Deficit Reduction and Fiscal Reform Plan
(A component of the Fiscal Stabilization and Sustainability Plan)

submitted as approved by
I Maga’lahen Guåhan's
Fiscal Responsibility and Tax Refund Commission
Introduction

Public Law 31-76 signed into law on September 19, 2011 contained conditions the Legislature imposed that were designed to guide their decision to authorize the Government of Guam Business Privilege Tax Bonds, Series 2012 B component. The specific analysis described in the Act was to include a review of the financial market conditions at the national level, revenue anticipation factors and national policies affecting anticipated military build-up, federal budget issues that affect the local government and current economic performance and outlook for Guam’s economy.

The Fiscal Responsibility and Tax Refund Commission (FRTRC) considered those and other factors or events that were deemed relevant to the financial consideration or decision concerning the government of Guam’s need to procure additional Unpaid Tax Refunds (UTR) funding through the bond market, the ability to sustain such long-term debt and the ability to raise the Organic Act debt limit to authorize such debt.

Since the Legislature introduced and enacted Bill 414-31, which was signed by the Governor as PL 31-196, authorizing a second series of Business Privilege Tax Bonds, it is likely that the requirement for the report and plan described by PL 31-76 is no longer intended to be a precondition to the issuance of the second series. Nevertheless, in an “abundance of caution”, the Commission is delivering this report to satisfy whatever precondition may remain and to advance the discussion of strategies to put the government of Guam on a sound fiscal footing.
I. Requirements for Deficit Elimination and Fiscal Reform

The Fiscal Responsibility and Tax Refund Commission was established by Executive Order 2011-10, and further amended by Executive Order 2011-11. The Commission was directed, in Section 5 of Guam Public Law 31-76, to perform the following: to provide to the Legislature findings and recommendations regarding policy initiatives and fiscal strategies for reducing the overall deficit, debt and liabilities of the government of Guam and to improve the government’s fiscal situation and ability to achieve long-term and effective fiscal sustainability in the government of Guam’s operating budget. These recommendations shall be contained in the “Deficit Reduction and Fiscal Reform Plan” or briefly referred to as the DRFR Plan.

The DRFR Plan shall address the following fiscal matters:

A. proposals to compel compliance with §51102 of Chapter 51, of Title 11, Guam Code Annotated, regarding the deposit of funds into the Income Tax Refund Efficient Payment Trust Fund toward the timely payments of income tax refunds;

B. review, analyze, and provide its position and recommendation on all future issuance(s) of long-term debt, including the issuance of general and limited obligation bonds, revenue bonds, and lines of credit. The review and analysis shall include, but is not limited to, a ten (10)-year revenue and expenditure forecast and/or recommendations for operating cost reductions to support any potential debt service on new debt;

C. proposals to address the unfunded actuarial accrued liability towards ensuring the solvency of the Government of Guam Retirement Fund;

D. a plan that addresses the recurring fiscal gap between the annual revenue collections and expenditures of the government of Guam, including, but not limited to, increasing revenues, decreasing expenditures, or a combination of both; and
E. a signed memorandum of understanding or equivalent document with the Internal Revenue Service or the Department of the Treasury or the Department of the Interior that outlines the method and terms of repaying the ARRA Make Work Pay overpayments to Guam for Tax Years 2009 and 2010.

A. Proposals to compel compliance with §51102 of Chapter 51, of Title 11, Guam Code Annotated, regarding the deposit of funds into the Income Tax Refund Efficient Payment Trust Fund toward the timely payments of income tax refunds.

In order to ensure compliance with the requirement of depositing funds into the Income Tax Efficient Payment Trust Fund (Trust Fund), the overall fiscal condition of the Government of Guam's General Fund must be stabilized with a combination of cash management, budget reform, fiscal discipline, economic growth and aggressive tax enforcement and collection. A major contributing factor that has led to insufficient deposits into the Trust Fund is the over-optimistic revenue projections that drove higher appropriation levels and expenditures. In the previous 3 fiscal years alone, (FY2011, 2010 and 2009) the General Fund deficit increased over $200 million. Preliminary estimates for FY2011 indicate an increase in the General Fund deficit of $37.2M, FY2010 (audited) $71M and FY2009 (audited), before application of 2009 bond proceeds, $111.2M. This recurring predicament has greatly contributed to General Fund cumulative deficit of $336.4M (after application of 2009 bond proceeds) as of the FY2010 Audit Report.

