

# Quarterly Report of the Receiver

Civil Case No. 02-00022

United States of America v. Government of Guam  
Guam Solid Waste Management Division

Prepared for:



U.S. District Court of Guam

Submitted by:



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## Solid Waste Management Division

Pursuant to the Order of the District Court of Guam (Court), dated March 17, 2008, appointing Gershman, Brickner & Bratton, Inc. (GBB) as Receiver for the Solid Waste Management Division (SWMD) of the Department of Public Works of the Government of Guam, we are pleased to submit to the Court this Quarterly Report ("Report"). The purpose of this Report is to describe to the Court the progress made toward compliance with the Consent Decree since the second Quarterly Report filed with the Court on October 22, 2008, and to outline the Receiver's recommendations for achieving compliance with the Consent Decree. As a complement to this Report, the Receiver is also submitting the presentation entitled "Quarterly Report for Receivership for the Government of Guam, Department of Public Works, Solid Waste Management Division" (see Tab 2).

### Introduction

Since our last quarterly report, we have continued to focus on improving operations of the Solid Waste Management Division (SWMD), monitoring financing decisions to secure the capital funding needed for Consent Decree projects, and planning for the solid waste operations and infrastructure changes that will bring Guam into compliance with the Consent Decree. In this Report, we present the following:

1. Update on Consent Decree projects
2. Update on operations of the Solid Waste Management Division (SWMD)
3. Update on funding issues
4. Cart rollout plan: outline of our plans to provide trash carts and a new account management system for customers of the Solid Waste Management Division

It is our goal, with this Report, to obtain the Court's approval for our plan to implement the new cart-based collection and account management systems, as well as the modifications needed in the schedule and funding of the March 17, 2008 Consent Decree projects.

### 1. Update on Consent Decree Projects (October 2008 – December 2008)

#### GEPA/USEPA Coordination for Design Review and Permitting for Layon Landfill

In order to keep GEPA/USEPA informed on the overall progress of a range of Consent Decree issues, the Receiver continues to conduct regular bi-weekly conference calls with representatives of GEPA and the USEPA. During this period, there was significant progress towards the completion of tasks identified in the Project Schedule that are necessary to begin construction of the new landfill. Among the tasks we completed was the submission of the Final Hydrogeological Assessment Report for the Layon Landfill. We also made significant progress on the building permit for the mass earthworks for Cells 1 & 2. We anticipate that a conditional building permit will be issued during the third week of January 2009.

Following the contract award and notice to proceed to the selected contractor, the building permit will be complete. These completed milestones, along with other specific design and permitting work, are discussed in more detail below.

Through this joint process, GEPA has clarified the anticipated Solid Waste Facility Permit process, and the Receiver has worked to incorporate the process timeline into the existing Project Schedule. Presently, the anticipated process fits well with the existing timelines. We have also confirmed with GEPA that the initial Solid Waste Facility Permit application, submitted in March 2006, is still a valid and open application. At the time it was originally submitted, GEPA identified deficiencies that prevented further review until the deficiencies in the 2006 submission were corrected. These deficiencies included the ownership of the land, the zoning of the land for a landfill, signatures of the permit applicant, owner, and operator as well as the other issues raised by GEPA/USEPA with respect to the design, specifications, and operational plans. These issues have all either been successfully resolved or we have made significant progress toward their resolution.

We are also seeking clarification to determine if construction can begin on facilities whose primary purpose is not for the disposal of waste (e.g., landfill entrance facilities). We are working to establish a clearer process with definable goals and approval points.

**Design**

During the past quarter, we have continued to focus on the development of designs for the Layon Landfill, with completion of a number of significant deliverables since October 2008. This design work has focused on addressing issues raised by GEPA/USEPA pertaining to the previous pre-final design submitted with the Solid Waste Facility Permit application in March 2006 and the redesign associated with the value engineering recommendations.

While certain design tasks were completed on time, consistent with the timelines set forth in the Court-approved project schedule, three tasks have not met their specified deadlines. The implications for failing to meet the deadlines are as varied as are the causes for delay. The Receiver has been able to accelerate some aspects of the schedule to “make up” for delays so that the overall end goal of opening the Layon Landfill remains on target. The following table presents the design tasks along with their due dates, actual completion dates and implications related to any delays.

Table 1.

<b>Project Task</b>	<b>Due Date</b>	<b>Actual Date</b>	<b>Implications</b>
Pre-final Design Cells 1 & 2 Earthworks	10/15/08	10/29/08	Review deadline for GEPA/USEPA slips accordingly. However, comments have been minimal; therefore, the time allotted to address the comments and submit the final design can be shortened to make up for the two-week delay in submittal date. As of 12/23/08, GEPA has completed its review.
Building Permit for Earthworks Construction	11/5/08	11/5/08	None
Hydrogeologic Report	10/07/08	11/26/08	No Impact
Pre-final Design Landfill Systems and Entrance Facilities	12/3/08	12/24/08	Review deadline for GEPA/USEPA slips accordingly. Time in the schedule could be made up in the development of the Final Design.
Solid Waste Facility Permit	1/30/09	12/24/08	Positive impact as it gives GEPA/USEPA an earlier start time for review of the Solid Waste Facility Permit and could push the approval date up two months. This early submittal date was to accommodate the request of GEPA to have the permit earlier and prior to potential construction at the site.

No significant design work was performed on Ordot Dump during this period.

## **Permitting for Layon Landfill**

Permitting work for this period has consisted of the following:

1. Submitted or secured the following permits or approvals:
  - a. December 11, 2008: Secured the Zone Change approval by GLUC Board from Agricultural to M-1 Industrial.
  - b. Submitted and secured the Notice of Intent (Federal notice requirement of intent to discharge stormwater from a construction site and compliance with local GEPA requirements as well as federal requirements).
  - c. Submitted application and received partial approval of the building permit for mass grading construction for Cells 1 & 2 (approving agencies include Guam Environmental Protection Agency, Bureau of Planning and Statistics, Department of Parks and Recreation, Guam Power Authority, Guam Waterworks Authority, Department of Land Management and Department of Agriculture). Department of Public Works and Contractors License Board are agencies whose remaining signoff is required.
2. Responded to GEPA and other GovGuam agency requirements to satisfy DPW building permit approval conditions for the earthwork on Cells 1 and 2.
3. Continued to develop the timelines for Solid Waste Facility Permit processing and associated permit reviews with GEPA/USEPA.
4. Continued to work with GEPA/USEPA on the interpretation of the Solid Waste Facility permit regulations to clarify, procedurally, how the Receiver may proceed with the facility permit process and the construction permit process.

