



**ECONOMIC IMPACT STATEMENT  
RE.  
GSWA OPERATIONAL RULES AND REGULATIONS**

A. Background/Purpose.

The Guam Solid Waste Authority (“GSWA”) was created under Title 10 of the Guam Code Annotated, Chapter 51A in 2011. The GSWA has statutory authority to adopt rules and regulations necessary to its operations:

**Powers and Duties of the Authority.**

(a) The Authority shall have and exercise each and all of the following powers:...

(9) adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority or the Board by this Act;

10 GCA § 51A104.

Prior to the creation of the GSWA, its predecessor, the Division of Solid Waste, Department of Public Works was put in Receivership pursuant to Court Order of the U.S. District Court, District of Guam dated March 17, 2008. Pursuant to the District Court March 17, 2008 Order, the Court appointed “a receiver to manage, supervise and oversee the Solid Waste Management Division (“SWM”) of DPW.” *See* March 17, 2008 Order at 1 attached hereto as Ex. A..

In an Order dated September 2, 2011, the court gave the Receiver full control over GSWA to the same extent as he had over the original DPW solid waste division. *See* September 2, 2011 at 9, attached hereto as Ex. B.

During the nine years the Receiver operated the GSWA it implemented operational rules. In an Order dated December 1, 2017, the Court ordered “the Board, its legal counsel and the new general manager to begin drafting and updating the operational rules and regulations.” The December 1, 2017 Order is attached hereto as Exhibit C.

At its November 29, 2017 meeting, the Board adopted all policies, rules and regulations put in place by the Receiver since the Receivership commenced regarding commercial haulers, residential customers, banned materials, the collection of bulky items and metallic goods and

penalties imposed for late payments. *See* Board Meeting Minutes of November 29, 2017 attached hereto as Ex. D. The Board instructed GSWA’s General Manager to work with staff and the Board’s legal counsel to put these policies, rules and regulations in a format acceptable to the Legislative Secretary pursuant to 5 GCA § 9305. *Id.*

The GSWA Board finds that the adoption of the attached Rules and repeal of Title 29 of the Guam Administrative Rules and Regulations, Chapter 2 in its entirety, is necessary to comply with the District Court of Guam’s Order dated December 1, 2017, attached hereto, that “the Board, its legal counsel and the new general manager [] begin drafting and updating the operational rules and regulations.”

At a duly noticed Board meeting held on February 7, 2018 at the GSWA Conference Room, Upper Tumon, Guam, the Board discussed and approved the adoption of the propose Rules. *See* (draft) Minutes of Meeting attached hereto as Ex. E.

The implementation of the attached Rules is necessary to ensure the operations of the GSWA remains status quo. Status quo in the operations of the GSWA is necessary to the successful and seamless transition out of Receivership and the proposed Rules are necessary to said success.

**B. Economic Impact.**

The Board has determined that the Rules transmitted herewith will have an annual impact to the general public and more specifically its commercial and residential ratepayers. The economic impact, however, will not be anything new or additional at this time as the Receiver has been operating the Agency since 2008. The Receiver, with the District Court’s approval, set the current tipping rates in 2009. *See* Orders dated Jan. 23, 2009 and July 15, 2009 hereto as Exhibit F. Based on the current tipping rates, the GSWA generates approximately \$18,000,000 in annual revenue:

Item	FY 2015	FY 2016	FY 2017	YTD 2018
Commercial & Gov't Tipping Fees	\$11,215,834	\$12,133,246	\$11,785,500	\$957,953
Residential Collection Fees	\$6,381,321	\$6,666,092	\$6,867,000	\$590,484
Transfer Stations	\$298,682	\$249,223	\$310,700	\$33,626
Other Revenue	\$64,358	\$314,643	\$69,600	\$3,794
<b>Totals</b>	<b>\$17,960,195</b>	<b>\$19,363,204</b>	<b>\$19,032,800</b>	<b>\$1,585,857</b>

*See* GSWA Operating Budgets FY2017 and FY2018 attached hereto as Exhibits G and H, respectively.



Under the GSWA's enabling act and subsequent legislation, it must petition the Public Utilities Commission within 180 days of the termination of the Receivership to either ratify or modify the current tipping rates. 10 GCA § 51A120. Until then, the current rates will remain.

No increase in rates, the cost of living or the cost of doing business as an entity or industry is anticipated at this time and when the rules are initially promulgated. Whether or not an increase in rates is necessary in the future will be contingent on certain factors. Factors such as the cost of operations once the Receivership ends and the amount in debt service the Legislature and Executive Branch will require from the GSWA will determine whether an increase in the tipping rates is necessary. *See* GSWA 2016 Rate Analysis Update (Dec. 31, 2016) attached hereto as Ex. I. The GSWA anticipates the cost of operations will decrease as the Receiver will no longer be operating the Agency at its current annual cost of \$1,700,000<sup>1</sup>.

*See* 2016-2017 Quarterly Reports at [www.guamsolidwasteauthority.com/documents](http://www.guamsolidwasteauthority.com/documents).

No direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, is anticipated with the implementation of the proposed rules. No impact is anticipated as the number of employees currently employed as classified employees with the Agency will remain post- Receivership, all employment contracts and service contracts shall remain in place up to three years after the Receivership ends. 10 GCA § 51A118(a) and (c).

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<sup>1</sup> Payments made to the receiver for 1 calendar year (2016-2017): \$1,642,596.71

Payments made to Alicia Fejeran (GBB contract employee) for 1 calendar year, Receiver's contractor (2016-2017): \$65,219.65

A trustee who will oversee the post-closure monitoring finances and an operator who will conduct post-closure monitoring of the Ordot will be compensated by the GSWA but it is anticipated said compensation will be less than what is paid to the Receiver.