Upon Governor Calvo taking office in January 2011, he immediately directed his fiscal team to assess the financial condition of the government of Guam. The Governor also requested the Office of Public Accountability (OPA) to conduct a similar assessment. The OPA assessment (dated April 2011) noted the following: “Consistent with prior years, GovGuam continues to spend more than it takes in. The preliminary over expenditure for FY 2010 was $83.6M, bringing the cumulative deficit to $349M. Among the factors contributing to the deficit are the overestimation of revenues by $40M and unbudgeted recurring items totaling $13.7M.”

The financial distress of the General Fund as a consequence of years of inadequate fiscal discipline, overly optimistic revenue projections, and a general unwillingness to confront and address the fiscal realities of this government. Evidence of this, is the fact that the June 30,
2010 Revenue Report submitted to the Legislature on July 30, 2010, stated that the GF Revenues were already tracking $35.6M below the Adopted Revenues. Despite this report, and its accompanying transmittal letter in which the Director of BBMR states: "The General Fund continues to experience a decline in revenue collections in FY2010.", on August 20, 2010, the Legislature passed P.L. 30-196 which included an appropriation of $13M for the implementation of salary adjustments. By September 30, 2010, the General Fund actual revenue collections were -$70M below the originally adopted revenues for FY 2010. It should be noted that P.L. 30-196 contained a provision that "amended" the FY 2010 original adopted revenues by decreasing revenues by $34.5M without legislatively reducing appropriations. The law was enacted on September 2, 2010, just 28 days before the end of the fiscal year, making it almost impossible to cut $34.5M in appropriations as most of that amount had already been spent or encumbered by agencies throughout the fiscal year. The result of this "adjustment" was to make the audited numbers in the Statement of "Budget vs. Actual Revenues" look better relative to the variances which the audit report reflects as -$34.5M when compared to the "adjusted" Adopted Revenues, instead of the-$70.3M as compared to the "originally adopted" revenues. In response to this precarious financial condition, the Administration embarked on an aggressive and on-going effort to stabilize the fiscal condition of the General Fund, and to develop strategies to sustain government services. As of the September 30, 2010 audit, the General Fund deficit increased by $71.1M to the level of $336.4M.

In order to stop the runaway spending and to immediately instill some semblance of fiscal discipline, Governor Calvo issued Executive Order No. 2011-02 to roll-back the $13M salary adjustments, an unpopular but necessary first step in confronting the severity of the fiscal posture of the General Fund.

The General Fund deficit consists of several components, the largest of these is the unpaid tax refunds. When a taxpayer overpays their tax obligation to GovGuam, the government must "refund" these over-payments but instead, these "over-payments" were used to bail out the government when revenues collected for a given fiscal year were less than the revenues adopted by the Legislature. For the past three fiscal years, the adopted revenues
were over-projected by an aggregate total of $126.1M. The effects of this negative trend are reflected in the following Table:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Original Legislative Adopted Revenues</th>
<th>Actual Revenues Collected</th>
<th>Over-Projected Revenues</th>
<th>Increase in Fiscal Year Deficit</th>
<th>Total Accumulated Deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 1/</td>
<td>522.7</td>
<td>483.2</td>
<td>(39.5)</td>
<td>111.4</td>
<td>265.4</td>
</tr>
<tr>
<td>2010 2/</td>
<td>561.3</td>
<td>491.0</td>
<td>(70.3)</td>
<td>71.1</td>
<td>336.4</td>
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<tr>
<td>2011 3/</td>
<td>557.9</td>
<td>541.6</td>
<td>(16.3)</td>
<td>37.2</td>
<td>351.0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>(126.1)</td>
<td></td>
<td>219.7</td>
<td></td>
</tr>
</tbody>
</table>

1/ Obtained from FY2009 Audit Report - Statement of Revenues, Expenditures by Department, and Changes in Deficit - Budget and Actual - General Fund and adjusted to extract bond proceeds and issuance related items to derive the fiscal year's operational deficit amount.

