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January 9, 2012

Gershman, Brickner & Bratton, Inc., Receiver  
David L. Manning, Special Principal Associate  
8550 Arlington Boulevard, Suite 301  
Fairfax, Virginia 22031

Re: Follow-up to Matters Addressed in GBB's July 20, 2011 Letter

Dear Mr. Manning:

The purpose of this letter is to provide you with responses to the final three (3) questions stated in your July 20, 2011 letter. Our last correspondence with you dated December 5, 2011 regarding P.L. 31-20 ("GSWA Act") referenced Question Nos. 3, 7, and 9 as requiring follow-up.

In Question No. 3 the Receiver has asked whether the budget submittal to the legislature referenced in § 51A116 of the GSWA Act is in addition to the budget submission required as part of the Governor's annual budget process. We have met with the Governor's Counsel and are advised that this is a separate budget process for the Guam Solid Waste Authority ("GSWA"). Senator Ben Pangelinan's is the Chairman of the Committee on Appropriations and as I understand, accepts department budgets on a quarterly basis and includes this information on the Legislature's webpage; [guamlegislature.com](http://guamlegislature.com). Lisa Dames, Senator Ben's Chief of Staff will be able to provide filing deadlines. Lisa may be reached at (671) 473-4236.

Question No. 7 asks whether the PUC's approval of a new tipping and using fee structure will affect the existing P.L. 25-93. It will not. The PUC does not have authority to amend the notice provisions which apply to commercial haulers under P.L. 25-93. That is within the purview of the Legislature. However, we are looking into this matter further and have determined that P.L. 25-93 constitutes "rules and regulations" that may be able to be changed by the GSWA under the Administrative Adjudication Law. Under this process, proposed changes are submitted to the Legislature and if no action is taken by the Legislature within a specified period of time, the changes automatically go into effect. On the other hand, the Legislature may take action.

Lastly, Question No. 9 addresses employees of the GSWA. We agree with you that the rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment affecting “certified technical and professional personnel”<sup>1</sup> are governed by rules and regulations adopted by the Board, including compensation. These rules and regulations must be subject to the provisions of the Administrative Adjudication Act, and shall provide for the employment and retention of persons on the basis of merit, and shall include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants. § 51A104(u).

With respect to the “other employees” who do not fall within the definition of “certified technical and professional personnel”, any rules and regulations adopted by the Board must be consistent with Title 4 of the Organic Act of Guam. As these provisions are too large to attach as an e-mail attachment, I will have them uploaded onto GBB’s shared drive. We would be pleased to discuss any specific thoughts you may have for certain rules and regulations to ensure they are allowable under Title 4.

Sincerely,

*Kat Fokas*  
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Kat Fokas  
Assistant Attorney General

cc: Pat Mason, Deputy Attorney General

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<sup>1</sup> Technical and professional personnel are defined as personnel employed by the GSWA who are professional engineers, attorneys, and other licensed professionals. §51A104(u).