## **Construction at Layon**

During this reporting period, the Receiver initiated the formal construction bid process on December 5, 2008, with bid notices advertised as required by Guam law. A mandatory pre-bid conference was held on December 16, 2008, with 12 entities in attendance as potential prospective bidders. Separate mandatory pre-bid site visits were also held on December 16 and December 22. The Receiver team has worked throughout the bidding period to address Requests for Information (RFIs) from the prospective bidders, which are added as addenda to the bidding documents. All procurement documents and addenda are published on the Receiver's website and have been distributed to known prospective bidders.

The bid process for the first phase of construction at Layon was originally scheduled to be completed in early January, with bids due on January 8, 2009. After receiving requests from three prospective bidders for an extension of time to prepare their bids, the due date for bids was extended to January 22, 2009. This extension was granted to assure that prospective bidders have adequate time to submit their bids and in the interest of fostering the maximum competition. The opening of bids on January 22, 2009, will be followed by bid evaluation, with an anticipated award and notice to proceed to the selected contractor as soon as possible thereafter.

## 2. Update on Operations of the SWMD

In its October 22, 2008 Report to the Court, the Receiver reported that it had successfully reduced the daily collection crew shifts from three to one. We have maintained this improvement during the entire reporting period since our last quarterly report. All collection crews now begin their work day at 4 a.m., completing their work by early afternoon.

Conditions continue to improve at the Ordot Dump, with work focused on reducing the odor and visual unpleasantness that those who live around the Ordot Dump have experienced for many years.

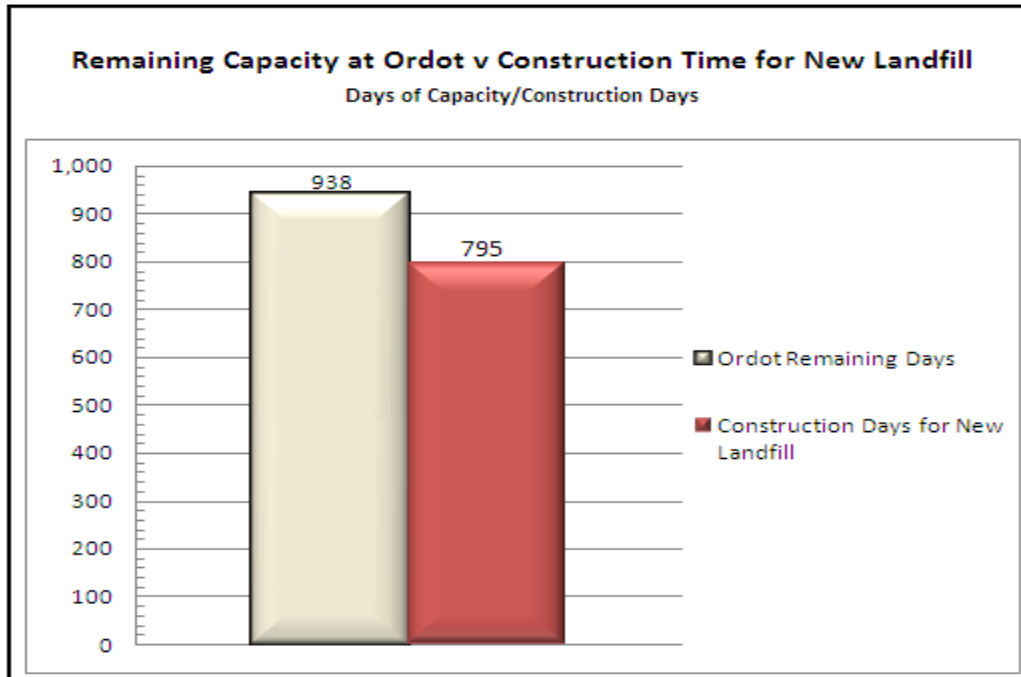
After the October Status Hearing with the Court, the Receiver had a meeting on October 24, 2008, with the Mayor of Ordot and the neighbors of the Ordot Dump. The comments from these neighbors were clear: They want the dump closed. Additionally, the neighbors were also complimentary about the improved conditions at the dump, such as consistent daily cover placed on the trash, maintenance along the perimeter of the dump, and our efforts to minimize the visual exposure of trash. They also commented on the significant reduction in fugitive dust coming onto their properties from previous Ordot Dump operations.

After a significant delay in shipping by the vendor, the new scale purchased under the Governor's emergency purchasing executive order has arrived. Work is currently underway to prepare the site and install the new scale. This will allow the waste coming to the Ordot Dump to be accurately measured on a consistent basis for the first time in many years.

Like recycling programs everywhere, the recycling initiative the Receiver implemented at its transfer stations has been affected by the worldwide economic downturn and its impact on recycling markets. As a result, Guam Transport and Warehouse, our only processor for mixed paper (e.g. newspaper, magazines, copy paper), notified us on December 17, 2008, that it would no longer accept these materials because it could not sell them for a profit in the international market. While we are exploring alternative uses for this material, these items are currently going into the Ordot Dump. This situation, coupled with the normal increase in the volume of trash in November and December due to holiday festivities, has significantly increased the volume of solid waste going to the Ordot Dump each day. These developments underscore the need to keep construction of the new landfill moving as fast as possible.

More specifically, the Receiver has continuously monitored the use of the Ordot Dump and how this use affects the remaining capacity at the Ordot Dump. This is extremely serious when it comes to the time required to construct and open the new landfill at Layon. Figure 1 graphically illustrates the tight time frame that is available to complete the construction of the new landfill. While some continue to want to debate other options and delay implementation of the Consent Decree, it is apparent that such an approach does not adequately consider the urgency of assuring that Guam has a new landfill in place before the Ordot Dump runs out of space. Any construction project has the potential for delays related to weather or unforeseen circumstances. Any significant unnecessary delay for political or other avoidable reasons places Guam in serious jeopardy.

