost of the defective EIFS. We agree and therefore, AFFIRM the decision of the trial court.
- 2004 Guam 22 (Supreme Court Opinion on Pacific Superior v. Melwani)
  - Conclusion: We hold that the trial court erred in its interpretation of the June 10, 1994 contract between the parties, and for this reason, we REVERSE. Relatedly, we hold that the issue of whether a party waived its right to enforce arbitration is a determination which must be made by the arbitrator.
- 2003 Guam 2 (Supreme Court Opinion on Brown v. Dillingham Const.)
  - Conclusion: We find that both the arbitration clause and the contractual limitation period clause are applicable to Circle A's negligence and breach of contract claims for relief because the claims "arise from," "relate to," or are "based on" the Subcontract.

## PARTNER WITH AN INTERNATIONALLY RECOGNIZED ARBITRAL INSTITUTION TO REATTEMPT THE ESTABLISHMENT OF GIMAC

The most formidable challenge for Guam to develop an international ADR industry is the establishment of a sustainable on island arbitral institution. After the enactment of P.L. 27-81, private stakeholders in Guam's legal community worked with the Judicial Arbitration and Mediation Services (JAMS) to realize this goal. Their concept was called the Guam International Mediation and Arbitration Center (GIMAC). The venture was ultimately unsuccessful due to site and budget issues as well as a loss of momentum and interest. Today, the only arbitral institution on island is the Pacific Arbitration & Mediation Services, Inc. (PAMS). PAMS works mainly in servicing ADR proceedings in Guam and its neighboring islands. It does not market itself to the international arbitration community.

Due to the lack of professional expertise in ADR on Guam, seeking a partnership with an internationally recognized arbitral institution may be the most effective strategy in reattempting the establishment of an on island arbitral institution. The partnership will be instrumental in providing resources for administrative support and access to a larger network of arbitrators and mediators. Since the case for Guam as a seat for international ADR proceedings has become stronger due to the situation in Hong Kong, JAMS may have more incentive to support the establishment of GIMAC if stakeholders on Guam were to initiate the conversation and process. The American Arbitration Association is another organization that should be approached for this partnership.

**International Alternative Dispute Resolution  
Estimated Economic Impact**

<u>Per Year</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>ADR CENTER</u>
Est. Total Pax	76	99	114	129	152	300
Est. Total Arbitration costs	\$982,480	\$1,277,224	\$1,473,720	\$1,670,216	\$1,964,960	\$7,368,600
# of Cases	10	13	15	17	20	75
Total spend per pax/case	\$6,183.00	\$6,183.00	\$6,183.00	\$6,183.00	\$6,183.00	\$6,183.00
<u>Per Trip</u>						
Est. Total Pax	8	10	11	13	15	30
Est. Arbitration costs	\$327,493.33	\$425,741.33	\$491,240.00	\$556,738.67	\$654,986.67	\$2,456,200.00
Est Spend per pax/trip (Business)	\$2,061.00	\$2,061.00	\$2,061.00	\$2,061.00	\$2,061.00	\$2,061.00
<u>Economic Impact</u>						
Total Visitor Spend	\$469,908	\$612,117	\$704,862	\$797,607	\$939,816	\$1,854,900
Total Gov't Revenue	\$59,959	\$78,105	\$89,939	\$101,773	\$119,919	\$236,628
Est. jobs Supported	20	27	31	35	41	128
Direct Economic Impact	\$1,512,347	\$1,967,446	\$2,268,521	\$2,569,596	\$3,024,695	\$9,460,128
<b>Total Economic Impact</b>	<b>\$2,495,373</b>	<b>\$3,246,286</b>	<b>\$3,743,060</b>	<b>\$4,239,834</b>	<b>\$4,990,747</b>	<b>\$15,609,211</b>

*Economic Impact Assumptions*

*Total Economic impact assumes a multiplier effect of 1.65 One case lasting an average of 11 months on average  
Average 10 - 15 active cases per year in play with the following visitor mix 40% - 6 pax; 40% - 8 pax; 20% - 10 pax  
Average 3 visits and 5 night stay at \$240 per night 3 years to build up to 15 cases  
5 years to reach 20 cases ongoing Average costs per case = \$98,248*

*Average Spend per business Visitor = (\$1,145 + 80%)*

*Govt Revenue contribution business visitors = (175.28 +50%)*

## CAPTIVE INSURANCE

A captive insurance company is a wholly owned subsidiary company that provides risk-mitigation services for its parent company or a group of related companies. A captive insurance company may form if the parent company cannot find an outside firm to insure them against particular business risks, if the premiums paid to the captive insurer creates tax savings, or if the insurance provided is more affordable or offers better coverage for the parent company's risks. A captive insurance company is a form of corporate "self-insurance." There are complex compliance issues to consider when operating a Captive Insurance Company. As a result, larger corporations predominantly establish these entities.

The Advantages of a Captive Insurance Company Include:

- Availability of coverage — The captive can be utilized in resolving market cycles and providing a continuity of coverage for a price the insured is prepared to pay.
- Access to reinsurance markets — The captive can have direct access to the reinsurance markets around the world. This can help to lower the program costs.
- Insurance program flexibility — A captive can tailor its own insurance policy for the coverage the parent requires.
- Cost Reduction — A captive can reduce the overall cost of an insurance program by retaining the premium for the expected losses thereby avoiding the premium loading for a commercial insurer's overhead and profit.
- Improved cash flow — The captive has control of its premium flow. It can be held to pay future losses and invested. This income can be used to offset the cost of running the captive.

In 1996 Carl T.C. Gutierrez, then Governor of Guam, signed into law Bill 23-299 which established the Captive Insurance industry on Guam. In his transmittal letter to the Speaker of the Legislature, he wrote:

"This legislation offers significant tax neutrality in the form of Guam Economic Development Authority Qualifying Certificates in order to increase, also significantly, the insurance business on Guam, specifically underwriters. This legislation does not affect existing service entities in the insurance industry, nor does it change Guam's insurance laws, however this legislation will encourage new underwriters to do business here. It is designed to obtain for Guam the same type of business presently enjoyed in other locations, such as the Cayman Islands and Bermuda in the Caribbean, which enjoy record-breaking growth in the development of insurance business and other financial business, such as banking. This legislation is designed to enable Guam to position itself as a location for Asian companies to enter the captive insurance industry, just as North American and European companies now are able to enter the captive insurance industry in various locations in the Caribbean. Since captive insurance is a new opportunity in the Asian region, Guam is uniquely situated to be the Asian region's insurance center. This will be a new business for Guam; to diversify Guam's economy which is now concentrated on the visitor industry."

Despite this vision, twenty-four (24) years later, the Captive Insurance Industry is virtually non-existent. Since its inception, 4 captives have been established. Meanwhile, our neighbors in the FSM have 25 captive insurance companies and the State of Hawaii has 238!

One of the barriers to developing this industry on island is related to the abatement of Gross Receipts Tax. This has been a source of contention with the legislature and in some cases the administration. However, it needs to be pointed out that we currently have little to no revenue from this industry. Companies that choose to domicile in other countries and states result in Guam not getting any taxes. Therefore, this is not a loss to the Government of Guam. The purpose of the abatement is to encourage their development.

When a Captive is created on island, it is the residual benefit from the services that are paid for to support the company that should be focused on. An example of this is auditing services, tax preparation, office rental, captive insurance management services, etc. Further, Captive companies are required to hold board meetings. Generally, the directors are from off-island and will need to travel to Guam. They will secure a hotel room, visit our restaurants, and shop in our retail establishments. These are taxed and support jobs

in our economy. As in the case of FSM, they have found that these directors often bring their families which mean more revenue for businesses on island that pay taxes. Providing the tax incentive to a Captive Insurance is the government's investment in the industry which in turn creates revenue from the other businesses that are needed to support it. The more Captive Companies developed on Guam, the more revenue is received by the Government for the support services needed by the company. Other industries on island also benefit such as airlines, hotels, and retail establishments.