2/ Obtained from FY 2010 Audit Report - Statement of Revenues, Expenditures by Department, and Changes in Deficit - Budget and Actual - General Fund. In the beginning of fiscal year 2010, the Legislature adopted $561.3M of revenues. However late in fiscal year 2010, and included in the FY 2011 Budget, the Legislature amended the FY2010 Revenues by reducing it to $525.5M or $34.5M less. Additionally, if this amendment was not made, the over projection of revenues would have been $70.3M. Furthermore, a corresponding reduction in FY10 appropriations did not occur. As the adjustment to revenue was performed late in the fiscal year, such did not stop the departmental expenditures of $34.5M, which attributed to the escalating deficit.

3/ Obtained from Draft Preliminary Unaudited figures which are subject to change. Additionally, the effects of the Guam Department of Education are not included as such is unavailable as of date of preparation.

There is a misconception that just because Tax Refunds were "budgeted" for in every annual budget, the government can pay out the refunds. This will work in a perfect financial world where there is no deficit or unbudgeted items at the start of a fiscal year. In the last two fiscal years alone, the Legislature adopted, and appropriated, revenue levels that were significantly over-projected when compared to actual revenues collected. This has resulted in the government not having the cash to pay for all "budgeted" items including tax refunds, programs for education, health and public safety. Consequently, at the end of the fiscal year, a deficit occurs because appropriations were expended for goods and services in excess of
available revenues and there is insufficient cash (as a result of adopted revenues falling short of actual collections) to pay for these expenditures.

When the new fiscal year started, the General Fund was already running a negative cash balance because of the deficit at the end of the previous fiscal year. Revenues collected in the new fiscal year, which should be used to pay for the new fiscal year's expenses, were diverted to pay prior fiscal year unpaid expenditures. This situation has caused a shortage of cash available for payment of all tax refunds.

As reflected in the foregoing table, in each year that revenues were over-projected, a deficit has occurred. Over the span of three years, the revenue shortfall totaled $126.1M, while the annual deficits of each of the past three fiscal years totaled $219.7M. The revenue over-projections represent 57% of the three fiscal years' total deficit. These over-projections of revenues necessitated further cuts to program operations. When there were not enough revenues collected to support appropriations, what was supposed to be reserved for tax refunds has historically been used to fund program operating shortfalls. This discussion does not take into account the additional potential obligation for tax refunds for 2010 and prior that are currently non “A” status which is estimated at $57M. Only "A" status tax refunds (those processed and ready for payment as of September 2, 2011) for 2010 and prior, were authorized for payment in P.L. 31-76, amounting to $198M.

The government of Guam launched one of several fiscal stabilization initiatives proposed by Governor Edward B. Calvo through the issuance of bonds to fund the payment of unpaid tax refunds (UTR’s). The borrowing is not for NEW debt but to finance an EXISTING debt owed to the Tax Payers of Guam.

The Governor has continually stated that the largest part of the deficit relates to unpaid tax refunds. In order to manage the historical deficit and cash challenges, the Governor proposed to finance $344M through the issuance of bonds for the following existing debts: $200M to pay for unpaid tax refunds, including interest, related to tax years 2010 and prior, $100M to pay for tax refunds related to tax year 2011, since deposits into the Trust Fund for tax year 2011 were not made in fiscal year 2011 and $20M for the outstanding balance of the COLA
Judgment (the difference would be capitalized interest and issuance costs). A chronology of this effort is as follows:

**April 8, 2011** – **Governor's Fiscal Year's 2012 and 2013 Biennial Budget submitted to Legislature**—**Provides for $344M Bond for Unpaid Tax Refunds and associated financing costs.**

The Administration submitted the first comprehensive FY12-FY13 Biennial Budget to the Legislature (Bill No. 145-31). The Administration’s budget request included the proposed authorization for $344M in Bond financing for the payment of tax refunds and costs associated with capitalized interest on restructuring certain bonds.