Figure 1



During this quarter, we also continued to improve the efficiency of the SWMD. Currently, customer service and billing personnel are being moved from a separate location at the DPWs to the second floor of the SWMD offices. This move will improve the interaction between the customer service and collection crews. The billing for the January, February, and March services went out on time and with an increase of customers invoiced from 11,500 to 12,080.

We have continued to reduce dependence on rental equipment during the quarter. We reported to the Court in October that we had reduced the cost of rental equipment from a high of approximately \$11,000 per day when we arrived to \$1,400 per day in September. Reductions continued during the quarter, with the cost per day in December reduced to \$464.

Overall, one of the best measures of efficiency is the output per employee. In October we reported a reduction from 99 employees in March to 76 at the end of September, largely due to attrition. We were able to make further reductions during this quarter, with 72 employees on the payroll at the end of December. This represents a 27 percent reduction in personnel with a commensurate increase in productivity.

Morale continues to be strong in the SWMD workforce. As just one example, this year employees organized Thanksgiving and Christmas celebrations. It is our understanding that these holiday events had not occurred for at least the past four years.

### **3. Update on Funding Issues**

#### **Designation of a Trustee**

In the Court's Order of October 22, 2008, it was ordered that "the Government of Guam deposit \$20 million to a trustee to be subsequently designated by the Receiver and approved by the Court by January 5, 2009."

In order to designate a trustee, GBB solicited proposals, using a Request for Proposals (RFP) process, from a wide variety of financial institutions that qualify as depositories for public money under the applicable federal and Guam laws. Public Financial Management, Inc., (PFM) conducted this RFP process. PFM is the largest independent financial advisory firm in the United States with extensive experience assisting governments in the selection of trustees. We also consulted with the Office of the Attorney General of Guam.

The RFP was issued on December 10, 2008, with proposals due no later than the close of business on December 18, 2008. Proposals were received from the following banks:

1. Bank of Guam
2. Citibank, N.A., Guam Branch
3. U.S. Bank

The proposals were evaluated according to the criteria set forth in the RFP and Citibank, N.A., Guam Branch, was determined to have the best proposal. Pursuant to our request, the Court approved Citibank as the Trustee on January 2, 2009. The RFP used in the selection process and the list of financial institutions to which the RFP was sent are included in Tab 3 of this Report.

#### **Capital Funding**

In this section, we provide the Court with an update on the vital issue of access to the capital funding needed to assure compliance with the Consent Decree. Because the October 22, 2008 Quarterly Report outlined in detail our estimates and funding recommendations, we will not repeat them in this Report.

In the weeks since our last Report, we have seen what appears to be a deepening worldwide recession accompanied by a dramatic decline in the price of oil. It is unclear at this point what these developments may mean for the ultimate cost of the Consent Decree projects, but energy prices, and particularly petroleum prices, are a significant factor in construction costs. This is especially true of the landfill liner, one of the more costly elements of the new landfill. The general economic slowdown may also encourage more aggressive bidding by prospective contractors who are eager for work in a market where they may have fewer short-term opportunities than they would have in a stronger economy. While only competitive bidding can reveal what all of this actually means for the ultimate cost of these projects, these factors should work in favor of reduced cost for the Consent Decree Projects.

It is also important to note that since our last Report, we have seen turmoil in the financial markets subside to a degree, making our funding recommendation for Section 30-backed revenue bonds more attractive. As the Court knows, this recommendation has now been endorsed by Guam's Governor, the Director of the Bureau of Budget Management and Research, the Guam Economic Development Authority, the financial expert of the United States Government, in addition to GBB's financial consultant, PFM.



During the period since the last Quarterly Report, we have held several meetings with the Governor and officials of his Administration to support their effort to obtain capital funding. Unfortunately, the Legislature has not been as receptive to our offers to assist, although we have met with its members to brief them on our work and offered on numerous occasions to assist them in any way that would be helpful. On one occasion we attempted to meet jointly with the Governor and Legislature. After initially agreeing to the meeting, the Speaker declined to attend and requested that other members of the Legislature not attend.

However, the Legislature did pass the Governor's request for emergency legislation to authorize debt for the \$20 million the Court ordered the Government to deposit by January 5, 2009. The Government was successful in acquiring these funds, and they have been deposited to the Trustee Account as ordered.

The Governor also submitted legislation to authorize the Section 30-backed revenue bonds. We were asked to testify on the bill, and we provided that testimony on December 23, 2008. The Legislature indicated at the close of the hearing that additional comments would be requested from the Receiver, but as of this date we have not been provided the information upon which to base these additional comments. We will provide any additional information we can upon receipt of a request from the Legislature.

Unfortunately, the 29<sup>th</sup> Guam Legislature ended without passing the legislation authorizing the revenue bonds. The only reasonable conclusion that can be drawn is that the Guam Legislature has opted to fund the Consent Decree projects with cash.

As a result, the Court ordered the Government of Guam to provide the Court with certain detailed information concerning the cash position of the Government of Guam to allow the Court a better understanding of the Government's cash position.

The Government of Guam's response to the Court's Order described above reviews the Government's cash position in the following areas:

1. The cash availability of the Government of Guam for the years FY 2003 through FY 2007, as reflected in audited financial statements, in the following categories: (a) Unrestricted Cash and Cash Equivalents; (b) Short Term Investments; (c) Time Certificates of Deposit; and (d) Net Receivables;
2. An Estimated Average Monthly Cash Flow of the Government of Guam;
3. The cash availability of the Government of Guam (as of September 30, 2008) in the following categories: (a) Unrestricted Cash and Cash Equivalents; (b) Short Term Investments; (c) Time Certificates of Deposit; (d) Net Receivables; and (e) Estimated Average Monthly Cash Flow. The Court realizes that these numbers are unaudited but is confident that the Government can provide accurate numbers; and
4. The cash availability of the Government of Guam, in the following categories: (a) Unrestricted Cash and Cash Equivalents; (b) Short Term Investments; (c) Time Certificates of Deposit; and (d) Net Receivables for each day starting with October 1, 2008, and ending November 30, 2008.

The Court acknowledged that the information for September 30, 2008, forward would be unaudited.