Initially, the law provided tax incentives for captive insurance companies to domicile on Guam. Specifically, in 22 GCA, Chapter 23, Captive Insurance Companies, § 23113 Tax on Premiums Collected: "No taxes on qualified captive insurers. Each captive insurance company to which is issued a Special Qualifying Certificate pursuant to the provisions of Chapter 58, Title 12, Guam Code Annotated, shall pay no taxes to the government of Guam on its premium or other insurance income except ad valorem taxes on real and personal property used in the production of income, and to the extent that it is first required to pay its Guam income tax liability thereon before the same is rebated in full,"

However, through legislative and administrative revisions to the program, Guam as a domicile became illogical. In addition to the implementation of Gross Receipts Tax on these companies, the application and annual fees made it more costly to establish one on Guam. The cost comparison below illustrates the disparity. It would cost a company \$30k to \$50k more to domicile on Guam just in the first year of start-up. In addition to this, if any taxes were to be abated through the issuance of a qualifying certificate, it would only be granted for a 3-year period. Thereafter, they would need to reapply for this benefit. This simply would not be appealing to anyone who was considering Guam against other domiciles that have clear rules on the liability the captive has throughout it's existence. Further to this issue, the difficulty of applying for and obtaining a license as well as a qualifying certificate is an added burden. On Guam, the company would first need to apply through the Department of Revenue and Taxation for an Insurance License. Once the license is issued, the company would then need to submit a similar application and go through another process with the Guam Economic Development Authority to obtain the Qualifying Certificate.

### Cost Comparison between Domiciles

	Guam	FSM	HAWAII
<b>Start up/Annual Fees</b>			
Application Fee	200	500	1,000
License/Incorporation/Registration	51	500	95
Annual Licensing Fee	2,500	500	315
Review Fee	3,500		
Qualifying Certificate	750		
QC Annual Srveyance Fee	1,000		
<b>Total</b>	<b>8,001</b>	<b>1,500</b>	<b>1,410</b>
<b>Taxation</b>			
Premium Tax/GRT	5% all in	5% - max \$20k	.25 - max \$200k
Corporate Tax		21%-30%	21% flat rate
Annual Premium	2,000,000	2,000,000	2,000,000
Premium/GRT	100,000	20,000	
Corporate Tax		103,311	103,311
GEDA Additional Tax	50,000		
<b>Total Tax Paid</b>	<b>150,000</b>	<b>123,311</b>	<b>103,311</b>
<b>TOTAL COST</b>	<b>158,001</b>	<b>124,811</b>	<b>104,721</b>
**note: - Premium in Hawaii is exempt from tax if annual contribution is less than \$2.2 million.			
Max taxation on income is \$200k annually			

The Guam Chamber of Commerce made recommendations to the Guam Economic Development Authority to revisit the fees and regulations associated with the mandate; and compare them with other domiciles to develop a program that will successfully attract Captives to the island. On July 23, 2020, the Board of Directors of the Guam Economic Development Authority convened and passed a resolution which GEDA Management is now in the process of implementing. The passage of Resolution 20-12 rescinds Resolution 20-06. Resolution 20-06 limited the term of the captive QC to three years and eliminated the BPT benefit.

By rescinding this resolution, the Board of GEDA is now open to longer term captives as well as extending full BPT benefits subject to a Public Investment negotiated by the Board of Directors, currently at a rate of 5%.

This effectively allowed the Captive Insurance costs to be more favorable than the neighboring domiciles:

	Guam	FSM	HAWAII
<b>Start up/Annual Fees</b>			
Application Fee	200	500	1,000
License/Incorporation/Registration	51	500	95
Annual Licensing Fee	2,500	500	315
Review Fee			
Qualifying Certificate			
QC Annual Srveyance Fee			
<b>Total</b>	<b>2,751</b>	<b>1,500</b>	<b>1,410</b>
<b>Taxation</b>			
Premium Tax/GRT	5% all in	5% - max \$20k	.25 - max \$200k
Corporate Tax		21%-30%	21% flat rate
Annual Premium	2,000,000	2,000,000	2,000,000
Premium/GRT		20,000	
Corporate Tax		103,311	103,311
GEDA Additional Tax	100,000		
<b>Total Tax Paid</b>	<b>100,000</b>	<b>123,311</b>	<b>103,311</b>
<b>TOTAL COST</b>	<b>102,751</b>	<b>124,811</b>	<b>104,721</b>

### Cost Comparison based on Revised Program

This is just the first step to making the development of this industry successful. There still exists the administrative burden of establishing the Captive Company on Guam. Specifically, after obtaining approval from the Insurance Commissioner and the Guam Department of Revenue and Taxation, the captive company would then need to formally apply to GEDA for the qualifying certificate. The Qualifying Certificate Program is “subject to all rules under 22 GCA §23113, 12 GCA Chapter 58 and in particular §58127.5 which includes an application process, review by the Guam Economic Development Authority team to determine the extent to which the QC will benefit Guam, and subsequent evaluations for approval by the Board of Directors and ultimately, the Governor of Guam.” GEDA has advised that they are intent on supporting this industry. However, it must be noted that the administrative burden of going through this process is a deterrent to companies interested in domiciling on Guam. In other jurisdictions, once the Captive is granted the Business Insurance License, they automatically qualify for the benefits prescribed by law. Only on Guam is the 2-step process required. The Guam Chamber of Commerce recommends the review and approval process be a dual effort by both DRT and GEDA. Further, that the benefits afforded to the captive not be subject to administrative changes but be a standard that can attract and retain them here on Guam.

Once the financial and administrative deterrents are removed, the Guam Chamber of Commerce encourages GEDA to develop marketing materials to be used to entice companies to domicile on Guam. The Chamber, through its membership and affiliations, can assist in marketing this to potential foreign companies interested in establishing a Captive Insurance Company.

Marketing should be targeted to industries and countries that already have corporations who have captives domiciled elsewhere - such as Japan. Clearly there exists a market for this which is evidenced by FSM’s concentration on the country. On their Captive Insurance Website, it indicates “FSM is a relatively new captive insurance domicile. Our aim is to become the premier Japanese Captive domicile in the next few years. Our captive legislation and regulation are enacted and promulgated with the view to offer the best yet safe and sound regime to assist and attract Japanese captives.” In the 2019 Annual Report to the President, the insurance board reported that Captive Insurance companies generated \$600 million in insurance premiums collected, with only \$16 million ceded.

Hawaii Captives have a vast range of companies. A breakdown on their Captive Insurance Fact Sheet illustrates that the Construction/Real Estate industry, followed by Telecommunications & Manufacturing are the largest segment.

**Captive Owners by Industry Groups**

Construction / Real Estate	68
Health Care	30
Telecommunications & Manufacturing	49
Retail & Other Services	29
Financial Services	32
Transportation / Energy	<u>30</u>
Total at 6/30/2020	<u><u>238</u></u>

Source: Hawaii Captive Insurance Fact Sheet

With respect to their composition of U.S. vs. Foreign Captives, 83% (197) are based in the United States; whilst 17% are foreign companies specifically identified as being from the Asia/Pacific Region. This is where the opportunity lies for Guam. Our Close proximity to Asia makes the island an ideal location as they can easily travel to the Guam to fulfill any business requirements.

**Captive Owners by Location**

U.S.	Western	151
	Eastern	24
	Central	<u>22</u>
	Total U.S.	197
Non-U.S.	Asia / Pacific	<u>41</u>
	Total at 6/30/2020	<u><u>238</u></u>

Source: Hawaii Captive Insurance Fact Sheet

Captive Insurance Companies in Hawaii have been a significant source of revenue for their economy. In a release from the Department of Commerce and Consumer Affairs, it reported that “In 2016, Hawaii’s captive insurers wrote more than \$6.22 billion in premium volume, invested nearly \$1.05 billion in assets through Hawaii financial institutions and generated approximately \$23 million in economic benefits to Hawaii through various taxes and fees, professional services, annual conferences and visitor industry business. Hawaii was ranked third in the U.S. based upon total premium, fourth in the U.S. for largest captive domiciles and eleventh in the world based on total number of active captive licenses.”

The success of both the FSM and Hawaii in the Captive Insurance industry serves as a model for Guam. It is imperative that we address the administrative, financial, and bureaucratic barriers to developing this industry so that the island can benefit from the potential revenue that can be generated.

**RELOCATION OF HIGH WEALTH INDIVIDUALS & BUSINESSES FROM ASIA**

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Section 1: EXECUTIVE SUMMARY

Hong Kong has enjoyed worldwide appeal for commerce, offering uniquely available benefits. These include a regional financial and logistics hub for expansion across Asia in a stable, highly efficient, business-friendly cosmopolitan city. It has rebounded from crisis after crisis, but China's controversial new security law looks to impact all areas of the Hong Kong economy. This political crisis sets the stage for an opportunity where Guam might benefit.

The COVID-19 pandemic has disrupted the global economy, and it has shut down the tourism industry on Guam. The once effervescent tourism economic engine has come to a halt affecting nearly a third of its workforce and half of its income-producing assets.

Based on the latest statistics released by the Hong Kong Census and Statistics Department in February 2020, the net outflow of Hong Kong residents was 29,200 in 2019, the highest level since 2012. While the tension between Hong Kong and mainland China becomes increasingly intense in recent years, a growing number of residents in Hong Kong are actively considering emigration.

