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*Attorney for the Guam Solid Waste Authority ("GSWA")
By and through Receiver Gershman, Brickner & Bratton, Inc. ("GBB")*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF GUAM

UNITED STATES OF AMERICA,

CIVIL CASE NO. 02-00022

Plaintiff,

v.

GOVERNMENT OF GUAM,

Defendant.

**STATUS REPORT
OF THE RECEIVER**

The Guam Solid Waste Authority ("GSWA") by and through Receiver Gershman, Brickner & Bratton Inc., through counsel, and files this updated Status Report pursuant to the Court's February 8, 2019 Order re Transition Reports and Hearings. *See* ECF 1848.

Respectfully submitted this 22nd day of February, 2019

/s/ Vanessa L. Williams
VANESSA L. WILLIAMS, ESQ.

Special Report of the Receiver

Update of Transitional Issues with GSWA

Civil Case No. 02-00022 United States of America v. Government of Guam (Guam Solid Waste Authority)

Prepared for:
U.S. District Court of Guam



Submitted by:



Gershman, Brickner & Bratton, Inc.
2010 Corporate Ridge Drive
Mclean, Virginia 22102

February 22, 2019

Please print on recycled paper

Civil Case No. 02-00022
United States of America v Government of Guam

Guam Solid Waste Authority

In response to the Court's Order dated February 8, 2019, the Receiver submits this Special Report, providing the Court with an update on the status of various matters related to the transition from the Receivership to the Guam Solid Waste Authority Board and other matters important to the transition.

I. Procurement Issues

Procurement issues are an important part of the pending transition issues. Specifically, these issues relate to the need for a Trustee to serve as the Trustee for the Ordot Closure Facility and the Independent Engineer who will assist the Trustee in its oversight of the Operator of the Ordot Closure Facility. The Receiver has initiated procurements for both the Trustee and the Independent Engineer as well as one for the construction of Cell 3 at the Layon Landfill.

a. The Independent Engineer Procurement

On December 3, 2019 the Receiver issued a Request for Proposals (RFP) for the Independent Engineer. Proposals were received on January 15, 2019 and we are presently engaged in negotiations with the best evaluated proposer and expect to complete negotiations and enter into a contract soon.

b. The Trustee Procurement

On December 3, 2019 the Receiver issued a RFP for the services of a Trustee to act as the Trustee for the Ordot Closure Facility. The RFP was hand delivered to each bank doing business on Guam and proposals were due on January 15, 2019. No proposals were received.

We are currently evaluating the potential for widening the pool of potential trustees to include licensed professionals such as attorneys and accountants in association with a bank or trust company. As noted in our previous reports, the Receiver will provide these services during any interim between the time necessary to procure the services of a Trustee and the end of the Receivership should the Court decide to end the Receivership prior to the selection and

appointment of a Trustee by the Court¹.

I. New Cell Construction at the Layon Landfill

As stated in the Court's Order of February 8, 2019, this issue is critical to continuing compliance with the Consent Decree and essential to meeting the basic solid waste needs of Guam. On September 27, 2018 we submitted a Special Report to the District Court² outlining the need for financing the new cell and we also conducted a procurement process beginning in September. The GSWA Board of Directors was provided with the Special Report when it was filed with the Court and we also briefed the GSWA Board on this issue at its first meeting following the report's filing with the Court. In addition, we have also contacted Governor Leon Guerrero's staff to bring the matter to their attention.

The construction of the new cell will be managed by GSWA³ in the post-Receivership. The challenges to GSWA in the timely completion of the new cell are project permitting, financing and contracting.

With respect to the permitting issue, there has been some progress in getting the plans reviewed. As has been previously reported to the Court, a conflict⁴ with the Guam Environmental Protection Agency's (GEPA) contractor designated to review the plans for the new cell had become a barrier to a timely review of these plans; a review that is a critical part of the process for obtaining the building permit for the construction. On February 6, 2019 we received information from GEPA, informing us that GEPA, "in collaboration with USEPA, Region IX, secured the professional services of their contractor, ACOE⁵, to review the aforementioned design. ACOE, in turn, subcontracted Adanta⁶ to conduct the review". We have now received "preliminary comments" that we are reviewing but GEPA indicates that further comments will be forthcoming. However, no permits or timetable for issuing a permit has been forthcoming from GEPA; an essential step to obtaining the necessary building permit for the project.

Given the delays in plan review, we suggested to GEPA that they could reduce the delays in permitting by issuing a conditional permit for the non-cell construction work, staging construction in much the same way it was done with the original construction of the Layon Landfill. In that much larger project, to avoid delays in construction, we obtained a permit for the mass excavation first and began that work while the remaining permit issues were addressed. On February 14, 2019, GEPA sent to the Receiver a draft of such a building construction permit approval that would allow for mass grading of the new cell to begin while any other pending permit issues are resolved. The Building Permit is issued by the Department of Public Works (DPW) but GEPA must approve the project. GEPA now needs to formalize its approval, a step that will allow DPW to issue the permit.

¹ Final selection of the Trustee will be made by the District Court.

² The Special Report to the District Court remains available to the public and may be accessed on the Receiver's website at: <http://www.guamsolidwastereceiver.org/documents.html#receiver>.