**Bill 145-31 - Introduced at the Request of the Governor (excerpt):**

"Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) pay the expenses described below in this Subsection in amounts not to exceed the amounts specified for each such type of expense; (ii) fund capitalized interest accruing or payable on the bonds for a period ending not later than October 1, 2014; (iii) establish any appropriate or necessary reserves; and (iv) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds. The expenses authorized to be paid with the proceeds of the bonds are as follows:

(1) in an amount not to exceed the amount required for the purpose of refunding and restructuring of and/or interest payments accruing or payable on the Government of Guam General Obligation Bonds,1993 Series A, 2007 Series A and 2009 Series A due in Fiscal Years 2012, 2013 and 2014; and

(2) in an amount not to exceed the balance of the three hundred forty four million dollars ($344,000,000) authorized pursuant to this Section, for the purpose of paying unpaid individual and corporate income tax refunds from 2009 and earlier years."

**August 26, 2011** – **Substitute Bill No. 145-31 passed by the Legislature—reverts to an "annual" type of appropriation, reduces Borrowing Authority to $180M and reduces**
the amount for payment of Unpaid Tax Refunds to $120M, adds $26M for payment to the Retirement Fund, and $18M for Medical/Dental/Life Insurance as back up revenue source if the revenue source identified by the Appropriations Committee for such purpose cannot be realized.

The Legislature's Appropriation Committee substitutes Bill 145-31 with its substitute version SBill No. 145-31, rejecting the "Biennial" budget and instead reverting to the traditional "Annual" budgeting approach. Moreover, the Appropriations Chairman substituted the proposed use of proceeds and amounts for Unpaid Tax Refunds with the following version:

**Substitute Bill No. 145-31 as passed by the Legislature (excerpt):**

"The General Fund expenses authorized to be paid with the proceeds of the bonds are as follows and shall be paid in the following order of priority:

(1) 2010 and prior year individual income tax refunds, including interest, if any, thereon paying the refunds owed on the tax returns with the oldest filing date first: One Hundred Twenty Million Dollars ($120,000,000);

(2) Guam Department of Education and Guam Memorial Hospital Authority principal and interest deficiency to the Government of Guam Retirement Fund pursuant to P.L. 28-38, as amended by P.L. 31-74. Payments shall be applied to principal and interest: Twenty-Six Million Dollars ($26,000,000);

(3) Working Capital Fund: All remaining bond proceeds after the payment of the above shall be deposited into the Working Capital Fund. Payments made pursuant to this Subsection shall only apply to Section 5, Part I of Chapter XIV of this Act and to Section 7, Part I of Chapter XIV of this Act should the GWA Reimbursement or the Section 2718 Fund funds not be sufficient. This shall not constitute a double appropriation. Any other use of the Working Capital Fund funds shall be subject to legislative appropriation."

[Note: Section 5 is for the Health Benefit Cost Account Administered by the Department of Administration - $3.5M, Section 6 is for Retiree Medical, Dental and Life Insurance - $10.1M and Section is for Medical, Dental and Life Insurance expenses appropriated to Branches and Agencies - $4.6M]

**September 1, 2011 - Governor vetoes Substitute Bill 145-31**

**September 1, 2011 - Governor** calls Special Session for Sept. 2, 2011 to consider legislation proposed by the Administration which will provide funding for FY 2012 operations and reinstates borrowing authority for $343M for the payment of
Unpaid Tax Refunds, health insurance premiums and Capitalized Interest (Bill No. 1(1-S)).

**Bill No. 1(1-S) - (excerpt):**

"Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) pay unpaid individual and corporate income tax refunds from 2011 and earlier years, and, if no alternate source of funding is available, health insurance premiums for the third and fourth quarters of fiscal year 2012, with any balance remaining to be applied to pay unpaid individual and corporate income tax refunds for 2012 and future tax refund years; (ii) fund capitalized interest due, accruing or required to be set aside on the bonds prior to the end of Fiscal Year 2013; (iii) establish any appropriate or necessary debt service reserve; (iv) establish any appropriate or necessary Budget Stabilization Account; and (v) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds."