Relocating to Guam will be ideal. Businesses operating in Guam have a distinct advantage over other region locations because of Guam's US dollar-based economy, US judicial system, US banking regulations, and proximity to economic hubs region, state of the art communications, and founded business infrastructure. Guam needs to overcome the barriers of lack of awareness of the benefits of investment

and business operations. It also needs to present a streamlined system of setting up and operating in a business climate with a quality workforce, general economic health, and a reasonable cost of doing business.

## Section 2: INTRODUCTION

The Guam Chamber of Commerce (GCOC) recognizes that Guam's economy is dependent on tourism and military spending, and Guam needs other industries to augment its two economic pillars. Guam needs a collective group of industries to become a balanced leg of a three-legged economy.

The GCOC wants to attract businesses and individuals looking to invest and, perhaps, conduct operations on US soil in the proximity of Asia. A look at the most recent political unrest in Hong Kong and what Beijing is doing to restrict civil rights and liberties would cause fear, uncertainty, and doubt from all who reside in Hong Kong. All neighboring countries remain cautious because China may take the same pernicious approach to the entire Indo-Pacific region.

The GCOC seeks opportunities to relocate Hong Kong's capital, assets, and business operations to Guam as a haven from that city's political uncertainty. GCOC is also exploring incentives to entice individuals and businesses from the industrialized countries of Taiwan and South Korea to expand on Guam.

This white paper will focus on the opportunities from Hong Kong, ranging from high household income individuals, small and medium-size business owners, and US-based companies who may want to relocate to Guam.

## Section 3: GUAM'S BACKGROUND

**Tourism.** Tourism is Guam's single largest industry, generating nearly \$3 billion annually and representing sixty percent (60%) of Guam's annual business revenue. Tourism employs over 18,000 island residents or 31% of non-federal employment. The impact of tourism and its accompanying tax dollars is of paramount importance to the island's economy.

**Military.** The US military fuels a large part of Guam's economy. The Department of Defense (DOD) continues to build Guam's defense infrastructure capacity and will accelerate with preparation for the Marine Corps relocation from Okinawa, Japan. During the last decade, DOD construction contracts have totaled over \$2 billion and have averaged nearly \$240 million annually for the most recent years. In 2016, the House Armed Services Committee (HASC) passed the fiscal year 2017 National Defense Authorization Act (NDAA), which appropriated \$253 million for Guam's military construction.

## Section 4: GUAM'S CURRENT SITUATION

Guam is dependent on tourism and military spending to drive its economy. The current economic crisis COVID-19 caused has crippled Guam's visitor industry with almost zero economic activity in the 2<sup>nd</sup> and perhaps even into the 4<sup>th</sup> quarter of 2020. Financial experts and tourism officials project a two-year recovery period. The Guam Visitors Bureau predicts 250,000 to 400,000 arrivals in the fiscal year 2021, compared to 1.6 million visitor arrivals in FY2019.

Business closures associated with the Coronavirus pandemic have left thousands of its residents unemployed for the unforeseeable future. Of eighty-five Guam Visitors Bureau members surveyed, 82% lost revenue, and 61% did not pay employees.

Through federal programs pumping more than \$1.6 billion in financial aid into the island, the economy has been able to remain somewhat afloat by consumer and government spending. Federal funding started with US President Donald Trump's declaration of the COVID-19 pandemic as a National Emergency, the passage of the Paycheck Protection Program, Health Care Enhancement Act, Coronavirus Aid, Relief, and Economic Security (CARES) Act, Families First Coronavirus Response Act, and other programs. Congress and the Administration are deliberating more stimulus and relief programs at the time of this writing. These current federal and local government programs are temporary and will soon expire, leaving thousands of residents without supplemental or replacement income.

## Section 5: HONG KONG TRIGGERS

### **Political uncertainty**

On June 30, 2020, Beijing imposed The Hong Kong national security law, officially the Law of the People's Republic of China, on Safeguarding National Security in the Hong Kong Special Administrative Region. The four egregious offenses in the law — separatism, subversion, terrorism, and collusion with foreign countries — are ambiguously-worded and give the authorities extensive power to target activists who criticize the government.

Under the security law, however, Beijing has given itself wide latitude to interfere in Hong Kong's legal affairs, insulated from scrutiny by local courts and lawmakers. The law enables the government to impose harsh penalties for vaguely defined crimes. The controversial policy has also garnered particular attention to its Article 38, which states that it applies to every individual, including expatriates from outside and not from Hong Kong.

### **China is less reliant on Hong Kong.**

While China still has extensive capital controls and often intervenes in its financial markets and banking system, Hong Kong is one of the world's most open economies and one of the biggest markets for equity and debt financing. The size of Hong Kong's economy may only be equivalent to 2.7% of mainland China's now, down from 18.4% in 1997 when it reverted to Chinese rule, but the territory punches above its weight due to its world-class financial and legal systems.

China uses Hong Kong's currency, equity, and debt markets to attract foreign funds, while international companies use Hong Kong as a launchpad to expand into mainland China. The bulk of foreign direct investment (FDI) in China continues to channel through the city.

It is difficult to predict how financial markets and capital flows will respond to ongoing political changes in Hong Kong in the long run. Investors will not abandon Hong Kong in the short term, as they are preoccupied with COVID-19. The critical takeaway still is that Beijing is willing to pay the economic cost of this political battle.

### **US companies wait and see**

Many American and western companies are still trying to digest the impact on their business from the new national security law and the US changes in trade policy towards Hong Kong. In an American Chamber of

Commerce survey among its members, it measured a quick pulse of the members' responses to recent developments. Fifty-three percent of the members were very concerned about Hong Kong's national security law. Many members understand the need for a national security law, but at the same time, they are worried about the overall business environment with fair legal, financial, and judicial systems.

Some members are not concerned about the national security law since they view Hong Kong as a safe place. Most adopt a "wait and see" attitude, and 70% of responding members have no plans to relocate their businesses.

Those organizations with higher risks in the new environment, such as journalism, publishing, specific tech companies, and other intellectual and digital businesses, will look to move from this new environment. However, they are gravitating towards other significant metropolitan locations like Singapore, Seoul, and Bangkok. For example, the New York Times announced they were moving their digital news operations to Seoul, South Korea.

## Section 6: BENEFITS OF A US TERRITORY

Businesses operating in Guam have a distinct advantage over other region locations because of its protection under the US flag, Guam's US dollar-based economy, US judicial system, US banking regulations, proximity to economic hubs in the region, state-of-the-art telecommunications, and established business infrastructure. Guam's status as a duty-free port enables tariff- and quota-free entry of materials if imported for manufacturing finished products on the island. Additionally, the trade benefits offered by Headnote 3(a) of the Tariff Schedules of the United States (TSUS) and the Generalized System of Preferences (GSP) give products made in Guam an advantage over those of the more industrialized neighboring countries for entry to the United States.

Through the Guam Economic Development Authority (GEDA), the Government of Guam is authorized by law to allow tax rebates to qualified investors. GEDA grants Qualifying Certificates for tax incentives based on investment commitment and the potential to create new employment and expand the base of the island's industry. These incentives are aimed primarily at manufacturers, commercial fishing companies, agriculture, aquaculture, mariculture, and tourism development entities.

## Section 7: GUAM BARRIERS

### **Lack of awareness about Guam as a business locale**

There is little awareness in Hong Kong about business opportunities in Guam. When conducting a Google search for doing business in Guam, there is scant information using keywords such as "business in Guam," "start-up opportunity in Guam," "why invest in Guam."

Guam's search results are related to the tourism industry, Guam's strategic importance as a US military point of presence in the Asia Pacific Region, and travel & hospitality sites about vacationing in Guam. This lack of awareness is one barrier to overcome if Guam builds its reputation as a desirable business location in the Asia Pacific region.

One of the main objectives of this endeavor will be to increase the awareness of Guam as a business and investment opportunity and a haven for individuals and businesses looking to relocate from Hong Kong.

The communication message should position Guam's greatest asset is a US territory, and the rule of law is the basis of all of its safety and security principles.

### **Global taxation on resident aliens**

In general, the controlling principle is that tax levies for resident aliens are the same as US citizens' worldwide income. According to special rules in certain parts of the Internal Revenue Code, the US government levies Nonresident aliens' taxes according to special rules.

All U.S. citizens or resident aliens living outside the United States earning worldwide income are subject to US income tax, regardless of where they live. However, taxpayers may qualify for specific foreign earned income exclusions and foreign income tax credits to avoid double taxation. The global taxation requirement may cause hesitation with relocation candidates, but they should confer with their tax consultants.

### **Guam must be conducive to doing business**

Starting a business on Guam on paper sounds simple and straight forward. Several websites, including the Guam Department of Revenue and Tax website, outline all processing, forms, and office visits to start a business on Guam.