³ In an Order dated February 15, 2018 the Court transferred responsibility for the new cell to General Manager Greg Martin. Upon his resignation in July 2018, this responsibility reverted to the Receiver.

⁴ The conflict is the result that GEPA's contractor, CH2M Hill, also having been a long-standing consultant to USEPA in matters related to this case and other litigation involving Guam.

⁵ The Army Corps of Engineers.

⁶ A private environmental consulting firm under contract to the Army Corps of Engineers.

The procurement process for Cell 3 generated significant initial interest in the project with eight firms picking up the bid package. These included: AIC International Inc., Black Construction Corp., Core Tech International (CTI), Hawaiian Dredging Construction, HSG Co. LTD, Maeda Pacific Corp, Pernix Guam, LLC., Sumitomo Construction Corp, and Tikigaq. Unfortunately, only one bid was actually received and it was determined to be significantly deficient, causing the bid to be rejected. We believe interest in the project faded because financing was not firmly in place and the labor shortage on Guam created by the H-2B visa issue.

Utilizing the authority granted to the Receiver by the District Court, we are now competitively negotiating with two companies that indicated interest in the project. It is our goal to secure the best possible contract for GSWA and avoid further delays which, given the tight construction schedule required for the work, endanger a timely completion of the new cell. The Receiver will work with GSWA to successfully transition this work.

To address the labor shortage issue, we have secured the support of the Department of Defense for the use of H2B workers. A copy of the letter from the from Captain D.P. Turner designating this project as associated with the military realignment occurring on Guam is provided as Exhibit 1. It is our understanding that final approval of the United States Citizenship and Immigration Services (USCIS) must be obtained by the contractor selected to perform the work. We are advised by the Guam Department of Labor⁷ that with DOD's support, the project's contractor should have reasonable access to H-2B workers under the special H-2B provisions in Section 1045 of the 2019 National Defense Authorization Act.

While the progress on the labor shortage issue is vitally important, the financing and permitting issues remain paramount. Unless the necessary permits and adequate financing are put into place at the earliest possible date, the project cannot move forward.

II. Post-Closure Operator

As noted in the Supplemental Status Report dated May 9, 2018, the contract for the operation of the Ordot Closure Facility was awarded to Brown and Caldwell Constructors and the contract has been fully executed. Brown and Caldwell Constructors began work as the Operator on June 1, 2018. To date, they have operated the facility in full compliance with the contract and all applicable permits and regulations. Thus far, we are pleased with their performance as the Operator of this important facility.

III. Contracts

On January 29, 2019 the Office of the Attorney General of Guam sent to the Receiver for review its draft of the contract documents it deems needed to facilitate the assignment of the critical contracts identified in our Supplemental Status Report dated May 9, 2018. Counsel to the Receiver is currently working with the Office of the Attorney General to make any revisions that are needed. When this process is complete, the Receiver will execute these documents and assist, in any appropriate way, with their expeditious execution by the contractors. Hopefully, this process can be concluded quickly, however, each of these companies have their own

⁷ The Guam Department of Labor plays an important role in managing such requests and has provided the Receiver with timely and helpful assistance in this matter.

internal processes of review making it difficult to provide assurance as to how long this may require.

With respect to the Pacific Human Resource Services, Inc. contract, we understand that a contract has been drafted and discussed by the parties but, to the best of the Receiver's knowledge, the contract has not been finalized.

IV. Transition of Contract Employees

As was the case in May when we filed our Supplemental Status Report, GSWA continues to operate with a large number of Receiver contract employees. As of the date of this report, there are 38 employees in permanent full-time GovGuam classified positions, 1 unclassified GovGuam employee⁸ and 22 remain as contract employees. Presumably, with one exception, this issue will be addressed when the new contract with Pacific Human Resources, Inc. is completed and executed, allowing GSWA to continue utilizing these contract employees. However, this will not address one critical employee who is employed through a direct contract with the Receiver. It is our understanding that a contract to continue this employee has also been drafted but is not yet final. As we have indicated before, resolution of this issue is vital to any successful transition.

V. Operating Rules of GSWA

The operating rules of GSWA were enacted by the Guam Legislature and signed into law in July 2018. With the enactment of the rules as Public Law 34-111, this issue was resolved.

VI. Transferring Financial Assets

When the Court ends the Receivership, certain financial assets will need to be transferred from the Receiver's control to GSWA's control and the Trustee's control. Since these financial assets were transferred to the Receiver pursuant to an Order of the District Court⁹ we believe it will be necessary for the Court to authorize their transfer to GSWA and the Trustee as a part of its Order ending the Receivership.

The following table outlines the bank accounts currently controlled by the Receiver, their balances as of January 31, 2019 and the Receiver's recommendation to the Court as to the control of these accounts post-Receivership.

⁸ The unclassified employee is the new Comptroller.

⁹ See Orders of the District Court dated December 10, 2010 and March 3, 2011.