**Cash Position of the Government**

To understand the cash position of the Government, the Court requested information on its cash position on September 30 of each of the most recent five years. Information was provided by for the Government for the General Fund as a standalone entity and all of the governmental funds under the control of the Government of Guam in the aggregate. Component units such as the Power, Port and Water Authorities, the University of Guam, and the Airport were not included. The information provided to the Court only considered the value of cash and cash equivalents (cash equivalents are highly liquid assets such as money market instruments, U.S. Treasury Securities, etc.), short term investments, time deposits and current receivables net of allowances for bad debt. This information establishes the approximate amount of cash and instruments quickly convertible to cash on those dates.

The following table summarizes the information provided for fiscal years 2003 through 2008:

Table 2.

<b>Government of Guam Cash Position</b>						
<b>General Fund</b>						
Date	Unrestricted Cash & Cash Equivalents	Short Term Investments	Time Certificates of Deposit	Receivables - Net (Current)	Total	Estimated Average Monthly Cash Flow (Excluding Federal)*
30-Sep-2008	\$ 2,453,752	\$ -	\$ -	\$ 14,262,934	\$ 16,716,686	\$ 42,090,051
30-Sep-2007	\$ 31,059,972	\$ 500,000	\$ -	\$ 28,414,606	\$ 59,974,578	\$ 42,866,009
30-Sep-2006	\$ 19,003,878	\$ 400,000	\$ -	\$ 28,645,726	\$ 48,049,604	\$ 36,043,790
30-Sep-2005	\$ 8,653,669	\$ 400,000	\$ -	\$ 29,323,879	\$ 38,377,548	\$ 36,941,309
30-Sep-2004	\$ 27,639,147	\$ -	\$ -	\$ 28,086,429	\$ 55,725,576	\$ 34,081,050
30-Sep-2003	\$ 23,380,307	\$ -	\$ -	\$ 60,072,275	\$ 83,452,582	\$ 35,523,038
<b>Total Government of Guam</b>						
Date	Unrestricted Cash & Cash Equivalents	Short Term Investments	Time Certificates of Deposit	Receivables - Net (Current)	Total	Estimated Average Monthly Cash Flow (Excluding Federal)*
30-Sep-2008	\$ 13,477,312	\$ -	\$ -	\$ 44,331,327	\$ 57,808,639	\$ 65,504,617
30-Sep-2007	\$ 79,648,733	\$ 8,620,000	\$ 242,614	\$ 72,567,492	\$ 161,078,839	\$ 66,452,761
30-Sep-2006	\$ 49,937,321	\$ 8,520,000	\$ -	\$ 67,310,839	\$ 125,768,160	\$ 48,259,257
30-Sep-2005	\$ 56,603,115	\$ 9,543,800	\$ 1,000,718	\$ 74,221,129	\$ 141,368,762	\$ 57,863,367
30-Sep-2004	\$ 53,968,701	\$ 8,120,000	\$ 1,000,718	\$ 65,288,412	\$ 128,377,831	\$ 54,835,152
30-Sep-2003	\$ 58,018,007	\$ -	\$ 1,000,718	\$ 86,454,288	\$ 145,473,013	\$ 54,833,799

While the cash position of the Government improved between 2005 and 2007, the information provided by the Government’s report to the Court for September 30, 2008, shows a significant reduction in cash. This deterioration, however, may be attributable to the Government’s practice of processing more vendor payments than can be covered by the cash on hand and having the Treasurer of Guam hold the

checks until sufficient cash accumulates to release the checks. This practice is in lieu of establishing these payments as a payable in the accounting system. However, the government reclassifies these payments for the annual financial statements, to their proper status as a payable; therefore, the cash deterioration shown above on September 30, 2008, is likely not as severe as indicated, and may not evidence an actual cash decline at all. It will be necessary to review the audited financial statements for September 30, 2008, to be certain.

The Court has also received information on the cash position of the Government of Guam on a daily basis since September 30, 2008. The information shows that the Government of Guam's cash position varies from day to day, as would be expected of any organization. In Guam's case, however, the data shows the cash position as negative for several days during this period. This may indicate that the Government is internally borrowing from other funds or reflect the Government's practice of processing more vendor payments than can be covered by the cash on hand and having the Treasurer of Guam hold the checks until sufficient cash accumulates. It is not possible to tell from the data provided the extent to which one or both of these practices are occurring.

In any case, the information provided to the Court shows a government with a chronic cash shortage. To gain a better understanding of the cash situation of the Government of Guam, it is useful to compare Guam's cash position to that of other governments.

**Comparative Cash Position**

In order to better assess the position of the Government of Guam's cash position, it is helpful to compare it to other governments. When making such a comparison it is also useful to compare the liquid assets of the jurisdiction to the short term payables (payables and accrued payroll) of these governments to get a better understanding of how their liquidity matches up against pending obligations.

For the purpose of this analysis, we have used three of the smallest states (by population), plus Hawaii. Hawaii was selected because it has more in common with Guam's island community than would be true of most other state governments. In making such a comparison, it is necessary to use comparable data. Since FY 2007 is the most recent year for which comparable data exist for all of the jurisdictions, it is the period we have used to make the comparison.

Table 3 reflects this comparative analysis of Guam's cash position for FY 2007.

Table 3.

<b>Cash and Other Liquid Assets on Hand Compared with Short-Term Amounts Payable</b>						
<b>Guam and Selected Jurisdictions</b>						
<b>FY 2007</b>						
<b>Date</b>	<b>Unrestricted Cash &amp; Cash Equivalents</b>	<b>Short Term Investments</b>	<b>Receivables - Net (Current)</b>	<b>Total</b>	<b>Accounts Payable</b>	<b>Dollar Available Per Dollar Owed</b>
Guam	\$ 31,059,972	\$ 500,000	\$ 28,414,606	\$ 59,974,578	\$ 89,376,499	\$0.67
Hawaii	\$ 171,720,000	\$ 832,645,000	\$ 401,789,000	\$ 1,406,154,000	\$ 76,367,000	\$18.41
North Dakota	\$ 485,657,911	\$ 1,057,190,881	\$ 176,650,906	\$ 1,719,499,698	\$ 52,515,538	\$32.74
South Dakota	\$ 195,160,000	\$ 638,799,000	\$ 117,471,000	\$ 951,430,000	\$ 77,138,000	\$12.33
Vermont	\$ 143,623,820	\$ -	\$ 243,603,685	\$ 387,227,505	\$ 21,670,702	\$17.87

As can be seen, Guam has a very weak cash position compared to the other jurisdictions. While Guam has about 67 cents in cash or near cash assets for each dollar it owes in short-term payables, other jurisdictions have far more, ranging from a low of just over \$12 to a high of almost \$33 in cash or near cash assets for each dollar owed in short-term payables.