**September 2, 2011 - Legislature votes NOT to pass Bill No. 1(1-S). Bill fails.**

**September 5, 2011 - Governor Calls for Special Session and Bill No. 1(2-S) is introduced as requested by the Governor - FY 12 Budget and $343.7M Borrowing Authority in two series. Series A for Unpaid Tax Refunds and COLA Judgment balance and Series B for Unpaid Tax Refunds and Medical/Dental/Life Insurance.**

**Bill No. 1 (2-S) - (excerpt):**

"Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the first series of the bonds, which may be sold in one or more series or subseries (collectively, the "Series A Bonds"), shall be used and are hereby appropriated to (i) pay one hundred eighty-seven million dollars ($187,000,000) of unpaid income tax refunds and pay twenty million dollars ($20,000,000) of cost of living adjustments to certain retired former government of Guam employees pursuant to the case known as Rios v. Camacho; (ii) fund capitalized interest due, accruing or required to be set aside on the Series A Bonds prior to the end of Fiscal Year 2013; (iii) establish any appropriate or necessary debt service reserve; (iv) establish any appropriate or necessary Budget Stabilization Account; and (v) pay expenses relating to the authorization, sale and issuance of the Series A Bonds, including, without limitation, printing costs, costs of reproducing documents,"
credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the Series A Bonds. The proceeds from the sale of the second series of the bonds, which may be sold in one or more series or subseries (collectively, the "Series B Bonds"), shall be used and are hereby appropriated to (i) pay unpaid income tax refunds and, if no alternate source of funding is available, pay health insurance premiums for fiscal year 2012; (ii) fund capitalized interest due, accruing or required to be set aside on the Series B Bonds prior to the end of Fiscal Year 2013; (iii) establish or make a deposit to any appropriate or necessary debt service reserve; (iv) establish or make a deposit to any appropriate or necessary Budget Stabilization Account; and (v) pay expenses relating to the authorization, sale and issuance of the Series B Bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the Series B Bonds. The Series B Bonds shall not be issued prior to February 1, 2012."

September 7, 2011 - Legislature passes Substitute Bill No. 1(2-S), containing only the FY12 Budget and NO borrowing authority for Unpaid Tax Refunds.


Bill No. 305-31 Excerpt:
"Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) pay the General Fund expenses described below in this Subsection; (ii) establish necessary reserves; (iii) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; and (iv) fund capitalized interest on the bonds for a period ending not later than thirty (30) months after their issuance. The General Fund expenses authorized to be paid with the proceeds of the bonds are as follows and shall be paid in the following order of priority:
(1) 2010 and prior year individual income tax refunds, including interest, if any, thereon paying the refunds owed on the tax returns with the oldest filing date first: One Hundred Twenty Million Dollars ($120,000,000);

(2) Guam Department of Education and Guam Memorial Hospital Authority principal and interest deficiency to the Government of Guam Retirement Fund pursuant to PL 28-38, as amended by PL 31-74. Payments shall be applied to principal and interest: Twenty-Six Million Dollars ($26,000,000);

(3) Working Capital Fund: All remaining bond proceeds after the payment of the above shall be deposited into the Working Capital Fund. Payments made pursuant to this Subsection shall only apply to Section 5, Part I of Chapter XIV of this Act and to Section 7, Part I of Chapter XIV of this Act should the GW A Reimbursement or the Section 2718 Fund funds not be sufficient. This shall not constitute a double appropriation. Any other use of the Working Capital Fund funds shall be subject to legislative appropriation.

September 8, 2011 - Governor calls for Special Session to consider proposed legislation authorizing $343.7M borrowing authority for Unpaid Tax Refunds, COLA Judgment balance, and Health/Dental/Life Insurance Premiums back-up funding (Bill No. 1(3-S)).

Bill No. 1(3-S) Excerpt:
"Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) pay unpaid income tax refunds, pay cost of living allowance to certain retired former government of Guam employees pursuant to the case known as Rios v. Camacho, and, if no alternate source of funding is available, pay health insurance premiums for Fiscal Year 2012; (ii) fund capitalized interest due, accruing or required to be set aside on the bonds prior to the end of Fiscal Year 2013; (iii) establish any appropriate or necessary debt service reserve; (iv) establish any appropriate or necessary Budget Stabilization Account; and (v) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds."

September 14, 2011 – Substitute Bill No. 1(3-S) passed by the Legislature.