However, the reality is the process is slow, lethargic, rife with different interpretations, lack of qualified resources, and often delayed by permit authorizing agencies infrequent meetings. Some government agency boards are unable to conduct official business due to the absence of a quorum. Bureaucracy and the administrative rules and regulations cause many of the problems associated with GovGuam's permitting process. Some of the issues are also associated with the general lack of proper information or knowledge about the whole permitting process among public members.

Some Government of Guam officials recognize these impediments and are open to formulating solutions. A five-member task force was set up in February 2019 to review ways the business of doing business with the Government of Guam could be improved. Guam needs to dramatically cut the red tape and develop policies for business licenses, permits, workforce development, and more if it intends to compete globally.

## Section 8: TARGET MARKET SEGMENTS

According to Hong Kong's statistics and census department, some 29,200 residents left Hong Kong last year amid months of social unrest. It was the highest number of departures since 2012, according to Caixin Global and Bloomberg. In the past month, ads promoting emigration and international real estate investments have flooded Hong Kong users' social media platforms, like Facebook, Instagram, and YouTube. As authorities use the law to crack down on the pro-democracy movement, these sentiments are likely to grow. Skilled, educated, and business owners are the desired targets to attract émigrés to Guam.

US Congressional members also recognize the potential benefits of welcoming Hong Kong residents to relocate to the United States. Representative Tom Malinkowski (NJ-D), along with Representative Adam Kinzinger (IL-R), introduced HR 7428, "The Hong Kong People's Freedom and Choice Act," bipartisan legislation to protect Hong Kong residents facing prosecution under the Chinese government's national security legislation.

"The Hong Kong People's Freedom and Choice Act" would:

- Ensure that the United States government continues to treat Hong Kong residents as distinct from mainland China—despite the elimination of some autonomy for trade purposes
- Provide expedited admission for Hong Kong's high-skill community – including those with graduate degrees and those owning businesses with more than 50 employees.
- Expedite residency for Hong Kong residents who have fled to or found refuge in the United States.

The resulting intellectual and capital flight from China will be significant. But the United States is in a position to offer a helping hand, and it should seize the opportunity. If the GCOC could direct that flight to Guam, even in part, the economic benefits could be enormous. Many Hong Kong residents will wish to remain in the region. Relocating to Guam will be ideal. New residents with new skills and new entrepreneurial ideas can create an upward spiral of investment, opportunity, and tax-based growth.

## Section 9: PROPOSED SOLUTIONS

### **EB-5 Overview**

Congress created the EB-5 Program in 1990 to benefit the US economy by attracting investments from qualified foreign investors. Under the Program, each investor demonstrates it can create or save at least ten new jobs due to the EB-5 placement. The minimum must be \$1.8 million, or \$900,000 if the funds are invested in certain rural areas or have an average unemployment rate of at least 150% of the national average unemployment rate.

The Office of Rural Health Policy, a part of the Health Resources and Services Administration, of the United States Department of Health and Human Services considers all of Guam as rural using methods by prescribed by the Office of Management and Budget (OMB) and US Department of Agriculture (USDA).

According to the Tourism Satellite Account report for 2016, if visitors stopped coming to Guam and tourism-related jobs disappeared, Guam's employment rate would rise to 26.3% - up from 4.5% in 2016. The US national unemployment rate as of June 2020 was 11.1%, according to the Bureau of Labor Statistics (USDOL). Guam's unemployment rate may be as high as 236% of the national average unemployment rate and considered a targeted employment area (TEA).

### **New requirements for EB-5 will filter out small investments**

Under a new rule published by the US Department of Homeland Security, several changes to the EB-5 Immigrant Investor Program went into effect on November 21, 2019.

### **Increased minimum investments**

- The standard minimum investment amount has increased to \$1.8 million (from \$1 million) for inflation.
- The minimum investment in TEA has increased to \$900,000 (from \$500,000) to inflation.

### **Hong Kong is an early adopter of the EB-5 Program**

Hong Kong is one of the earliest EB-5 investor markets since the inception of the EB-5 Regional Center Program. In fact, between the US federal fiscal year (FY) 1992 and FY1999, Hong Kong was one of the top 10 largest EB-5 markets globally with the highest demands for EB-5 visas.

In FY2017 and FY2019 (Q1 and Q3), Hong Kong became one of the top 10 largest EB-5 markets in terms of the number of new EB-5 applications (Form I-526 filings). Between FY2000 and FY2019, nearly 700 qualified EB-5 investors from Hong Kong and their family members have received a legal permanent residency in the US by investing through the EB-5 Program. A total of 367 Hong Kong EB-5 investors and their families received their EB-5 green card in FY2018 and FY2019.

## Section 10: SHORT TERM AND LONG-TERM BENEFITS

### **Short term benefits**

Promoting Guam's proximity and US advantages to an Asian and international audience will present opportunities for businesses interested in economic development, financial investment, banking, relocation of regional offices, tourism, telecommunications, consumer goods, transportation, military provisioning, and other opportunities. The additional publicity will strengthen its reputation as a tourist visitor destination.

### **Long term benefits**

Since the inception of the EB-5 Regional Center Program, the estimated investors from Hong Kong had contributed more than \$160 million in EB-5 capital to support economic development and job creation in the US, based on the number of I-526 filings by Hong Kongese petitioners. The Invest in US organization estimated that the EB-5 market in Hong Kong generated at least \$21 million capital investment annually between FY2015 and FY2019.

Since the 2008 financial crisis, many municipalities, such as Guam, had limited access to capital and continue to face significant shortfalls. EB-5 investments have filled the funding gap, providing a new, vital source of money for local economic development projects that revitalize communities, create and support jobs, infrastructure, and services.

## Section 11: PROPOSED ACTION PLAN

### **Internal**

- Conduct a review of this white paper and achieve consensus on its guiding principles, overall goals, and desired objectives.
- Adopt a multi-prong strategy to overcome the following barriers:
  - Lack of awareness of Guam as a viable investment and business location in Asia
  - Develop a streamlined process for setting up a business on Guam
  - Improve the permitting process to accelerate the due diligence to approval
- Engage an in-country marketing/PR agency to formulate tactical plans, craft the relevant messaging, reach the desired market target with reach, frequency, impressions, and conversions.
- Prepare a community message to illustrate the potential benefits to Guam and avoid any unintended pushback from local businesses, political groups, or activists.

### **External**

- Seek support for US Congress to tweak HR 7428 to include Guam as part of the desired ideal relocation municipalities for emigres from Hong Kong.
- Designate to an oversight role to the Department of Commerce to supervise the adjudication of Guam's regional center, standardize methodology, and better monitor the program impact.

## Section 12: NEXT STEPS

The next phase of this endeavor will be to develop a marketing strategy and media plan to reach the targeted segments. The plan should include the right message relative to the audience and instill interest in considering Guam as a secure alternate solution for relocation.

Prepare a marketing brief with defined objectives: position, awareness, interest, desire, conversions, and call to action deliverables. Proffer the marketing brief to appropriate in-country agencies for proposals to achieve the objectives.

### **Suggested Objectives and Target Audience**

- To introduce Guam as a business hub, "America in Asia."
- To highlight the strength of the Guam EB-5 program, which offers attractive tax incentives compared with other states of the US.
- To build and sustain the awareness of Guam's positioning statement in Hong Kong.
- To drive and encourage the general public for the attraction of migration to Guam.
- To attract BNO passport holders and ex-pats living in Hong Kong to consider Guam as a destination for Investment migration (EB-5) and retirement.
- To raise awareness and connection through B2B (overseas investment migration agencies) and B2C audiences.

### **Proposed Brief for Marketing Agencies**

- Provide overall PR consultancy service and develop an overall publicity strategy for the launch of the Guam business hub program.
- Leverage monthly press releases to keep the public aware of Guam's position and its EB-5 Program updated.
- At the same time, draw the media's attention on the awareness of EB-5 status and other unique programs to promote investment, capital, business, and immigration to Guam and the United States.
- Provide ongoing media pitching with online and offline media and trade publications.
- Identify and coordinate with program partners/ media interview/ photo and video shooting opportunities (if applicable).
- Compile and dispatch monthly bilingual press releases.
- Deliverables include, but not limited to, local news/finance/lifestyle stories and in-depth interviews, provide advertising value equivalency, circulation, or other related items.
- Print/ Online media coverage monitoring.
- Social media monthly analytics to include reach, impressions, views, shares, and conversions.