### **Revised Funding Recommendation**

The weak cash position of the Government of Guam reinforces the recommendation made by the Court, the Receiver, the Governor, the Director of BBMR, Public Financial Management, Inc., and the financial expert of the United States that Guam pay for the Consent Decree projects with Section 30-backed revenue bonds. Use of Guam's current cash to pay for these projects will further exacerbate an already difficult cash position. Unfortunately, the Guam Legislature does not appear to be willing to avoid the unnecessary pain its apparent unwillingness to authorize the Governor's request for Section 30-backed revenue bonds will inflict on Guam by forcing cash funding of the Consent Decree projects.

The expected weak cash position of the Government was one of the principal reasons for requiring the \$20 million deposit, which provides clear assurance to the contractors employed to do the Consent Decree project work that they will be paid in a timely way. Without such assurance it is unlikely that quality contractors will be willing to undertake the work needed to bring Guam into compliance with the Consent Decree.

If the Legislature persists in forcing the Government to provide the required capital funding from cash, it will be necessary to supplement the initial deposit of \$20 million on at least a monthly basis in the amounts shown on Table 11 in our October 22, 2008 Report. This table described the impact of the alternative approaches to funding the Consent Decree projects (revenue bonds compared to no revenue bonds). For convenience, this table is included in this Report as Tab 4. The cash requirement for each month was calculated using our projected construction schedule, and the projected cash flow is based on that schedule.

Given the weak cash position of the Government of Guam, a fixed weekly cash contribution may be more manageable than the monthly cash amounts shown in the table in Tab 4, which vary significantly from month to month. The schedule in Tab 5 illustrates a weekly schedule of cash contributions.

As the table in Tab 5 illustrates, the initial weekly cash contribution required is \$1,000,000. This assumes the weekly contribution begins on March 1, 2009, and continues until July 1, 2011, when it is reduced to \$600,000 per week. The weekly \$600,000 contribution continues until August 1, 2012, after which one final contribution of \$438,726 is required. To reduce the weekly amount required of the Government, an interim increase in tipping fees could be implemented on July 1, 2009, for commercial customers, with the new fees for residential customers being implemented as the cart system is rolled out.

It was not our intention to implement the new fees until final approval of the Public Utilities Commission (PUC) is obtained, a process that will likely take several months. In addition, the capitalized interest recommended in the revenue bond option would have deferred any debt service expense until after the new landfill and other facilities were completed and operational.

However, given the cash flow implications for the Government of Guam, we recommend that the new commercial tipping fees be implemented July 1, 2009, on an interim basis using the Court's authority extended to the Receiver in its March 17, 2008 appointment Order. Beginning on April 1, 2009, all tipping fees would be deposited with the Trustee (all current and increased tipping and collection fees),

and the Government would be reimbursed for payroll and other internal costs borne initially by the General Fund from the Trustee Account. The Government of Guam would be required to make the weekly contributions of capital funding to the Trustee Account as shown in the table in Tab 5. By setting interim rates, the weekly amount required of the Government of Guam could be reduced by \$100,000 per week starting July 1, 2009, by \$150,000 per week beginning April 1, 2010, and by \$211,000 per week beginning April 1, 2012. The Receiver would still go through the PUC rate-setting process to establish permanent rates, and when the permanent rates are approved by the PUC, they would replace the interim rates. The Government's weekly contribution could also be reduced by interest income earned on the account.

The approach outlined above also preserves for the Government the option to issue the Section 30-backed revenue bonds previously recommended. Should the Legislature at any point decide to authorize the revenue bonds, the Government of Guam could recover all of its cash contributions to the Consent Decree projects and repay the initial \$20 million loan.

In summary, we recommend that the Court order the following:

1. The Government make weekly contributions to the Trustee of \$993,700 starting March 1, 2009, and ending June 30, 2009;
2. The Government make weekly contributions to the Trustee of \$893,700 starting July 1, 2009, and ending January 31, 2010;
3. The Government make weekly contributions to the Trustee of \$847,600 starting February 1, 2010, and ending February 28, 2011.
4. The Government make weekly contributions to the Trustee of \$784,700 starting March 1, 2011, and ending June 30, 2011.
5. The Government make weekly contributions to the Trustee of \$384,700 starting July 1, 2011, and ending September 30, 2012.
6. The Receiver increase commercial tipping fees in accordance with the Report to the Court of October 22, 2008, effective July 1, 2009, and residential fees as the new cart system is implemented;
7. All tipping fees be deposited to the Trustee beginning April 1, 2009; and
8. The Receiver reimburse the Government for all payroll expense and other expenses borne by the Government for the SWMD from the Trustee Account for such expenses occurring on or after April 1, 2009.

#### **Revisions to the Financial Plan Required by Removal of the Recycling Revolving Fund**

In adopting legislation to authorize the Governor's request to borrow the initial \$20 million, the Legislature decided to amend and pass Bill 383 instead of the bill submitted by the Governor. In addition to including several unrelated provisions, the bill also removed the Recycling Revolving Fund from the Department of Public Works, and thus from the authority of the Receiver, placing it with the Guam Environmental Protection Agency. This action removes approximately \$2.5 million in annual funding from the plan the Receiver presented, and the Court approved in its Order of October 22, 2008.

The following table (Table 4) is from the Report we submitted to the Court on October 22, 2008. The table outlines our planned use of the Recycling Revolving Fund in paying for a comprehensive solid waste management program for Guam.

Table 4.

<b>With Recycling Revolving Fund</b> <b>Guam Solid Waste Management Division Cost/Funding</b> <b>Estimated Tipping Fees</b> (Excludes Ordot Dump Closure Cost)				
Expense/Revenue	Residential Collection*	Disposal**	Junk Cars and Tire Processing	
Direct Expense	\$ 4,632,958	\$ 4,397,048	\$ 1,527,500	
Administration	\$ 621,706	\$ 590,048	\$ 204,978	
Debt Service	\$ 710,268	\$ 10,299,479	\$ -	
Total Expense	\$ 5,964,931	\$ 15,286,576	\$ 1,732,478	
Less:				
Recycling Revolving Fund	\$ 592,817		\$ 1,732,478	
Net Expense	\$ 5,372,115	\$ 15,286,576	\$ -	
Number of Accounts/Tons	15,000	98,640	N/A	
Required Fee	\$ 29.85	\$ 154.97	N/A	
*Includes residential trash collection, white goods and bulky waste and pilot curbside program				
**Includes landfill operations, transfer station, convenience center and HHW				

The effect of the Legislature’s decision to remove the Recycling Revolving Fund from the SWMD is illustrated in Table 5, a revised version of Table 4.