"§ 1512.3. Authorization to Issue Bonds for Revenue Anticipation Financing."
(a) Authorization of Issuance of Bonds. *I Maga 'låhen Guåhan* is authorized to issue one or more series of bonds of the government of Guam as provided in this Section, in an aggregate principal amount *not to exceed* Three Hundred Forty-Three Million Seven Hundred Thousand Dollars ($343,700,000) to provide the following:

(1) In the following order of priority:

   (i) up to One Hundred Ninety-Eight Million Dollars ($198,000,000) for payment of unpaid income tax refunds plus interest to include for 2010 and prior;

   (A) Set-aside for Tax Refunds for Humanitarian Purposes. Of the total amount of proceeds available to issue tax refund payments, the sum of Twenty Million Dollars ($20,000,000) shall be set aside and appropriated to the Department of Revenue and Taxation for the purpose of paying tax refunds for humanitarian purposes. The provisions of this Section shall supplement other guiding provisions of law regarding the processing of emergency tax refund payments. Requests submitted for the following humanitarian purposes shall qualify to be processed from this Twenty Million Dollars ($20,000,000) set-aside:

   (aa) off-island medical treatment, inclusive of the need to purchase medication; or death of a family member, within two (2) degrees of consanguinity;

   (ab) delinquent billing payments owed to the Guam Power Authority, the Guam Waterworks Authority, the Guam Housing and Urban Renewal Authority, and the Judiciary of Guam, which have become delinquent due to financial hardships;

   (ac) delinquent loan payments owed to the Guam Housing and Urban Renewal Authority, which have become delinquent due to financial hardships; and

   (ad) delinquent loan payments owed to legally qualified and licensed lenders, which have become delinquent due to financial hardships.

   For the purposes of this Section, a request for tax refunds shall be submitted by the taxpayer to the Director of Revenue and Taxation. All such requests are subject to the review and approval of the Director.

   (ii) Twenty Million Dollars ($20,000,000) for the payment of cost of living allowance to certain retired government of Guam employees pursuant to the case known as *Rios v. Camacho*;
(iii) Twenty-Six Million Four Hundred Thousand Dollars ($26,400,000) for payments owed to the Government of Guam Retirement Fund for the Guam Department of Education and the Guam Memorial Hospital Authority principal and interest pursuant to P.L. 28-38, as amended by P.L. 31-74; and

(iv) if no alternate source of funding is available, for the payment of health insurance premiums for Fiscal Year 2012;

(2) such amount as may be needed to capitalize and pay from bond proceeds interest on the bonds due, accruing or required to be set aside in Fiscal Years 2012 and 2013; and

(3) expenses incurred in connection with the issuance of such bonds not already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; provided, however, that bonds may not be issued in an amount that would cause a violation of the debt limitation provisions of 48 USC 1423a (§ 11 of the Organic Act of Guam).

Use of Proceeds from the Sale of the Bonds. The proceeds from the sale of the bonds shall be used and are hereby appropriated to (i) pay unpaid income tax refunds, pay cost of living allowance to certain retired government of Guam employees pursuant to the case known as Rios v. Camacho; payments owed to the Government of Guam Retirement Fund for the Guam Department of Education and the Guam Memorial Hospital Authority principal and interest pursuant to P.L. 28-38, as amended by P.L. 31-74; and, if no alternate source of funding is available, pay health insurance premiums for Fiscal Year 2012; (ii) fund capitalized interest due, accruing or required to be set aside on the bonds prior to the end of Fiscal Year 2013; and (iii) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

September 19, 2011 - Substitute Bill No. 1(3-S) is signed into law as P.L. 31-76, BPT Bond.

September 20, 2011 - Governor calls for Special Session to consider Bill No. 1(4-S) – technical amendments required on Substitute Bill No. 1(3-S).
Per P.L. 31-76 and in December 2011, the Governor was able to obtain authorization to borrow and secure partial funding, and part of a series of bonds that allowed for payment of tax refunds related to 2010 and prior and the COLA Judgment. However, there remains over $100M in estimated 2011 tax refunds due for payment in fiscal year 2012. In addition, as mentioned earlier, there still exists filed claims for tax refunds for 2010 and prior that are currently non “A” status which is estimated at $57M. Only the "A" status tax refunds (those processed and ready for payment as of September 2, 2011) for 2010 and prior, were authorized for payment in P.L. 31-76, amounting to $198M.