## Proposed Marketing Strategy

<i>Marketing Objectives</i>	Raise Awareness	Drive Conversion	Sustain Engagement	Goal
<i>Communication Task</i>	<b>Introduce</b> the Guam EB-5 and business hub programs in HK.	<b>Promote</b> the upcoming introductory sessions in HK.  <b>Encourage the</b> target group to participate in the introductory sessions.	<b>Engage and communicate</b> with the audience by sustaining value-added contents	<b>Drive</b> impressive and credible Guam EB-5 program recognition  <b>Strengthen and further</b> motivate residents to join the investment immigration program
<i>Key Deliverables</i>	Website, social media marketing including SEM and FB marketing			
	Free press coverage pitching			
<i>Media support</i>	The social media campaign, e.g., FB feed and boosting			
	Media advertising and online introductory sessions			
	Google Ads – display, search, smart campaigns			

## Section 13: ACKNOWLEDGEMENTS

The GCOC formed an ad hoc committee dubbed the "Think Tank." Its mission is to formulate ideas that will generate new or additional business activity that will lessen the dependency of tourism and military spending to support Guam's economy.

A sub-committee considered a host of ideas to attract high wealth individuals and businesses from Hong Kong. The members of this committee are Ernie Galito (chair), George Chui, Benson Au-Yueng, George Lai, Jim Beighley, and Wally Dias.

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# PHARMACEUTICAL MANUFACTURING RELOCATION TO USA TERRITORIES

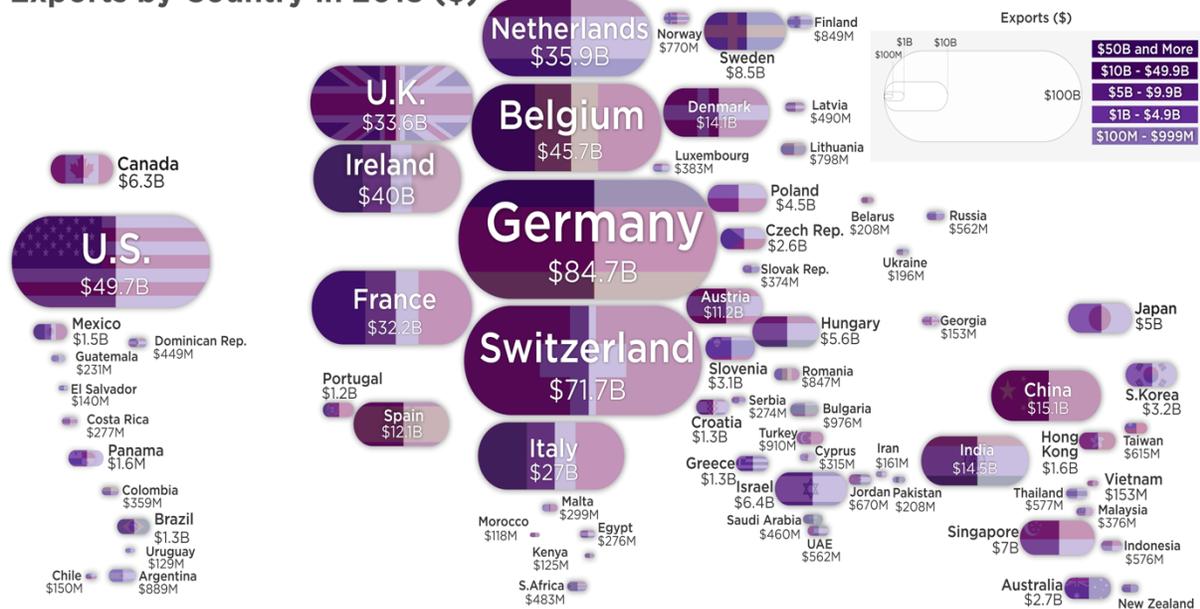
The global pharmaceutical market has experienced significant growth in recent years. As of end-2019, the total global pharmaceutical market was valued at about 1.25 trillion U.S. dollars (USD). The overall economic impact of the biopharmaceutical industry on the U.S. economy is substantial. The industry accounted for more than \$1.3 trillion USD in economic output, representing 4 percent of total U.S. output in 2015 alone.

As per the attached research, the global pharmaceutical industry will be worth 1.57 trillion USD by 2023. The growth in this market is predicted based on various factors such as market drivers, current and upcoming trends, current growth pattern, and market challenges. This forecast was developed prior to the COVID-19 pandemic event, which will exacerbate the growth of this industry as the demands for treatments, testing, and development of new vaccines continues.

North America is expected to retain its leading position in the global pharmaceuticals market with a share of 45.33% in 2023 marking increased improvement compared to 2017. Europe on the contrary is expected to see a decline in its market share compared to 2017 and be worth 20.24% of global pharma industry in 2023.

The Asia Pacific pharmaceuticals market is expected to retain its second position with a market share of 24.07% in 2023. Latin America, the Middle East, and Africa (MEA) are expected to retain 7.53% and 2.96% market share of the global pharmaceuticals market in 2023. The graph below shows the pharmaceutical global exports by country in USD as of 2018:

## Pharmaceutical Trade Around the World Exports by Country in 2018 (\$)



The pharmaceutical industry in Puerto Rico, a U.S. Island territory in the Caribbean, has become the most prominent industry. It generates over 18,000 jobs, pays more than \$3 billion USD in taxes, comprises about half of total exports, and has generated over 25% of the island's GDP for the past four decades.

The current pandemic has created significant concerns about the international supply chain for facemasks, pharmaceuticals, and other critical medical supplies. This concern has renewed interest for tax incentives to lure manufacturers back to the U.S. According to a recent Bloomberg report, lobbyists and advocates see the next pandemic relief package as a potential vehicle for the extra tax benefits for pharmaceutical and medical manufacturing companies.

According to a May 16, 2020 Forbes article; Puerto Rico was a dominant player in the manufacture of prescription drugs. The reason? Taxes. In 1976, the Democratic Congress passed, and President Ford signed the Tax Reform Act of 1976, which exempted corporate income generated in U.S. territories like Puerto Rico, Guam, and the U.S. Virgin Islands from taxation.

This policy, combined with Puerto Rican tax law, meant that corporate subsidiaries based in Puerto Rico enjoyed a zero percent corporate tax rate, so long as they distributed their profits as dividends.

Current advocates point to the benefit a tax incentive could have on the economy of Puerto Rico, already a U.S. hub for pharmaceuticals and medical supplies. Supporters also hope the carrot of a tax incentive would preempt a "Buy America" approach to discourage the purchase of medical equipment made overseas, which would be in line with previous trade policy set by the Trump administration.

Guam has similar tax incentives as Puerto Rico and should be able to attract some light pharmaceutical manufacturing by providing various tax and economic incentives to Asian companies.

#### Value proposition to lure pharmaceutical companies to Guam:

Countries around Guam currently export in excess of \$25 Billion USD in pharmaceuticals. Guam should be able to develop strategies to attract pharmaceutical companies from the countries listed below and foster this new industry:

- Japan
- Taiwan
- The Philippines
- Korea
- Singapore
- India
- China

The focus would be to lure Asian pharmaceutical companies to perform light manufacturing production and packaging on Guam and be able to export drugs into the continental United States. Below is a brief analysis of the potential target markets:

Japan exported approximately 41.7 billion yen to the U.S. of pharmaceuticals in 2018. South Korea was the second largest country for Japanese drug exports worth about 37.4 billion yen.

Philippines pharmaceutical companies have previously looked at Guam as a possible launching destination into the U.S. market for their generic production, with United Laboratories leading the search as recent as 2018.

Taiwan's pharmaceutical exports totaled \$681 million U.S. in 2018, which was \$61 million USD over 2015 with an increase of 10%, and medical devices exports grew 6% to \$118 million USD.

Singapore is one of the few countries in the world that exports more pharmaceuticals than it imports, according to Fitch Solutions. It has over 50 pharmaceutical manufacturing facilities, including plants owned by eight of the world's 10 biggest pharma firms.

Korean pharmaceutical market is valued around \$19.2 billion USD in 2018, which has been growing at a compound annual growth rate (CAGR) of 7.0% between 2015 and 2018. In the meantime, as K-pharm is actively making its way into the global market, the export volume has been increasing with a CAGR of 15%.

India reached over USD\$ 20.70 billion in 2019-20 in pharmaceuticals export, and it is expected to rank among the top three pharmaceutical markets in terms of incremental growth by 2020. India has one of the lowest manufacturing costs in the world. It is lower than that of USA and almost half of Europe.

The economic multiplier impact to Guam could be relatively significant, both in terms of direct and indirect impact. Reports show that the U.S. biopharmaceutical industry contributes substantially to national, state, and local economies by employing nearly 854,000 individuals in 2014. Indirectly, the biopharmaceutical industry supported more than 3.5 million jobs in the U.S. through the varied supply logistics, and provided additional economic effects stemming from support of related industries and worker spending. Overall, the U.S. biopharmaceutical industry directly and indirectly supported over 4.4 million U.S. jobs in 2014, leading to a significant industry employment multiplier of 5.21.