Table 5

Without Recycling Revolving Fund				
Guam Solid Waste Management Division Cost/Funding				
Estimated Tipping Fees				
(Excludes Ordot Dump Closure Cost)				
Expense/Revenue	Residential Collection*	Disposal**	Junk Cars and Tire Processing	
Direct Expense	\$ 4,632,958	\$ 4,397,048	\$ -	
Administration	\$ 726,872	\$ 689,860	\$ -	
Debt Service	\$ 710,268	\$ 10,299,479	\$ -	
Total Expense	\$ 6,070,098	\$ 15,386,387	\$ -	
Less:				
Recycling Revolving Fund	\$ 2,325,295		\$ -	
Net Expense	\$ 3,744,803	\$ 15,386,387	\$ -	
Number of Accounts/Tons	15,000	98,640	N/A	
Required Fee	\$ 20.80	\$ 155.99	N/A	
*Includes residential trash collection, white goods and bulky waste and pilot curbside program				
**Includes landfill operations, transfer station, convenience center and HHW				

The change made by the Legislature will increase tipping fees for residential customers from \$29.85 to \$30.43, an increase of 58 cents per household each month or about 2 percent. Commercial rates will rise by \$1.02 to \$155.99 per ton or about 0.6 percent. The rise in commercial rates relates to a small increase in the portion of administrative overhead that must be allocated to the commercial rates that was previously allocated to the junk car and tire portion of the program.

The Legislature’s decision to remove the funds previously allocated to the Solid Waste Management Division through the Recycling Revolving Fund is a step backwards in the process of developing a comprehensive solid waste management plan for Guam. By removing these funds and placing them under the authority of GEPA, the Legislature fragments the solid waste program by placing funding and responsibility for junk vehicles, tires and other recycling activities in another agency. Responsibility for junk vehicles and waste tires is now the exclusive responsibility of GEPA.

#### 4. Cart Rollout Plan

##### Overview

In our October 22, 2008 report to the Court, we outlined three options to achieving a sustainable residential solid waste management system in Guam:

1. Basic Services, including a cart system for trash collection with staffed and strategically located convenience and recycling centers;
2. Curbside Recycling added to the Basic Services Scenario; or

3. Mixed Waste Recycling, which includes the Basic Services Scenario plus a Mixed Waste Processing facility to recover recyclable material.

In its Order dated October 22, 2008, the Court accepted our recommendation to implement the Basic Services option—the least costly among the three alternatives—which enables Guam to build a more sustainable solid waste system that both meets the requirements of the Consent Decree and establishes a strong foundation from which to grow more advanced programs, including Curbside Recycling and Mixed Waste Recycling, at a later date.

As we have previously reported to the Court, the current ability of the SWMD to track its billing is poor. The SWMD's collection crews collect trash from approximately 15,900 locations each week. For approximately 4,000 of these households (almost 25% of all the total receiving collection service, many of which do not receive mail at their physical location), the SWMD cannot connect the customer accounts to the physical collection addresses. In addition, the Division invoices only 12,080 customers for service, leaving close to 4,000 residents currently receiving free service from the SWMD due to the inability to track the accounts of customers who have not paid or who have cancelled service. This lack of tracking creates serious problems for the SWMD to secure the revenue stream it needs to cover the expense of its daily collection operations.

Solving this issue is paramount for the SWMD, and to that end, the Receiver submits the following implementation plan for a new trash collection program. The implementation plan includes new registration of customers and the implementation of a new billing system that will be integrated with both collection routes and new customer service software. These changes are fundamental elements of business best practices and service to the customers of Guam's SWMD.

Because these tracking measures are the key to the success of all future SWMD programs, they will be the first operational activity implemented as we build a new solid waste infrastructure. The changes described in this portion of the Report fall under the term 'Cart Rollout Program,' which is inclusive of the following program elements:

- New and more efficient routes for the trash collection vehicles;
- Trash carts for the customers;
- Increased safety for the collection crews;
- New registration of customers;
- New billing system;
- New customer service tracking; and
- New approach to educating customers about SWMD services.

The implementation of this plan will not be easy and will take time. With the Court's permission, the implementation process will begin immediately with the purchase of the equipment and tools necessary for the new cart-based collection program. Procurements will include the trash carts, the software and hardware needed to implement the billing and customer service programs, and collection equipment. SWMD personnel will be trained in the use of these tools and the new procedures to assure that the SWMD can track and invoice its customers. The carts and the technology needed to implement this change will be funded from the \$20 million already on deposit with the Trustee.

Registering customers and cart delivery will take place over a seven-month period in 2009. The Receiver expects registration and the new service to begin mid-year, subject to the results of the procurements, and continue until registration is completed, which the Receiver projects to be toward the end of the



same calendar year. The plan has the SWMD working closely with the Mayors of Guam's 19 villages so that registration in each village will maximize residents' opportunity to register. The SWMD will start registering at the south of the island and work north, ending with Dededo, the most populated village on the island. The SWMD will provide day and evening registration hours so that people working at various times of the day will have an opportunity to register. As soon as registration in a village is completed, the carts will be delivered so that customers will begin the new service quickly.

### **Recycling and Ban on OCC, C&D and Vegetative Waste**

At the same time that we implement the new collection and account management systems for trash, we want to encourage recycling and maximize diversion of recyclable materials from the Ordot Dump. Residents will be encouraged to take recyclable cardboard (OCC), glass and other accepted recyclable materials to the three convenience centers on the island. (Note: The need to expand the recycling infrastructure will necessitate the purchase of additional 40-cubic-yard open top roll-off containers, to be placed at the convenience centers. The procurement for these items has already been completed and purchases can still be made under the terms of the existing contract.) We also plan to extend to residents the ban on collection and disposal of OCC (corrugated cardboard), construction and demolition debris, untreated wood, and vegetative waste (yard and organic wastes, such as leaves, grass clippings, tree prunings, large cut waste timber and stumps) that was implemented in July 2008 for commercial haulers, Mayors and Guam Government departments. The Receiver is currently working out the procedures the SWMD will follow should they find banned material in the carts, including warning notices. In addition, as described below in our public education plan, residents will be notified about the ban in materials they receive during registration and with their new carts, and they will be given instructions about what to do with the banned materials.