Bank Accounts Currently Controlled by the Receiver			
Account Name	Bank or Other Financial Entity	Balance January 31, 2019	Recommended Post-Receivership Control
GSWA Utility Account Sweep Account	Bank of Guam	\$ 354,108.66	GSWA
GSWA Utility Account ¹⁰	Bank of Guam	\$ -	GSWA
GBB, Receiver for the Guam Solid Waste Authority	Bank of Guam	\$ 323,870.00	GSWA
Construction Subaccount	Bank of Guam	\$ 13,356.56	GSWA
System Operations and Maintenance Account	Bank of Guam	\$ 1,757,690.65	GSWA
System Surplus Account	Bank of Guam	\$ 1,314,568.11	GSWA
Reserve for Unfunded Expense	Bank of Guam	\$ 413,424.52	GSWA
Host Community Premium Surcharge Account	Bank of Guam	\$ 95.38	GSWA
New Cell Dev Account	Bank of Guam	\$ 360,808.94	GSWA
Cell Closure Account	Bank of Guam	\$ 360,808.94	GSWA
Layon Post-Closure Care Account ¹¹	Bank of Guam	\$ 721,617.11	GSWA
Equipment Replacement Account	Bank of Guam	\$ 1,398,345.71	GSWA
ANZ Bank Tipping Fee Account	ANZ Bank - Guam	\$ 995,325.50	GSWA
Bank Pacific Tipping Fee Account	Bank Pacific	\$ 123,781.06	GSWA
PayPal ¹²	PayPal	\$ 31,560.09	GSWA
Ordot Dump Post-Closure Care Reserve	Bank of Guam	\$ 6,129,490.19	Trustee

In anticipation of the transition to GSWA control, GSWA should initiate discussions with the banks to determine what they may require in addition to a copy of the Court's Order ending the Receivership and assigning control of the accounts previously controlled by the Receiver to GSWA and the Trustee. We suggest this since the banks required that the Receiver, in addition to the Court's Order, provide a corporate resolution and certain other information to comply with banking requirements. Since GSWA is now a government corporation, it should make inquiry to the banks as to what additional documentation may be required of it and be prepared to submit it at the appropriate time.

With respect to the Trustee, the Court will need to include in any Order ending the Receivership authorization for an additional account into which the large commercial haulers will pay their tipping fees each month¹³. The Trustee will deduct from these tipping fees the amount required monthly¹⁴ for the Ordot Dump Post-Closure Care Reserve and shall forward the balance to GSWA to an account designated by GSWA, as soon as possible each month. The Court should also include in any Order ending the Receivership, the requirement that the major commercial haulers pay

¹⁰ The GSWA Utility Account is the Tipping Fee Account at the Bank of Guam. The GSWA Utility Sweep Account is an interest-bearing account into which the tipping fees, almost all of which are residential fees, are transferred each day.

¹¹ The name of this account is Post-Closure Care Account. The word Layon is added to distinguish this account from the Ordot Post-Closure Care Reserve account.

¹² The Receiver is the Administrator of the PayPal Account. This will need to be changed to the person designated by GSWA. The funds deposited to this account are automatically transferred to the System Operations and Maintenance Account on a weekly basis.

¹³ See Quarterly Report of the Receiver dated October 21, 2015 for the Receiver's recommendations, subsequently adopted by the Court in its Order dated May 2, 2016.

¹⁴ This amount is presently \$166,666.67 per month. This amount is based on the Receiver's recommended Post-Closure Plan for the Ordot Dump and may need to be changed if actual experience or subsequent requirements from USEPA require additional expense. It should also be noted that the Receiver's recommended Post-Closure Plan does not include the funds to pay the Trustee or the Independent Engineer since these amounts are unknown until the contracts for these entities are in place. Under the draft Trust Agreement (see Supplemental Status Report of the Receiver dated May 9, 2018) the Trustee, after notice to the parties through its reporting and with the approval of the District Court, is allowed to increase the funds deducted for the Post-Closure Plan if needed.

their monthly tipping fees to the Trustee electronically to an account designated by the Trustee.

VII. GSWA Website

The GSWA website was established by the Receiver to better serve GSWA's customers. The website serves many purposes for GSWA and its customers, one of the most important of which is providing residential customers with access to their accounts and the ability to pay their bills online¹⁵. Customers may also sign up for paperless billing, saving GSWA the cost of printing and mailing these bills. These services have been very popular with customers, with more than 6,300 customers paying online in January and over 5,500 opting for paperless billing. Payments received by GSWA through this online method average more than \$250,000 each month.

The website also provides important information to customers and the public in general. This includes:

- A description of all GSWA services with contact information allowing customers and the general public to both review these services and receive more information by contacting GSWA Customer Service;
- Information about all GSWA facilities and the services each provides;
- Information concerning the GSWA Board of Directors, including:
 - Members of the Board;
 - Agendas for Board Meetings;
 - Minutes of past meetings;
- News releases from GSWA;
- Recycling information;
- Information describing how and where waste not accepted by GSWA can be properly disposed; and
- Job announcements.

The Receiver is currently in the process of transferring ownership of the website to GSWA. Accordingly, we will change all of the necessary contact information and transfer ownership of the domain (<http://www.guamsolidwasteauthority.com/>) to GSWA¹⁶. The domain is currently owned by the Receiver through an entity named Register.com. Register.com is a provider of global domain name registration for the Internet. A modest annual fee, currently \$49.00, is required to maintain ownership of the domain name. The Receiver has paid this fee through March 2020 but it will be important for GSWA to pay it directly thereafter.