Another report on Switzerland Pharmaceutical Industry shows the multiplying effect to be 4.2 to the number of jobs full-time equivalents or FTEs. For every job in the pharmaceutical industry, additional FTEs are created in companies from other sectors that benefit indirectly from the production and research operations of the pharmaceutical industry. Besides the direct light manufacturing jobs, there is an indirect contribution to industries such as accounting, legal, real state, and supply chain logistic companies.

The Guam Economic and Development Authority (GEDA) should promote the economic development and tax incentives targeting Asian pharmaceuticals in a similar manner as Puerto Rico has done with U.S. and European companies. The next steps would include the development of economic incentives, and identification of specific countries and companies to target.

The Pharmaceutical Industry will continue to grow globally, especially in the Asia Pacific Area, and Guam can become the bridge to the U.S. market for Asian Companies.

#### Potential barriers:

While the industry continues growing at a rapid pace, it is highly susceptible to taxation, manufacturing cost, and product liability. Below are some potential barriers that could face the implementation of a successful pharmaceutical manufacturing industry on Guam:

- Increased Competition to lure large pharmaceutical manufactures by many jurisdictions
- Manufacturing cost
- U.S. taxation
- U.S. Product Liability Cost
- New U.S. regulatory environment to close loopholes from to foreign companies
- Counterfeit Drugs and Global Quality Control
- Transportation distribution logistics

- Human Resources with the required skill set for the industry

Also, the global pharmaceutical industry faces tax-threats from governments in the industrialized world as they establish policies to reduce the massive deficits that continue growing at a higher pace because of the economic cost impact of the COVID-19 pandemic. Countries will target many of the practices multinationals use to defer taxation or shift income to lower-tax jurisdictions. *See attached report from PWC.*

The competition to attract corporate capital will increase and emerging nations are playing a larger role in this battle as they try building a knowledge-based economy and provide larger incentives to industries such as Pharma.

Manufacturing cost will be a significant barrier as countries such as India, Thailand, and Vietnam have one of the lowest manufacturing pharmaceutical costs in the world. India's cost is lower than the USA and almost half of Europe's.

Philippine manufactures are challenged to enter the U.S. market due to their high counterfeit numbers and perceived poor-quality control policies. Reaching scale in a location such as Guam has been a critical barrier for many industries and companies. The pharmaceutical manufacturing industry highly depends on scale and sophisticated manufacturing technology.

#### Suggestions to mitigate barriers:

The made in America objective for drugs and medical equipment is a national security policy; and Guam is able to leverage such objective if the new tax incentive policies are implemented and allowed for the territories. Some also believe that with the economy still free-falling because of the COVID-19 pandemic; policymakers should look beyond bailouts for ways to jumpstart America's recovery. **Special economic zones (SEZs)**, which have different economic and trade regulations than the host state or county, can stimulate trade and attract new investment.

Guam, through incentives provided by GEDA, could jumpstart its economy by developing SEZs with special designation for the pharmaceutical industry. SEZs were first deployed during the Great Depression, when Congress created "foreign trade zones" to relieve exporters from tariffs imposed by the 1930 Smoot-Hawley Act.

Guam should pursue exceptions from taxation and possible wage relief from Congress through special designations of SEZs, as a mitigating factor to assist in its economic recovery. This could reduce the future dependency on federal subsidies, which seem to continue growing at a fast rate due to the pandemic. The taxation barrier can be mitigated through special Tax Qualifying Certificates offered through GEDA as a further incentive.

Another solution to the barriers would be to use the University of Guam as a vehicle to attract small and medium sized manufacturers to Guam and use the school for scientific research. The pharmaceutical industry has traditionally partnered with universities on research and development. **The University of Guam (UOG)** could play a large role in attracting small drug manufacturers to the island and leverage some of the federal grants and subsidies available for this field. UOG could use the special legislation as described below and combine it with an SEZ to enhance the potential to attract pharma to Guam.

The Bayh–Dole act, also known as the Patent and Trademark Law Amendment Act, changed the manner how pharma and universities collaborate. The US Congress passed the act to permit any university, small business, or non-profit institution to negotiate exclusive licenses for potential new therapeutic agents developed in their labs – even if the research was federally funded. The Act was passed with the intention of promoting research into cancer and other diseases by providing institutions and researchers with a commercial incentive, even though much of the work was publicly funded.

Special tax incentives could also be offered to attract scientists and biochemical engineers needed to support the highly skilled labor force for the industry and help remove the barrier for skilled labor.

The Philippines has been designated as a high counterfeit pharmaceutical country. Recently, Senate President Pro Tempore Ralph Recto said, “the country is being depicted as a hotspot for knockoff drugs” following a report from the United Nations Office on Drugs and Crime (UNODC).

Philippine companies can overcome this barrier by using the “Made on Guam” seal of approval to offset their label as drug counterfeiters, and gain entrance to the U.S. generic market. United laboratories and Generica are two companies that are pursuing entrance into the U.S. market.

#### Potential Economic Benefits to Guam:

Guam’s benefits will include the following:

- Creation of high paying jobs and corresponding taxes, as the industry is known for providing high compensation levels
- The collateral work for lawyers, accountants, and other professionals
- Warehousing and office rental
- Potential high paying jobs and shared of blockbuster discoveries for UOG
- Permits and licensing fees

#### Collateral Material:

Attached to this report are various studies on the pharmaceutical industry to include specific ones to the countries referenced in this report.

#### Conclusion:

Targeting large drug manufacturers is a difficult and almost impossible task; however, there are over \$20 billion USD exported by smaller drug manufacturing countries around our area to include Malaysia, South Korea, Indonesia, Thailand, Vietnam, and Singapore. The Philippines does not make it to the list of global exporters as their pharmaceutical industry is in its embryonic stages but growing at a rapid pace.

Guam’s objectives should seek mid to small companies from smaller and emerging manufacturing countries, which is a viable objective and may not require such deep incentives as the larger counterpart. While the industry is quite mature and advanced, there are opportunities as it continues expanding globally.

Guam visionaries embarked on creating a tourist industry for Guam in the early seventies, and it became the bedrock of our economy. The economic challenges that we will face due to the current and future legacy of COVID-19 will require us to look into every opportunity to attract new investment and economic activity to the island.

# CONSTRUCTION, LABOR and SHIP REPAIR



## Guam Bureau of Labor Statistics 2019 Employment Statistics

EMPLOYEES ON PAYROLL BY OWNERSHIP AND INDUSTRY	EMPLOYMENT BY SEX					PRODUCTION WORKERS, WAGES, HOURS AND EARNINGS <sup>1</sup>					
	March <sup>o</sup> 2018	June <sup>o</sup> 2018	September <sup>o</sup> 2018	December <sup>o</sup> 2018	March <sup>o</sup> 2019	March 2019 Male	Female	Production Workers	Average Hourly Earnings	Average Weekly Hours Paid	Average Weekly Earnings
<b>PRIVATE SECTOR</b>											
AGRICULTURE	320	310	330	360	360	320	40	270	\$10.68	41.7	\$445.55
CONSTRUCTION	5,800	5,750	6,020	6,500	6,760	6,150	610	4,590	16.64	41.3	687.89
General building contractors	4,210	4,150	4,370	4,520	4,850	4,410	440	3,370	16.45	41.3	679.44
Heavy construction, ex. building	290	280	310	340	340	320	20	260	18.85	47.2	889.27
Special trade contractors	1,300	1,320	1,340	1,640	1,570	1,420	150	960	14.85	32.4	480.77
MANUFACTURING	1,480	1,420	1,360	1,350	1,340	1,020	320	870	16.17	42.3	683.64
Food and kindred products	490	480	460	460	440	270	170	250	10.19	35.5	362.09
Printing and publishing	210	200	190	180	170	90	80	80	18.20	32.5	591.62
All other manufacturing	780	740	710	710	730	660	70	540	17.97	46.3	831.72
TRANSPORTATION & PUBLIC UTILITIES	4,590	4,530	4,470	4,400	4,370	2,570	1,800	3,650	19.08	38.9	742.65
WHOLESALE TRADE	2,250	2,290	2,330	2,300	2,300	1,500	800	1,810	12.04	38.3	461.91
RETAIL TRADE	12,770	12,680	12,930	13,320	12,920	5,860	7,060	11,220	11.58	34.2	395.58
FINANCE, INSURANCE & REAL ESTATE	2,550	2,550	2,530	2,540	2,530	830	1,700	1,540	14.55	38.7	562.57
SERVICES	19,440	19,100	19,130	19,180	19,340	10,050	9,290	17,010	13.17	36.5	502.33
Hotels and other lodging places	6,660	6,580	6,670	6,720	6,710	3,240	3,470	5,640	9.64	35.1	338.68
All other services	12,780	12,520	12,460	12,460	12,630	6,810	5,820	11,370	18.46	38.2	704.65
<b>TOTAL PRIVATE SECTOR</b>	<b>49,200</b>	<b>48,630</b>	<b>49,100</b>	<b>49,950</b>	<b>49,920</b>	<b>28,300</b>	<b>21,620</b>	<b>40,960</b>	<b>\$14.22</b>	<b>36.9</b>	<b>\$525.12</b>
<b>PUBLIC SECTOR</b>											
FEDERAL GOVERNMENT	3,860	3,840	3,760	3,810	3,780	2,240	1,540				
GOVERNMENT OF GUAM	11,820	10,760	11,360	11,350	11,520	5,220	6,300		\$25.65 <sup>2</sup>	39.9	\$1,024.71
Executive branch (Includes D.O.E.)	7,060	6,370	6,800	6,830	6,760						
All others including autonomous	4,760	4,390	4,560	4,520	4,760						
<b>TOTAL PUBLIC SECTOR</b>	<b>15,680</b>	<b>14,600</b>	<b>15,120</b>	<b>15,160</b>	<b>15,300</b>	<b>7,460</b>	<b>7,840</b>				
<b>TOTAL PAYROLL EMPLOYMENT</b>	<b>64,880</b>	<b>63,230</b>	<b>64,220</b>	<b>65,110</b>	<b>65,220</b>	<b>35,760</b>	<b>29,460</b>				