What follows are outlines of the various components of the work needed to be performed for the implementation of this new cart collection system.

### **Carts: Size and Number**

Under the new system, each SWMD customer household will receive a covered, rolling cart.

The Receiver believes that with once-a-week trash collection service, a 96-gallon cart is the most appropriate size for most Guam residents and families. We also know that some families generate enough trash on a regular basis to need a second 96-gallon cart. These residents will be able to register for a second cart for an extra monthly fee.

The covered carts will be easy to roll to the collection point. Their color will differ from the color of the carts provided by other waste collectors servicing the island. The carts will be serviced by rear-loading trucks equipped with lifters. Lifters are the hydraulic mechanisms on rear-loading trucks that raise the carts for emptying, eliminating the need for SWMD personnel to lift heavy carts and risk injury. With the new covered carts, platforms and unsightly cages for trash bags and containers will no longer be needed.

In making decisions about the number of carts to procure, the Receiver wants to avoid the costs of purchasing and storing an excess cart inventory. At present, the SWMD has 12,080 invoiced customers. The Receiver plans to order a sufficient number of 96-gallon carts to meet the anticipated demand of current and new customers who will register for collection service. This initial order will likely be delivered in multiple shipments, which will give us flexibility to increase the order size if early

registrations warrant. If necessary, since we will use rear-loading trucks, we can continue to service registered customers who put trash out in bags or old containers, until their new carts arrive.

At certain times of the year (e.g., holiday seasons) or special events (e.g. family/community gatherings), residents generate more trash than at other times. We are currently exploring the idea of using trash stickers for excess trash, which residents could purchase at SWMD's facilities and affix to individual trash containers to be set out for collection.

### **Procurements for Carts, Lifters and Baby Packers**

In order to minimize delay between customer registration for the new cart-based collection service and delivery of the carts, the Receiver plans to procure the carts before the registration process starts. During January 2009, the Receiver will draft a cart procurement document. The procurement document will specify the following:

- Cart size (96-gallon)
- Replacement wheels, axels, lids and other spare parts
- Cart color
- Numbers and an insignia of our design on each cart
- Up to 25 cart lifters
- Radio frequency identification (RFID) tags attached to the carts (discussed below)
- RFID readers on each truck

Vendor proposals will be due in late February with contract award in March 2009.

The Receiver has explored an alternative cart procurement program through the National Intergovernmental Purchasing Alliance (NIPA). The NIPA program allows public agencies in the United States to reduce procurement costs through volume purchasing. While Guam is eligible to participate in NIPA, the Guam procurement office confirms that the procurement must be released locally first, and only if the NIPA price for the carts is 10 percent or more lower than the locally bid price can the Government of Guam purchase the carts through a NIPA contract. We will continue to evaluate this option.

Once manufactured, the carts will be delivered to Guam in 36 containers, each 40 feet in length and holding approximately 363 carts. Because the 36 containers will take up considerable space, the Receiver is evaluating areas on Guam for possible staging areas. We are confident that a safe and secure staging site can be obtained that will be located in an area to facilitate efficient delivery of the carts.

In addition to developing the cart procurement, we will need to prepare a separate procurement for what the SWMD refers to as "baby packers" — trucks that can go into areas where it is difficult for normal-size trash trucks to go. These smaller trucks will have hoppers for the trash in the bed of the truck and a manual tarp system. The Receiver expects to purchase five (5) of these trucks.

### **Registration for Cart-based Trash Collection**

The goal of the registration process is to facilitate a smooth transition to the cart-based system for trash collection. At the same time, the registration process provides an opportunity not only to gather

information from customers, necessary for service delivery and billing, but also to share information with our customers about SWMD services and waste reduction practices.

Depending on the results of the procurement, the Receiver plans to begin the registration process in May 2009 in the southern area of Guam and move north to the more populated areas, completing the process by October in Dededo. Many of the southern villages will take less time for registration than the northern areas because they are less populated. We hope to work closely with each of the 19 Village Mayors to hold registration events at their offices at a minimum of twice during the designated registration week for their village and again on Saturday. During registration, residents will complete a registration form to sign up for collection service and a trash cart, confirm their house and pickup locations on a map, and receive a brochure with information about SWMD services and waste reduction tips. The Receiver plans to explore providing mail and online registration for current SWMD customers in good standing.

Approximately one week after registration is closed for each village, the SWMD will deliver the carts to registered customers. We expect to deliver a minimum of between 300 to 400 carts per day. Each cart will contain instructions for using the cart and the service. New billing procedures and billing rates will begin once the carts are delivered. (Billing issues are described below.)

### **Cart Tracking**

Once the carts are delivered, it will be important to track and control them to ensure that only paying customers receive service and that carts are registered to the address where they are located. To provide tracking capabilities, the Receiver will procure radio frequency identification (RFID) tags for the carts, which will enable each cart to be identified and tracked using wireless technology. The tags, which will be attached when the carts are manufactured, can be read from several feet away and, through an onboard computer on the truck, matched with a Global Positioning System (GPS) data point for the customer address. If the cart and address do not match, a work order can be sent to a SWMD supervisor to investigate and correct. In addition, the SWMD can set the electronic reader so that the truck lifter will stop before dumping a cart that does not belong to that location.

The RFID option would add the cost of onboard computer technology to each truck, but given the reality of Guam's poor home address system, we believe this type of tracking system is necessary and the best solution to the SWMD's current billing problems.

### **Collection Routing**

The new cart-based system presents an opportunity to maximize efficiencies in collection routing through GPS technology. The SWMD does not currently use routing software. Over the past few months, the Receiver has begun the process of evaluating collection routes in order to determine where improvements can be made.