The financing of the UTRs through the issuance of bonds will lock in an interest rate and be paid at a more manageable level each year. In FY 2011 alone, the government paid out approximately $50M of current revenue collections (that should have been spent on current year appropriations/expenditures) to pay prior year Tax Refunds. This has been the practice for decades and has caused serious cash management issues particularly because the payments for UTRs were never budgeted or appropriated. What is "reserved" in every fiscal year's budget is a "provision for tax refunds", which should set aside a particular fiscal year's revenue collections for the following Tax Year's refunds. The General Fund has had virtually no ability to set aside cash for specific purposes in recent years and this $50 million or more of immediate cash savings could be used to allow for a set aside to alleviate near payless pay days and to accumulate cash for the related initial debt service requirements. This cash relief to the General Fund has enabled this government, for the first time, to be able to deposit funds into the Trust Fund to provide for tax refunds. However, this continues to be a serious challenge since not ALL the tax refunds due can be paid. In the substituted version of the borrowing authorization approved by the Legislature, payments to the GGRF of $25M and funding for medical/dental/life insurance of $18M (due to the questionable fund source in the adopted budget) were included in the “Use of Proceeds” thereby reducing the amount to be available for refunds by $43M, almost half of what is needed for 2011 tax refunds that were not set aside due in part to over-projection of revenues in FY2010 and FY2011.
2011 Bond Structure and Terms – Series A

The 2011 Guam Business Privilege Tax Series A Bond is secured by a pledge on business privilege taxes collected annually by the government of Guam. The bond is structured with capitalized interest for the term of thirty (30) years with interest rates capped in the six percent (6%) range.

In November 2011, Standard and Poor’s, a major credit rating agency, assigned an “A” rating to the 2011 Guam BPT Series A Bonds, and Fitch Ratings followed with an “A-” rating. Total par amount for the issue was $235M with a premium of $8.5M. True Interest Cost (TIC) over the full thirty (30) year term is 4.94 percent (%). Interest rates were at a reasonably low level at the time of sale, coupled with the investment grade ratings, enabled the government of Guam to generate substantial cost savings at the closing of the bond issue in December 2011.

Briefly, the structure of the Guam Business Privilege Tax Bonds issued in December 2011 is as follows:

<table>
<thead>
<tr>
<th>Business Privilege Tax Bonds</th>
<th>Series 2011A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ratings (S&amp;P/Fitch)</td>
<td>A/A-</td>
</tr>
<tr>
<td>TIC (True Interest Cost)</td>
<td>4.94%</td>
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<tr>
<td>Par Amount/Premium</td>
<td>$235/$8.5M</td>
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<tr>
<td>Max Annual Debt Service</td>
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</tbody>
</table>

**Note**: Authorized uses of bond proceeds include: Payment of Past Due Tax Refunds (UTR’s), COLA Payments, Capitalized Interest Fund, and Cost of Issuance.
As stated previously, the Administration's proposal to "...compel compliance with §51102 of Chapter 51, of Title 11, Guam Code Annotated, regarding the deposit of funds into the Income Tax Refund Efficient Payment Trust Fund toward the timely payments of income tax refunds", was intended to reduce the deficit and to liquidate 2011 and prior unpaid tax refunds through the issuance of $343M in bonds. The foregoing pages chronicle this attempt which has resulted in the Legislative authorization of $198M for tax refunds under the Series A bonds and an estimated $60M under the Series B bonds for 2011 unpaid tax refunds. The issuance of the Series A bonds enabled this government to set aside cash for 2012 tax refunds, for the first time in decades or as far back as anyone can recall. Also stated earlier was the plan to implement the realistic revenue projections and for utilizing any excess revenues for the payment of existing liabilities.