While websites can technically be hosted¹⁷ on a server owned by GSWA, it is expensive and not recommended. The vast majority of websites are hosted through what are commonly referred to as cloud services, simply meaning a remote site that shares servers to host many websites. The GSWA website is currently hosted by a California company named Lunarpages (<https://www.lunarpages.com>) at an annual cost of \$107.40 per year. The Receiver has paid this

¹⁵ Online payments are made to GSWA via a cost effective and secure service provided by BMS Technology and PayPal.

¹⁶ The domain name www.GuamSolidWasteAuthority.org is also owned and will be transferred to GSWA. Customers and others sometimes use this name since GSWA is a government entity. When this occurs, they are redirected to the GSWA website.

¹⁷ Hosted is a term used to describe the computer on which the website resides and through which it is accessed by the internet.

fee through December 2019 but it will be important for GSWA to pay it directly thereafter.

VIII. Landfill Gas Mitigation Issue

As discussed in earlier reports, the environmental closure of the Ordot Dump has been complicated by residual landfill gas in the soil on the periphery of the Ordot Dump's property, but outside the security fencing, along Dero Road. This problem is the result of waste having been dumped in the area during some period prior to the Receivership. As a part of the closure construction, the waste was relocated to the main waste pile but the residual landfill gas remained in the soil and its levels, as measured by monitoring wells that were installed as a part of the construction of the Ordot Dump closure systems, exceeded the allowable limits. As a result, we worked with regulatory authorities to investigate, design and construct a mitigation system to capture this landfill gas and properly dispose of it using the flare system that is a part of the main Ordot Dump closure system.

Construction of the landfill gas mitigation system was completed on October 9, 2018. A period of testing ensued over the next 9 weeks to determine whether the mitigation system is performing as designed to reduce the landfill gas levels in the soil along Dero Road. Now that the system has been operating for several months, it is clear that it is working as designed and there are declining levels of landfill gas in all wells covered by the mitigation system. The amounts of gas measured in each well does, however, fluctuate. In other words, while over the entire period since the mitigation system began functioning the trend is down in all wells covered by the mitigation system, some wells produce higher readings in one month when compared to the previous month, but the trend in all wells covered by the system is down. The fluctuation in these readings is, we believe based on data gathered to date, caused by Guam's often dramatic fluctuations in the amount of rainfall occurring at the site. During periods of high rainfall, the water levels in those wells increase significantly. The gas migration through soil is inhibited by saturated soil conditions, while during Guam's dry season, water levels drop, allowing more gas to be measured and collected for proper disposal by the new mitigation system. While the United States Environmental Protection (USEPA) has not given its final approval of the mitigation system, from the Receiver's perspective, the system is complete, the performance testing is concluded and the system is properly addressing the problem.

USEPA has recently raised a new concern with respect to one well that is inside the security fencing and continues to have readings above the 5 percent compliance limit. This well is located just outside the perimeter of the closure system on the main waste pile. There are 17 other such wells at various other locations within the security fencing. All of these wells were a part of the original closure system construction and were designed to monitor the main waste pile. All of these wells, other than the one noted above, have readings below the regulatory limit. While the well in question remains above regulatory limits, the concentration of landfill gas in this well has declined in recent months. This issue warrants continued monitoring by the facility Operator and the Independent Engineer. To put things into perspective, approximately 99.9 percent of all of the landfill gas produced by the Ordot Dump is now controlled and properly disposed. In fact, since the inception of landfill gas collection in 2015, the system has operated as anticipated, with the following results:

- Landfill gas generation is declining. The flow of landfill gas to the flare for disposal was approximately 270 cubic feet per minute in January 2016 and is now 140 cubic feet per

minute in February 2019. The February 2019 reading includes the gas collected by the new landfill gas mitigation system;

- Surface gas emission surveys conducted across the final Ordot cover system have not detected any escaping landfill gas; and
- No landfill gas has been detected during ambient air monitoring conducted along Dero Road in front of the Ordot Closure Facility.

IX. Approval of the Post-Closure Plan for the Ordot Dump

Approval of the Post Closure Plan is still pending with USEPA and GEPA. If there are to be any additional revisions required by these regulatory agencies the specifics of such requirements must be provided to the Receiver to allow the plan and its cost estimate to be revised accordingly. USEPA has recently contracted with APTIM as its new consultant in this matter after having previously used CH2M Hill in this capacity. It is our understanding that one reason for the lack of progress in this area has been the procurement process for these consulting services¹⁸. In addition, it is not unusual for a different consultant to view the same issues differently, leading to additional delays and changing requirements for the Post-Closure Plan. We have been informally told by USEPA that there will be additional requirements for performance monitoring of the landfill gas mitigation system, additional groundwater sampling and an expanded list of items for which the sampling is testing. All of this results in additional cost; however, we cannot revise the plan and its estimated cost until these, and any additional requirements that may be forthcoming, are formalized as the conditions of USEPA approval.

X. Land Acquisitions for the Ordot Dump Closure

As previously reported several tracts of privately-owned land were acquired in order to complete the environmental closure of the Ordot Dump. Early in 2018, the Attorney General of Guam asked to take over the handling of the remaining condemnation issues¹⁹. The Receiver did not object to this change and our private counsel continued to work with the Attorney General's Office to facilitate resolution of these remaining issues. These issues included resolution of the issues in connection with Lot 450 and Lot 3434.

