



OFFICE OF PUBLIC ACCOUNTABILITY
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Letter to Publishers and Broadcasters re

Guam Solid Waste Authority and the Federal Receiver

The June 25, 2015 release of the FY 2014 financial audit of the Solid Waste Funds reflects three full years of operations at Layon Landfill by the Receiver. In less than three months, the books will close on FY 2015 and we will have four years of financial performance.

Thanks to the free rein that District Court Judge Frances Tydingco-Gatewood granted the Receiver, Guam has probably the most modern landfill of all of the Pacific Island countries. It's likely more up-to-date than many stateside landfills.

When OPA hosted the 13th Pacific Association of Supreme Audit Institutions (PASAI) Congress in September 2013 with attendance of over 60 delegates that included the Auditor Generals from 22 countries, such as New Zealand, Australia, New Caledonia, Papua New Guinea, to name a few, as well as the Acting Inspector General of the Department of the Interior, we toured the landfill operations at Harmon and Layon.

PASAI conducted a cooperative audit on solid waste in 2011 of which Guam and nine other island governments participated. I forewarned the Congress to take action and address their solid waste issues as not addressing them can come at a heavy price, which Guam is now experiencing.

I recently read in the paper with dismay and a heavy heart the Judge's decision to further delay the transition of management of the Layon landfill operations to the Guam Solid Waste Authority (GSWA).

It is my understanding that the GSWA Board has been requesting for the authority and funding to advertise and hire a general manager and other senior staff so that the Board can have its management team in place and be ready for the transition of managing Layon. However, according to one board member, the

Receiver has not even allowed the Board to advertise for the general manager position and other senior positions for its management team.

To be clear, the Board is NOT requesting to take over the closing of the Ordot Dump, a project that is still in progress. The Board wants to begin the transition of Layon.

I have also watched with dismay the disagreements between the Receiver and the Governor's office on future capital projects and how they would be funded. I can see now how some of that bad blood occurred between the Receiver and the Governor's representatives.

I say this because of my most recent experience with the Receiver and the 2014 financial audit of the Solid Waste Funds. Completion of the audit was repeatedly delayed because of the continued objections by the Receiver on certain aspects of the numbers, reconciliation of those numbers, the wordings of certain statements, and my comments over a particular consultant contract.

The Receiver reports on a cash basis to the Judge and the audit is on a modified accrual basis. There were other bones of contention pertaining to certain findings on procurement.

Let me just say that I refrained from responding in like kind to the less than professional comments by email and telephone to me and the Deloitte and Touche auditors. In the end, we agreed to disagree.

I also bring to the public's attention the Receiver's misrepresentation in his March 5, 2015 quarterly report to the District Court. At page 23 of the report, writing about OPA Procurement Appeal 14-010, Morrico Equipment, LLC v. Guam Solid Waste Authority, the Receiver said, "On February 20, 2015, the Office of Public Accountability upheld the protest on technical grounds citing lack of evidence in the record for the specification that was protested. While we disagree with the decision, we will revise the bid and reissue the procurement."

Despite the representation to the Judge that he would reissue the bid, the Receiver appealed the Public Auditor's decision to the Superior Court the very next day on March 6, 2015. The latest order from Judge Barcinas, issued June

30, sets trial for January 22, 2016 and motions to dismiss to be heard on August 21, 2015.

While any government entity can appeal the Public Auditor's procurement decision to the Superior Court, since 2006, when procurement appeals became the responsibility of my office, no other government entity has appealed a procurement decision; only vendors have appealed.

Because of the free rein given to the Receiver, the people of Guam are paying for the legal costs of the Receiver's appeal to the Superior Court. Money is coming from the Solid Waste Operations Fund, the solid waste rate payers of Guam, the taxpayers of Guam, as well as staff time and resources from the OPA and the Superior Court. In addition, there are Morriconi's legal costs, time, and resources.

I write this open letter to say to the people of Guam, that after four years of the Receiver managing Layon, the Board should be given the opportunity and funding to get its management team in place and be allowed to manage and operate the Layon Landfill. FY 2016 should be the year GovGuam is allowed to prove to the Judge, and more importantly to the people of Guam, that Guamanians are fully capable of running Layon.

This transition can and should be under the watchful eye of the Court. The GSWA Board, chosen by the Governor and confirmed by the Legislature, should be handed the responsibility of managing and operating the Layon landfill.

Respectfully submitted,



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