Before the registration process begins in May 2009, the Receiver and SWMD personnel will complete GPS data analysis, route mapping and evaluation. As a result, when customers register for service, SWMD staff will be able to tell them which day they will receive collection. Should it become necessary to make changes in routing, the SWMD will provide ample notification to all residential customers.

Routing efficiencies will result in fewer trucks performing the same number of collections. SWMD employees who will no longer be needed on collection will work on the registration and cart rollout

process and the future activities the SWMD will be implementing, such as the bulky item collection by appointment.

### **Billing and Customer Service**

As noted in previous reports to the Court, the SWMD has experienced a number of significant billing problems that have led to about 15,900 households currently receiving collection service with only 12,080 invoiced for the service. Problems include the lack of addresses to which to send bills and a software program with little ability to query or modify accounts.

The Receiver is exploring technologies and customer service software that will improve the billing process. Specifically, the SWMD needs to link customer addresses, setout locations, and carts to billing accounts, and better track customer payments with accurate recordkeeping.

The RFID tags described earlier, when applied to the carts, would connect the carts to a billing account, but there is also a need to fully integrate the billing system with collection location/cart data and customer service information.

### **Public Education**

Providing updated and timely information to the public during the cart rollout process will be essential. We have prepared a draft public education plan to support the cart rollout (Tab 6). This plan includes research during late March/early April 2009 to assess residents' attitudes and opinions about our plans for rolling out the new cart-based system. It also includes meetings with Guam's Mayors to ask for their support and to receive their suggestions for improving our plans. We will use a variety of outreach methods, including printed materials, website information, and free media to inform Guam residents about the registration process and build support for recycling and the proper management of waste. The following describes our plans in greater detail.

#### **Customer Research**

In late March/early April, the Receiver will conduct three customer meetings with groups of Guam residents, one each in the north, south and mid-island. Our objective in holding these meetings is to assess residents' attitudes and opinions about the new cart-based system, the registration process and the public education materials we plan to distribute. Each meeting will be two hours in length and take place in the evening. A Receiver representative with experience and training as a facilitator will serve as the moderator. Participants will hear about the new solid waste system, participate in a group discussion about the cart rollout and registration process, and review proofs of proposed public education materials.

#### **Meeting with Mayors**

In addition to conducting the customer meetings, the Receiver representative will arrange to meet with Guam's Mayors—preferably at a Mayors' Council meeting—to discuss the registration process and obtain their feedback on new solid waste programs. We also hope the Mayors will agree to support our efforts by holding registration sessions at their offices and posting signs announcing registration times in their Villages.

### Public Education Materials

We plan to produce a number of public education materials that will inform residents about the new system, SWMD services and fees, and tips for recycling and waste reduction. These include:

- A logo and slogan that communicate that with the new system, Guam is becoming cleaner and greener.
- A colorful, informative brochure for customers who register for SWMD service, to be distributed at registration. The brochure will show photos of the new cart, note the anticipated cart delivery and collection days, outline collection and excess trash fees, provide information about the materials ban and what to do with banned materials, give information about other SWMD services (e.g., recycling convenience centers), spell out waste reduction tips, and give contact information for SWMD customer service.
- A laminated cart hanger, possibly with a magnet backing, that will be distributed on each cart. The cart hanger will show the collection day, tips for using the cart, what to do with excess trash, information about the materials ban and where those materials can be taken, and other new services. It will also give contact information for SWMD customer service.
- Flyers to be distributed in public and private schools with registration locations, dates and hours.
- Signs for SWMD trucks that promote registration and proper waste management.

### Media Relations

We will look to the Guam media to help publicize the registration process and dates as well as to create awareness about new SWMD services. We are planning a series of press releases, public service advertisements, and opinion pieces that will publicize the registration process and cart deliveries.

### Website

We will continue to update the Receiver website ([www.GuamSolidWasteReceiver.org](http://www.GuamSolidWasteReceiver.org)) with information about the registration process and new services. In addition, we are exploring how we might offer online registration for current SWMD customers whose addresses are confirmed and who are current in their payments. Finally, we hope to be able to offer online billing and automated payment to registered customers as part of the new billing system.

## **Timeline for Cart Rollout**

The preliminary timeline for the cart rollout is divided into three phases.

### **Phase 1. Infrastructure development, December 2008 – April 2009**

Activities summary:

- Routing and training with GPS units, route mapping
- Cart procurement
- Procurement for new pickup trucks and lifters
- Evaluating the billing and customer service system and developing the procurement
- Initiating rate discussions with the Public Utilities Commission
- Preparation for customer meetings
- Development of public education materials in draft form

### **Phase 2. Deliveries and Implementation, March 2009 – May 2009**

Activities summary:

- Cart delivery and staging at the coral pit
- Truck deliveries, attaching lifters
- Delivery of products for billing and customer service implementation
- Training of customer service personnel on new billing products/software
- Customer meetings held
- Presentation to mayors' council
- Media relations and publicity about the registration process
- Public education materials finalized, printed and delivered to SWMD

### **Phase 3. Registration and Service, May 2009 – November 2009**

Activities summary:

- Completion of registration form
- Mailing of registration forms to customers
- Development of registration procedures and sequence of villages to be registered
- Meetings with each of 19 mayors a week before registration in his/her village
- Registrations in each village
- Cart deliveries approximately one week after registration is completed in each village
- Media relations to publicize cart deliveries

## Next Steps

During the first quarter of calendar year 2009, the Receivership Team will focus on continued improvements in the operations of the SWMD and getting construction of the new landfill underway. Specific steps will include:

1. Award contract for cells 1 & 2 earthwork and begin construction;
2. Complete the solid waste facility permit process;
3. Develop procurement documents for future construction bids;
4. Continue to improve the SWMD organization;
5. Complete and obtain approval for all design plans needed to move forward;
6. Continue to provide assistance for GovGuam as requested in implementing the funding recommendation;
7. Develop procedures for managing the Trustee account, in conjunction with GovGuam officials, and seek Court approval;
8. Initiate interim increases in fees as approved by the Court;
9. Initiate trash cart rollout plan:
  - a. Procure trash carts;
  - b. Select and implement a new account management system;
  - c. Register customers and distribute the carts;
  - d. Extend materials ban to residential customers; and
  - e. Implement public education plan.
10. Advance Military involvement with execution of MOU and Service Agreement; and
11. Keep the Court, the Government of Guam, our customers, and other interested parties informed.