In a special report dated March 9, 2018, the Receiver advised this Court, in part, as follows:

"A proposed settlement has been reached for the taking of Lot Number 3434, a parcel of land in the Municipality of Ordot-Chalan Pago in the Territory of Guam ("Lot 3434") for the amount of \$870,000 payable to the Estate of Antonio Camacho Bautista. A stipulated judgment delineating the settlement amount will be prepared and be subject to the Superior Court's approval.

¹⁸ The recent government shutdown also contributed to the delay.

¹⁹ The Office of the Attorney General initially handled all of the land acquisition issues in connection with the environmental closure of the Ordot Dump. However, when the Attorney General of Guam was replaced by private counsel in the Consent Decree case, at the request of the previous Governor, the Receiver was also required to retain private counsel to handle these and other matters previously handled by the Office of the Attorney General.

As we previously reported to this Court, the Superior Court of Guam dismissed the eminent domain proceeding regarding Lot 3434 without prejudice and found that a land registration proceeding was the better forum to determine size and ownership of Lot 3434. We further reported that legal counsel was preparing to initiate the land registration proceeding as directed by the Superior Court. However, in subsequent discussion with the Attorney General of Guam, the Office of the Attorney General did not recommend the filing of a land registration action for Lot #3434. We were also advised by the Attorney General that the Department of Land Management has confirmed that the Government of Guam does not own Lot #3434. Given these developments and with the Receiver's concurrence, the Attorney General proceeded with settlement discussions based on the 2013 valuation."

Settlement of the condemnation issue was successful based on the 2013 appraisal commissioned by the Receiver and we assumed the matter with respect to Lot 3434 was resolved.

After the settlement discussed above was completed, the Receiver initiated a process to consolidate all of the tracts acquired for the Ordot Dump environmental closure with the land previously owned by GovGuam into a single consolidated track that is properly registered in Guam's official land records as owned by GSWA. In the course of this effort to consolidate and obtain title to the land for GSWA, we were advised by the Department of Land Management that lot 3434 and Lot 3390-R²⁰ must go through a land registration process to obtain title for GSWA. The letter from Dennis Balagtas, the Licensed Guam Land Surveyor with whom the Receiver is contracted in this matter, and the response from the Acting Director of the Department of Land Management are included as Exhibits 2 and 3 respectively. We have referred this matter to our counsel and asked that she get with the Office of the Attorney General and seek their guidance on how we should proceed.

XI. New General Manager and Comptroller

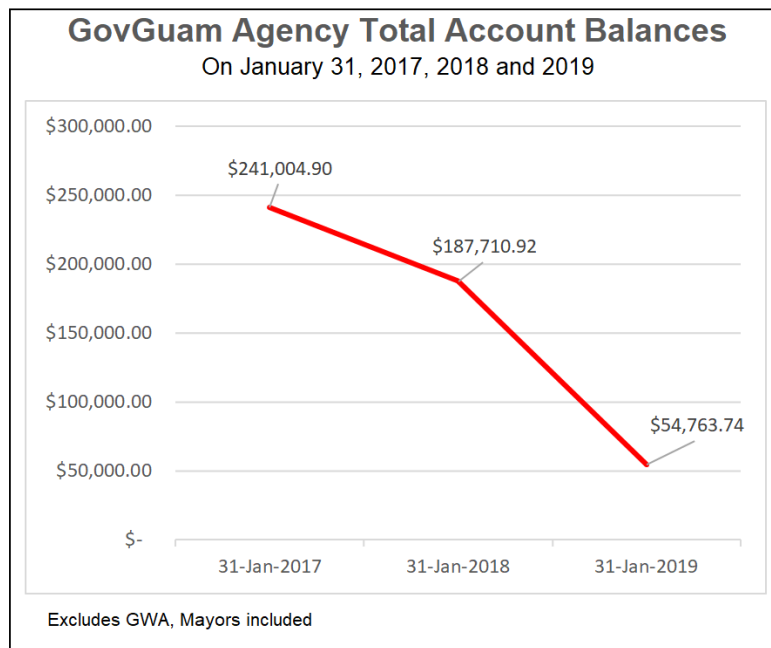
While the new General Manager and Comptroller will be addressed directly by the Board of Directors in its report, we will offer a few brief comments. The Board of Directors, through its Chairman, has worked diligently to hire both a new General Manager (GM) and a new Comptroller. The new GM is well qualified based on his experience. He personally interacted well with the staff during his visit with staff and the Board in December. The new Comptroller was hired in September. She is very well qualified based on her extensive experience in the Government of Guam and has worked diligently since coming to GSWA to understand its finances and systems. She has also worked well with the staff of GSWA and the Receiver.

XII. Status of Government Accounts

Delinquent accounts of agencies of the Government of Guam have been a subject of concern in numerous previous reports. In 2017 the Department of Administration made a commitment to GSWA to engage the affected government agencies to get these accounts paid. Staff of GSWA has

²⁰ This lot was not acquired through the condemnation process. Ownership of this land was a part of the GovGuam property included within the Ordot Dump site, but apparently the lot's ownership by GovGuam was never properly registered.

also worked diligently on this matter and we are pleased to report significant progress. This progress is shown in the following graphic displaying the total balances owed by these accounts on January 31, 2019, the most recent report available, compared with the same date in 2017 and 2018.