<sup>1</sup> Wages, Hours, and Earnings information is reported for production (nonsupervisory) workers only. Earnings are "gross", they reflect not only changes in basic hourly wage rates, but also such factors as premium pay for overtime work and shift differentials. Average weekly hours information is different from standard or scheduled hours because of such factors as absenteeism, labor turnover, part-time, overtime work, and stoppages. Due to the rounding of the Earnings and Hours Paid figures, their multiple may differ from the average weekly earnings rate shown.

<sup>2</sup> Government figures include all employees and are not directly comparable to private sector production worker estimates.

<sup>o</sup> Figures are preliminary    <sup>1</sup> Revised estimates    <sup>oo</sup> Updated preliminary figures

## COVID-19 EFFECT ON THE ECONOMY

- Tourism – 1.6 million incoming tourists from FY19 down to a projected 400,000 incoming tourists for FY20
  - Decrease in incoming flights
  - Decrease in hotel occupancy which leads to a loss in jobs for hotel personnel
  - Decrease in business for local restaurants (COVID-19 social distancing measures result in reduced hours and occupancy levels)
- Military – increase in U.S. Military presence
  - Avoiding foreign ports (Japan, Korea, etc.) and heading towards nearest U.S. bases (Guam)
- Unemployed workforce
  - An estimated 33,000 personnel have been furloughed from their respective companies.
  - Businesses have been forced to shut down due to the financial struggle of keeping their respective businesses afloat.
  - Most of the unemployed workforce are relying on federal financial assistance for basic necessities.

## BUSINESS OPPORTUNITIES

### **Construction:**

The Government of Guam has roughly \$750 million in infrastructure projects approved for funding which have remained stagnant. The Chamber recommends that these projects be outsourced to the private sector. With the number of island residents negatively impacted by the pandemic, this could potentially escalate into job opportunities and create more of a demand to train and up-skill our current workforce for new specialty positions.

### **Construction Labor Shortage:**

Contractors on Guam have a major barrier when it comes to providing adequate labor for construction projects. Most contractors must outsource labor to execute project deadlines. The COVID-19 pandemic has impacted all corners of the globe and the U.S. has seen the highest unemployment rates in history. Seeking support from workforce/manpower companies in the U.S. may solve local skilled labor workforce shortage issues on Guam. There has been a historical lack of interest from U.S. laborers to move to Guam for work due to a number of factors including pay, benefits, climate, distance from family and friends and cultural differences. The impacts of this pandemic may change the mindset of the skilled unemployed to consider a temporary contractual position on Guam.

### **Labor Solutions:**

1. Retraining the Local Workforce
  - The hotel industry on Guam approximately has 33,000 displaced workers. With the hotel industry at a decline, these workers are currently searching for alternative employment options.
  - The Guam Department of Labor (DOL) has available federal funding and grants to assist with re-training and individual stipends. The Guam DOL recently submitted a grant application for \$13 million under the Dislocated Workers Grant.
  - Guam Community College (GCC) and the Guam Trades Academy are qualified training sources to re-train the local workforce on island.
  - Hotel workers are strong supporters in fighting to increase minimum wage. Instead of increasing minimum wage, re-training that workforce to higher paid jobs in construction/transportation (which also are in HIGH demand) is beneficial and the minimum wage dispute lessens.
  - The current workforce on island will remain employed, which entails minimal decrease in the unemployment rate on Guam.

2. Attract the U.S. Workforce
  - o Market Guam as a possible location to the U.S. labor force; due to COVID-19, there has been a 300k decrease in construction related jobs in the States.
  - o Higher cost than foreign labor, however projects will be executed and completed optimizing workforce productivity.
  - o One of the biggest challenges contractors face is running a lean strategic staffing solution comprised of their core, full-time workforce. CORE+Flex allows contractors to complete projects more efficiently and protect their bottom line.
  - o Tradesmen International's capabilities with Core+Flex can be offered to local contractors on Guam to successfully execute project deadlines.
  
3. Contractor's H-2B Labor
  - o Congressman Mike San Nicolas' initiative to extend H-2B workers on Guam from military realignment to much needed civilian projects.
  - o The bill passed the House of Representatives and is currently in conference at the Senate level.
  - o Contractors will be able to outsource a cheaper labor option through H2-B workers from the Philippines and be able to bid competitive prices and also cut down on labor costs.

**Contractor Barriers:**

- o Business License processing delays impact cost to projects.
- o Permitting (ex. EPA) delays extend project time periods impacting Contractor utilization of available resources.
- o Stagnant projects / Funds not being utilized effectively

**Contractor Solutions:**

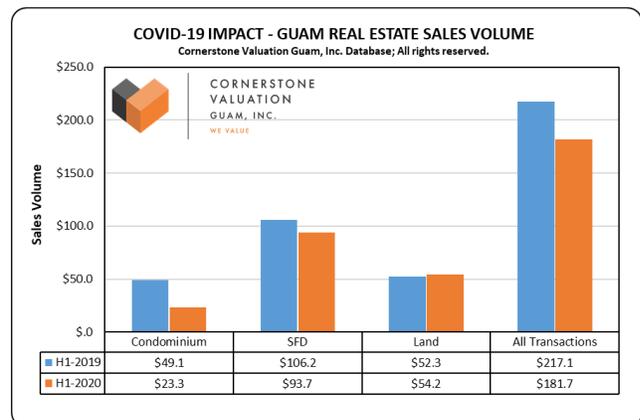
- o Creating an online portal to expedite Licensing renewals minimizing processing time.
- o Temporary lenient passage of EPA guidelines by the Government to enable contractors to expedite Environmental compliance.
- o Re-allocate current Government resources to support executing Procurement actions so Government construction contracts can be awarded. For example, Agencies whose workload have diminished due to COVID-19 related events can have personnel re-assigned to those agencies with funding to implement projects.

**Government Funded Projects:**

Agency	Projects	Amount
DPW	21	\$108,263,000
GPA	15	\$56,300,000
GWA	1	\$10,000,000
GIAA	21	\$210,825,961
PAG	17	\$8,427,770*
GEDA	3	\$8,816,499
DoD FY19	8	\$377,211,000
<b>TOTAL</b>	<b>86</b>	<b>\$771,416,460</b>

\*Amount for completed projects only

**Private Development Statistics:**



## SHIP REPAIR

Guam plays a strategic role in the defense of the United States which is driving the increasing development on Guam. Guam has become more relevant for the repair of U.S. vessels in this region. Guam is identified in the U.S. Department of Defense (DoD) 2019 Indo-Pacific Strategy Report as a “... a strategic hub supporting crucial operations and logistics for all U.S. forces operating in the Indo-Pacific region.” noting that “...in Guam we have some of the most significant ammunition and fuel storage capabilities in the Indo-Pacific.”

The DoD is modernizing its force posture in Guam, including the addition of a Marine Air-Ground Task Force (MAGTF) of up to 5,000 soldiers targeted for the mid-2020’s. Air Force and Navy assets will also be increased. This overall process is referred to as the “Guam Realignment” and entails some \$8.7 billion in investments in the region between the governments of the United States and Japan.

