

DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GOVERNMENT OF GUAM,

Defendant.

CIVIL CASE NO. 02-00022

ORDER

re Status Hearing Continuation

This case was scheduled to come before the court for hearing on February 14, 2018, to address various transition issues and the two motions for reconsideration filed by the Government of Guam and the Guam Solid Waste Authority (“GSWA”) Board of Directors (the “Board”). *See* ECF Nos. 1777-78. However, on February 8, 2018, the Government of Guam and the Board withdrew their motions. *See* ECF Nos. 1788-89. Since the Receivership is not expected to terminate until June 30, 2018, the court continues the status hearing to Tuesday, March 20, 2018, at 8:30 a.m.

In preparation for the upcoming hearing, the court orders GSWA’s new management team (General Manager Greg Martin and Comptroller Enrique Vinas) to prepare and file a status report no later than March 16, 2018, that addresses the following operational and financial issues:¹

- Personnel Classification - discuss the status of the compensation and classification plan for GSWA that Mr. Martin has been working on updating with Maria Connelly of Pacific Human Resources, Inc. and Alicia Fejeran, to include a timeline for the project’s completion and implementation. Additionally, the status report shall address whether management anticipates any significant changes in organizational structure, and if so,

¹ The Receiver may assist the new management team by providing information requested, but the Receiver’s team shall not draft the status report ordered herein.

1 elaborate on said changes;

- 2 • Operational Rules and Regulations - the Board reported that

3 at its November 29, 2017 meeting, the Board adopted all policies, rules and
4 regulations put in place by the Receiver since the Receivership commenced
5 regarding commercial haulers, residential customers, banned materials, the
6 collection of bulky items and metallic goods and penalties imposed for late
7 payments. The Board instructed GSWA's General Manager to work with
8 staff and the Board's legal counsel to put these policies, rules and regulations
9 in a format acceptable to the Legislative Secretary pursuant to 5 GCA § 9305.
10 The Board's legal counsel will then file the "interim" rules and regulations
11 with the Legislative Secretary no later than December 31, 2017 at which time
12 they will become effective.² The Board's legal counsel in conjunction with
13 management will begin the process of promulgating the permanent rules
14 and regulations February 1, 2018.

15 GSWA Board's Mot. for Recons. at 12-13, ECF No. 1778.

16 The status report shall discuss the Board's progress in promulgating "permanent rules
17 and regulations," to include a detailed timeline for completing all steps necessary for full
18 adoption and promulgation.

- 19 • Operations of GSWA - the status report shall discuss the operations of GSWA from the
20 period of October 1, 2017, to February 28, 2018.³ With regard to GSWA's recycling
21 program, the status report shall address how the agency intends to handle challenges
22 going forward and whether the new management is committed to continuing the
23 recycling program and services for GSWA's customers; and

- 24 • Budget and Finances - the status report shall discuss (1) GSWA's proposed budget for
25 Fiscal Year 2019 and whether the Board has made a decision to present said budget
26 directly to the Legislature for approval or whether GSWA's proposed budget will be
27 submitted as part of the executive branch's budget package; (2) what are GSWA's plans

28 ² Chapter 9, Article 3 of Title 5, Guam Code Annotated, sets forth the procedures for
adopting, promulgating, filing and publishing agency rules. The adoption of emergency regulations
by an agency is discussed in Section 9302, but nothing in Article 3 mentions the adoption of
"interim" rules and regulations.

³ For guidance, see Quarterly Report of the Receiver (Aug. 23, 2017) at 18-36, ECF
No. 1749-3.

1 for the accounting functions⁴ post-Receivership and outline pros and cons and the costs
2 and benefits for its options; and (3) the operating finances of GSWA through the quarter
3 ending December 2017, to include the status of residential, government and commercial
4 accounts but excluding the status of capital funding.

5 Additionally, the Receiver has begun the preliminary steps for new cell development since
6 Cells 1 and 2 at the Layon Landfill are expected to reach capacity in the next few years. This project
7 is a multi-year process that will not be completed until after the termination of the Receivership. It
8 is therefore important for the new management team to take a leadership role in overseeing the
9 projects to close Cells 1 and 2 and construct a new cell. Accordingly, the court orders that full
10 authority for these projects be turned over to Mr. Martin, who shall work closely with Chris Lund
11 to ensure a smooth transition over these tasks.

12 IT IS SO ORDERED.



/s/ **Frances M. Tydingco-Gatewood**
Chief Judge
Dated: Feb 15, 2018

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⁴ The Receiver opted to let the Department of Administration handle many of these duties, but GSWA's new management had recently discussed the possibility of handling these accounting duties "in house."