As is clearly shown, significant progress has been made in this area. Of the remaining total balance, almost 90 percent is owed by seven²¹ agencies and almost 60 percent is owed by two²² of these agencies.

Exhibit 4 provides the Court with a detailed breakdown of the Government of Guam account balances by government agency as of January 31, 2019.

We thank the Court for its consideration of our views in this matter.

I declare that under the penalty of perjury under the laws of Guam and the United States that the foregoing is true and correct.

Dated this 22nd day of February, 2019.

David L. Manning
Receiver Representative

²¹ The Departments of Agriculture, Parks and Recreation, Public Health and Social Services, Public Works, the Guam Housing and Urban Renewal Authority, the Guam Police Department and the Mayor of Sinajana.

²² The Departments of Agriculture and Parks and Recreation.



DEPARTMENT OF THE NAVY

JOINT REGION MARIANAS

PSC 455 BOX 211

FPO AP 96540-1000

11000

Ser J4/0046

January 28, 2019

Guam Solid Waste Authority
542 North Marine Corps Drive
Tamuning, GU 96913

Dear Sir or Ma'am:

SUBJECT: GUAM SOLID WASTE AUTHORITY CONTRACTOR TO THE
CONSTRUCTION OF CELL 3 PROJECT AT THE LAYON LANDFILL,
GUAM

Pursuant to U.S. Citizenship and Immigration Services (USCIS) Policy Memorandum PM-602-0164 dated October 1, 2018, I have reviewed the Guam Solid Waste Authority request seeking a letter from the Department of Defense (DoD) confirming that the Construction of Cell 3 Project at the Layon Landfill, Guam referenced in NDAAREQ-FY19-029 is associated with the military realignment occurring on Guam.

It is the view of DoD that work performed by Guam Solid Waste Authority under request NDAAREQ-FY19-029 is associated with the military realignment occurring on Guam.

My point of contact for this matter is CDR Federico Perez Romero, Assistant Regional Engineer, Joint Region Marianas, who may be reached at 671-349-3340 or via e-mail at federico.perezromero@fe.navy.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "D. P. Turner", is written over a horizontal line.

D. P. TURNER

Captain, Civil Engineer Corps, U.S. Navy
Regional Engineer

By direction of the Commander



DEPARTMENT OF

LABOR

DIPATTMENTON HUMOTNAT • Sam Mabini, Ph.D., Director • Cecile B. Suda, Deputy Director

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

U.S. DEPARTMENT OF HOMELAND SECURITY
USCIS California Service Center
24000 Avila Road
Laguna Niguel, CA 92677

Re: Guam Procedure for Letters from the Department of Defense
Relative to Military Realignment Projects in Guam

Reference USCIS Policy Memorandum- PM602-0164
*Implementing the National Defense Authorization Act for Fiscal Year
2019(NDAA) and the Exemption to the Temporary Need Requirement for H-2B
Workers on Guam*

In coordination with Department of Defense officials from Joint Region Marianas, the Guam Department of Labor has taken on the task of managing the intake, tracking, transmittal and disbursement of requests for letters from DoD relative to DoD's position on whether or not projects are directly connected to or associated with the military realignment on Guam.

The basic process is as follows:

1. The requester submits a standardized request form, that was devised in consultation with DoD officials, to the Guam DOL Alien Labor Processing & Certification Division (ALPCD).
2. ALPCD reviews the request and if acceptable, indicates their recommendation on the form and issues a Tracking Number. The Tracking Number format is **NDAAREQ-FY18-XXX. This tracking number is the common reference that all parties can refer to for an individual project on a specific request form. The DoD Letters will, in many cases, only reference the Request Tracking Number and the specifics that DoD considered are contained in the request.**
3. The request form and any attachments are electronically transmitted to a centralized Point of Contact at Joint Region Marianas via email. This POC then facilitates an internal review through DoD channels.

Mailing Address: P.O. Box 9970 • Tamuning, Guam 96931
Physical Address: 414 West Soledad Avenue • Suite 400, GCIC Building • Hagåtña, Guam 96910
Telephone: (671) 475-7044 • Facsimile: (671) 475-6811
Website: dol.guam.gov • hireguam.com

americanjobcenter
GUAM

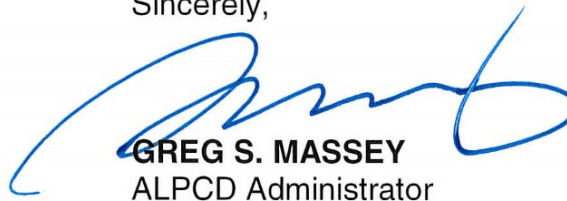
4. DoD issues a letter to the requester **referencing the Tracking Number** and their opinion as to whether or not the project, indicated in the request, is connected to or associated with the military realignment in Guam. The wet ink original is delivered to ALPCD for transmittal to the requester.
5. ALPCD attaches the DoD Letter to a Certified Copy of the request and transmits to the requester for their use in their I-129 petition.