- Restriction on American Travel – there will be more activity on Guam relative to U.S. military vessels shifting towards Guam since the COVID-19 health crisis has restricted ports of call for all military vessels worldwide.
  - Since the peak of the COVID-19 pandemic hitting in March, Guam has seen an increase in military vessels arriving in port.
  - Naval Base Guam and local company Cabras Marine Corporation who provide docking and undocking services have prevailed with the prevalent increase in military vessel presence on Guam.

- In coordination with the AFC, Guam can approach the U.S. Navy to shift more afloat ship repair and maintenance work to Guam given that Guam is a capable, strategic, and reliable location.

- Past Performance for ship repair on Guam – Mid-Term Availability (MTA; every 15 months) and Voyage Repair Availability (VRA; quarterly);

VISITS	MONTH
36	JANUARY
36	FEBRUARY
69	MARCH
49	APRIL
57	MAY
67	JUNE
53	JULY
16	AUGUST
<b>383</b>	<b>TOTAL MILITARY VESSEL VISITS TO DATE (2020)</b>

YEAR	MTA		VRA	
	No. of Projects	Amount	No. of Projects	Amount
<b>2014</b>	1	\$6,013,199.86	6	\$3,791,771.56
<b>2015</b>	4	\$15,719,186.81	3	\$5,197,089.70
<b>2016</b>	4	\$10,994,248.43	3	\$10,095,042.15
<b>2017</b>	1	\$1,693,616.46	2	\$3,296,945.24
<b>2018</b>	0	-	3	\$2,245,805.12
<b>2019</b>	1	\$6,783,774.15	5	\$3,817,928.72



## SAFE HAVEN PORT

Guam proved its ability to be a safe haven port with the USS Theodore Roosevelt, which has resulted in very positive attention for the island. The impact of the quarantine measures for each military personnel sustained the employment of many of our residents and provided much needed business for supporting services.

The Guam Chamber's Armed Forces Committee (AFC) has advocated for ship visits since its inception in 1998. These visits not only boost Guam's economy, the visits are an important factor in the health and well-being of each visiting military personnel. In the AFC annual visits to the Pentagon and Washington DC, the topic of continued presence and activity of allied ships and assets is recognized as crucial to the mission and important for business. The AFC's continued advocacy of Guam as a safe and welcoming destination has been well received by the DoD and is echoed by the positive feedback of its sailors, airmen and corpsman and has earned Guam's designation as a favored port call.

The COVID-19 health crisis has restricted ports of call for all military vessels worldwide. Because of Guam's low risk and high safety protocols in place, Guam is now a designated "safe haven" port. Guam's public and private sectors should continue to work collaboratively with Joint Region Marianas IndoPacom to support future visits, especially as the island remains closed to tourism.

- Hyatt Regency, Dusit Thani, the Westin, and the Pacific Islands Club, located in Tumon, the heart of Guam, were the primary hotels designated to support 2 months of quarantine measures for the 5,000 personnel aboard the USS Theodore Roosevelt.
- The contract amount for the above resulted in revenue of roughly \$48 million.
- Currently, when military vessels enter Guam, they are restricted to staying onboard their respective vessels or solely on-base access. However, instead of limiting access, Guam has resources to provide amenities for incoming military personnel.

In coordination with the Guam Hotel and Restaurants Association, Guam can provide the use of off base facilities for incoming military personnel. These off base facilities can be assigned to designated hotels for housing and to restaurants for catering meals.

- Guam can also accommodate to the U.S. military protocols of on-base access and instead coordinate with Naval Base Guam to allow access on base to outside vendors.

## SILICON VILLAGE INITIATIVE

Currently the two main pillars of Guam's economy include Tourism and the Military. The Silicon Village initiative was started in 2016 to explore the possibility of adding a third pillar to Guam's economy: Information Technology. Due to Guam's location as the United States 'westernmost territory with close proximity to Asia, as well as an abundance of global subsea internet cable connections, we are in an ideal environment to attract Technology-related companies to establish a presence. Creating new opportunities for digital connectivity through the region will help create new jobs and additional economic activity benefitting the island community.

One of the crucial steps to establishing an IT-focused leg of the economy is investment in the local labor force to support such an economic driver. In the US mainland and globally, talent typically follows demand. Due to Guam's small population and shallow talent pool, developing a local workforce is prudent and necessary.

Attracting and keeping talented IT professionals is a challenge in the region, as the demand for these positions are high in other parts of the globe, often paying much higher wages. The local market for experienced IT professionals is also extremely competitive, due to the lack of local labor in this field. IT professionals are frequently brought in using work visas from other countries which have established themselves as talent exporters, e.g. the Philippines.

Workforce development for technology fields begins with investments in education at both the high school and post-secondary levels. The Guam Community College has spent years developing apprenticeship programs to meet the growing needs of growing industries, including technology-related programs.

Responding to the Guam Chamber of Commerce's Silicon Village initiative, Guam Community College President Mary Okada sought funding and support to establish a telecommunications program at Tiyan High School. The program was developed specifically to address the need for IT workers on island. Through the college and the Guam Department of Education's "partners in excellence" program, Tiyan High opened the telecommunications/computer science program in 2018 with the intent of eventually opening an academy. A work experience component partnered with in-classroom curriculum enables eligible graduates to complete the program with a Certificate of Mastery upon graduation and up to 19 credits that will carry over to corresponding GCC post-secondary programs.

Building upon this program, the Guam Community College and University of Guam formalized a partnership in 2019 to establish a cooperative "2+2" degree program in computer sciences, in which students pursuing a four-year computer science degree will begin by earning a two-year Associate of Science in Computer Science at the Guam Community College. Their credits will then transfer to the University of Guam, where they can complete two more years and earn a bachelor's degree. This joint effort will further deepen the talent pool of qualified IT professionals to support the community.

Telecommunications is very competitive in Guam, with four mobile operators serving a population of 170,000, which would often not be the case in any other jurisdiction. As a group, providers based in Guam and the region have made significant investments and strides in partnering with the Guam Community College and University of Guam to further develop not only their current labor force, but also the ones in the future.

With the workforce development programs and initiatives underway, the foundation has been laid to provide a local talent pool that can sustain economic growth initiatives aimed at attracting technology-related businesses. Partnering with the Guam Economic Development Authority and other relevant government agencies will be the next step in providing the framework for providing potential tax incentives which may alleviate the cost and high-investment necessary for companies to establish presence. Another

area that needs to be explored is establishing special zoning for high-tech industries, such as those in Hawaii, California, Texas, and other states with a heavy technology focus. The success found in other jurisdictions that have made investments in building labor pools and incentive programs for companies to establish a physical presence serves as a model that can and should be replicated in Guam.

### Acknowledgements:

The Guam Chamber would like to thank the Ad Hoc Think Tank Committee for its diligent work in its research and insight on the initiatives contained in this white paper:

- Frank Campillo, Think Tank Group Co-Chairman, Plan Administrator, Calvo's SelectCare
- Joseph Cruz, Think Tank Group Co-Chairman, President, Cabras Marine Corporation
- Christine Baletto, Chief Financial Officer, Docomo Pacific and Chairwoman of the Board, Guam Chamber of Commerce
- Joe Arnett, Senior Advisor, Deloitte & Touche, LLP
- Gerald S.A. Perez, President, Micromed Suppliers & Vice President, Guam Visitors Bureau
- Philip Flores, President, BankPacific
- Ernie Galito, Marketing & Communications Director, Atkins Kroll, Inc.
- Charlie Hermosa, General Manager, APL
- Siska Hutapea, President, Cornerstone Valuation Guam, Inc.
- Bobby Shringi, Manager, Sales & Marketing, Moylan's Insurance
- Nathan Taimanglo, Chief People Officer, Docomo Pacific
- Jehn Joyner, Management Analyst, Cabras Marine Corporation
- Will Calori, Chief Financial Officer, Cabras Marine Corporation
- Catherine Castro, President, Guam Chamber of Commerce
- Rebekah Mendiola, Programs & Projects Coordinator, Guam Chamber of Commerce
- Jaclyn Suzuki, Staff Assistant, Guam Chamber of Commerce

### Additional Acknowledgements & Credits:

- Guam Contractors Association
- Guam Economic Development Authority
- Guam Visitors Bureau
- Department of Labor
- Department of Public Works
- Department of Revenue & Taxation

### About the Guam Chamber of Commerce

The Guam Chamber of Commerce is a non-profit voluntary association of over 400 business and professional individuals and firms united in their desire to improve business and build a better social and economic community on Guam.