The form, process and a Process Flowchart are available on the Guam DOL website at:

<http://dol.guam.gov/compliance/alpcd/2018-ndaa-h2b-exemption/>

If you should have any questions or need further information on this process, you may contact me at greg.massey@dol.guam.gov or via phone at (671) 475-8005.

Sincerely,



GREG S. MASSEY
ALPCD Administrator



Request for Confirmation of Connection/Association to Guam Military
Realignment

Name of Employer: Guam Solid Waste Authority

Type of Contract or Project Name: Construction of cell 3 at the Layon Landfill

Employer Request: We are hereby requesting for a letter from Department of Defense officials on Guam to confirm that the contract, indicated on this submittal, is directly connected to or associated with the military realignment occurring on Guam. We intend to utilize H-2B workers for this activity and will seek exemption from temporary need requirements as allowed in the Section 1049 of the 2018 NDAA.

We believe that the contract, indicated above, is:

☐ Directly connected to Guam Military realignment construction work

☒ Associated with Guam Military realignment

INSTRUCTIONS: In your narrative, please explain:

1. What your business activity is (e.g. Construction, workforce housing, transportation)
2. Describe in detail, how your contract connects to construction, repairs, renovations or facility services for the military realignment
3. If your business activity connects to a specific construction project, please indicate the project name & number
4. If your contract connects through the SEIS, please reference the SEIS and clearly explain your rationale
5. If possible, please attach any corroborating documents that support your narrative (e.g. Notice of Awards, sub-contracts, business plans, workload forecasts)

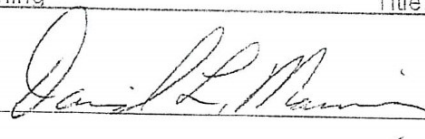
Please provide a narrative as to how your contract is connected to the Guam Military realignment
(An attachment may be included for additional space):

JUSTIFICATION NARRATIVE:

See the attached letter.

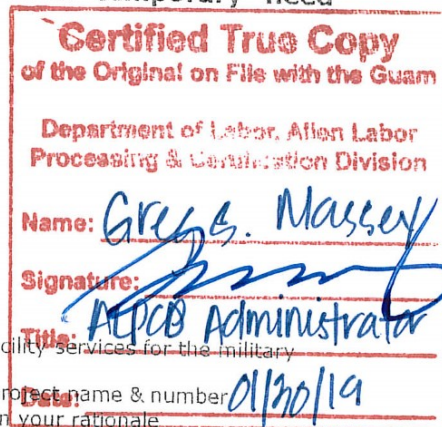
I hereby certify that the information provided in this request, and any attachments thereto, are true and correct to the best of my knowledge.

Print Name: David L. Manning Title: Receiver

Signature of Employer:  Date: 1/16/2019

Continued on Next Page

Guam Solid Waste Authority
542 North Marine Corps Drive, Tamuning, Guam 96913
Phone: (671) 546-3111, Fax: (671)-649-3777



GUAM DOL REVIEW

The Guam Department of Labor has reviewed the employer narrative.

☒ GDOL concurs with the employer and believes that the employer's contract is directly connected to or associated with the military realignment occurring on Guam

☐ GDOL does not concur with the employer and does not believe that the employer's contract is directly connected to or associated with the military realignment.

☐ GDOL is returning the employer's request due to insufficient information.

GDOL Signatory: 

Name: G. Massay

Date: 1/17/19

GDOL Tracking Number: NDAAREO-Fy19-029

GUAM SURVEYOR, LLC

STREET: 171 CHALAN PALE RAMON HAYA RT. 1 (MARINE DRIVE), YIGO, GUAM 96929
MAIL: P.O. Box 6216, TAMUNING, GUAM 96931
P.671-637-2042/1 F.671-637-2041 M.688-0184

WWW.GUAMSURVEYOR.COM
SURVEYOR@GUAMSURVEYOR.COM



To: Mr. Paul Santos, Acting Director of the Department of Land Management

Fr: Dennis Balagtas, PLS #75, Guam Surveyor, LLC

Subj: Ordot Dump Land Registration and Request for Certificate of Title

Date: 01/23/2019

Dear Mr. Santos:


Guam Surveyor is currently under contract with GBB, Inc. (the receiver for the Ordot Dump) and GHD. We are currently attempting to consolidate all of the properties listed under Guam Solid Waste Authority for the Ordot Dump site. The map for this is currently being processed in the Dept. of Land Management's Planning and Survey Divisions under DLM Map No. 370-FY2018.

Currently Lot 3390-R2 and Lot 3434 do not have a certificate of title and we will need that in order to process the consolidation survey map and get it approved and recorded.

As per the advice of Mr. Andrew Santos, the Deputy Chief Registrar, we are submitting the applications for the certificate of title for Lot 3390-R2 and Lot 3434. Included with this application is Public Law 31-20, which contains a condemnation and taking for Lot 3434. The ownership of Lot 3390-R2 has been established by Doc. No. 22667 and is also included with these applications.

We are requesting that the Dept. of Land Management expeditiously review and approve these applications for title. The consolidation survey is a critical part of establishing the Guam Solid Waste Authority's independence and helps it towards its mission.

Thank you,


Dennis S. Balagtas, PLS#75
Guam Surveyor, LLC

Attachments:

1. Application for Lot 3390-R2 & Doc. No. 22667.
2. Application for Lot 3434 & Public Law 31-20.
3. Consolidation Survey Map for Ordot Dump, DLM Map No. 370-FY2018



DIPATTAMENTON MINANEHAN TĀNO'
(Department of Land Management)
GUBETNAMENTON GUĀHAN
(Government of Guam)



Street Address:
590 S. Marine Corps Drive
Suite 733 ITC Building
Tamuning, GU 96913

LOURDES A. LEON GUERRERO
MAGA'HAGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÁHI • LIEUTENANT GOVERNOR

PAUL L. SANTOS
Acting Director

Mailing Address:
P.O. Box 2950
Hagåtña, GU 96932

February 1, 2019

Mr. Dennis S. Balagtas, PLS#75
Guam Surveyor, LLC
171 Chalan Pale Ramon Haya Rt. 1 (Marine Drive)
Yigo, Guam 96929

Website:
<http://dlm.guam.gov>

E-mail Address:
dlmdir@land.guam.gov

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

RE: Application for Certificates of Title

Hafa Adai Mr. Balagtas,

The Department of Land Management is in receipt of your letter of January 23, 2019, requesting the Department to issue Certificate of Title for Lot 3390-R2 and Lot 3434 in Ordod-Chalan Pago, in the name of Guam Solid Waste Authority of the Government of Guam.

At this time, the Department is unable to issue Certificates of Title to the subject properties as the properties are unregistered and must go through the Land Registration Title Act per 21 GCA 29101.

Senseramente,

PAUL L. SANTOS
Acting Director

cc: Office of the Attorney General of Guam

GOVERNMENT AGENCIES
SERVICE PERIOD: 01/01/2019-01/31/2019

<u>NAME</u>	<u>BALANCES FORWARDED</u>	<u>BILLED</u>	<u>PAYMENTS</u>	<u>CREDITS</u>	<u>TOTAL DUE</u>
GUAM CUSTOMS & QUARANTINE	\$ -	\$ -	\$0.00	\$ -	\$ -
DEPT. OF ADMINISTRATION	(1,211.22)	-			(1,211.22)
DEPT. OF AGRICULTURE	8,075.76	136.63			8,212.39
DEPT. OF PARKS & REC	27,885.37	-	4,554.45		23,330.92
MENTAL HEALTH COTTAGE HOMES	1,477.89	181.90	-		1,659.79
DEPT. OF MENTAL HEALTH	162.28	-	-		162.28
DEPT. OF PH&SS	3,033.95	-	-		3,033.95
DEPT OF YOUTH AFFAIRS	781.84	-	-		781.84
DPW - ADMIN	2,252.79	-	-		2,252.79
DPW - BUS	158.05	-	-		158.05
GUAM DEPT OF EDUCATION	-	-	-		-
GUAM EPA	579.95	-	-		579.95
GHURA	4,642.95	220.71	-		4,863.66
GUAM HOMELAND SECURITY	-	-	-		-
GUAM HOUSING CORPORATION	-	571.04	-		571.04
GUAM LEGISLATURE	-	-	-		-
GUAM MEMORIAL HOSP AUTH	-	-	-		-
GUAM POLICE DEPT	2,667.59	84.08	-		2,751.67
GUAM POWER AUTHORITY	-	-	-		-
GUAM PUBLIC LIBRARY	161.15	-	70.07		91.08
LIBERATION FESTIVAL COM	-	-	-		-
MAYORS COUNCIL	178.67	-	-		178.67
MAYOR-AGANA HEIGHTS	543.02	-	-		543.02
MAYOR-AGAT	-	-	-		-
MAYOR-ASAN/MAINA	-	-	-		-
MAYOR-BARRIGADA	-	-	-		-
MAYOR-DEDEDO	947.69	2,373.55	940.66		2,380.58
MAYOR-HAGATNA	(586.83)	-	-		(586.83)
MAYOR-INARAJAN	70.07	98.09	-		168.16
MAYOR-MANGILAO	(145.40)	-	-		(145.40)
MAYOR-MERIZO	-	-	-		-
MAYOR-MTM	-	-	-		-
MAYOR-ORDOT/CHALAN PAGO	-	-	-		-
MAYOR-PITI	61.31	-	61.31		-
MAYOR-SANTA RITA	-	-	-		-
MAYOR-SINAJANA	2,998.25	-	-		2,998.25
MAYOR-TALOFOFO	-	-	-		-
MAYOR-TAMUNING/TUMON	-	-	-		-
MAYOR-UMATAC	994.97	-	-		994.97
MAYOR-YIGO	427.40	-	-		427.40
MAYOR-YONA	113.26	-	-		113.26
OFFICE OF ATTORNEY GENERAL	-	-	-		-
OFFICE OF GOVERNOR	486.72	-	-		486.72
OFFICE OF VETERAN AFFAIRS	(220.69)	187.44	-		(33.25)
PORT AUTHORITY OF GUAM	64.81	-	64.81		-
	\$ 56,601.60	\$ 3,853.44	\$5,691.30	\$ -	\$ 54,763.74