The Governor's plans for economic development to create new revenue streams for the Government, fiscal discipline, cost containment, aggressive tax collection, identification and pursuit of escaped assessments, reconciliation of Section 30 remittances, updating of fee schedules, charging appropriate fees for services, and right-sizing the government through reorganizations will contribute to reducing the deficit and ultimately correcting the structural imbalance of the General Fund. The Administration is finalizing its Fiscal Stabilization and Sustainability Plan (FSSP) which contains options to consider for implementation and more details of the aforementioned elements, some of which have already been implemented during the development of the plan. The FSSP will be posted on the websites of the Bureau of Budget and Management Research and the Bureau of Statistics and Plans. Only when these plans are achieved will there be sufficient cash for deposit into the Tax Refund Efficient Payment Trust Fund for the timely payment of tax refunds. Given the size of the deficit, any deficit reduction plan will have to be implemented and adjusted through the next 5 to 10 years to accommodate the changing financial conditions, continuous reassessment and realignment of the Government's financial position.
B. Review, analyze, and provide its position and recommendation on all future issuance(s) of long-term debt, including the issuance of general and limited obligation bonds, revenue bonds, and lines of credit. The review and analysis shall include, but is not limited to, a ten (10)-year revenue and expenditure forecast and/or recommendations for operating cost reductions to support any potential debt service on new debt.

The review and analysis on all future issuances of long-term debt requires the assessment of existing obligations of specific special funds and the General Fund in order to determine the viability of such funds to be used as the source of repayment of future borrowing.

Long-term debt is defined as consummated obligations with set payment dates that go beyond the current accounting period of an organization. This definition is necessary in order to distinguish long-term debt from long term liabilities. A long term liability is defined as an obligation that is due beyond the current fiscal period, but has no binding obligation or set payment dates (such as the expected future payment of accrued annual leave). Based on these definitions, the Government's long-term debt is a combination of the general obligation debt, the limited obligation debt, all other debts and revenue bond debts, totaling $2.5 Billion. Of this amount, the remaining outstanding balance as of January 1, 2012 is $2.1 Billion and it entails:

- General Obligation Debt $ 485,814,872
- Limited Obligation Debt $ 539,029,363
- Other Obligations $ 136,253,127
- Revenue Bond Debt $ 979,622,252

Of the debt categories noted above, only the general obligation and the limited obligation debt impacts the central government’s debt ceiling. With the exception of the Series 2010 A Certificate of Participation for John F. Kennedy High School Project for the Guam Department of Education (GDOE), all other debts under “Other Obligations” and all revenue bond debts are paid by autonomous agencies or other non-General Fund sources, i.e. Compact
Impact Funds. A list of these autonomous agencies is reflected in GEDA’s Government of Guam Long-Term Debt Abstract for January 2012.

This discussion is therefore focused on the general and limited obligation debts that impact the Executive Branch. The outstanding balance of these bonds is currently at $1,024,844,235, consisting of the following:

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/15/1993</td>
<td>General Obligation Bonds 1993 Series A (P.L. 22-24; and amended by P.L. 27-33)</td>
<td>$28,065,000</td>
</tr>
<tr>
<td>9/20/2002</td>
<td>$10 Million Loan (P.L. 26-84)</td>
<td>$1,656,533</td>
</tr>
<tr>
<td>7/1/2008</td>
<td>$13.8 Million Loan (P.L. 29-82)</td>
<td>$2,029,459</td>
</tr>
<tr>
<td>6/15/2010</td>
<td>Guam Waterwork Authority $30 Million (P.L. 30-55, 30-101, and 30-146), backed by General Fund Guarantee</td>
<td>$26,056,871</td>
</tr>
<tr>
<td>2/11/2011</td>
<td>Guam Memorial Hospital Authority (P.L. 30-200 and 30-235)</td>
<td>$11,627,009</td>
</tr>
<tr>
<td></td>
<td>Total General Obligation Debt</td>
<td>$485,814,872</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/12/2003</td>
<td>University of Guam Rural Development Loan (P.L. 26-48)</td>
<td>$12,609,363</td>
</tr>
<tr>
<td>6/18/2009</td>
<td>General Obligation Bonds (Section 30), Series A (P.L. 30-01, amended by P.L. 30-07, 29-116, amended by 29-124)</td>
<td>$202,425,000.00</td>
</tr>
<tr>
<td>4/28/2011</td>
<td>Hotel Occupancy Tax Bonds Series 2011A (P.L. 30-228)</td>
<td>$88,995,000.00</td>
</tr>
<tr>
<td>12/1/2011</td>
<td>Business Privilege Tax Bonds Series 2011A (P.L. 31-76)</td>
<td>$235,000,000.00</td>
</tr>
<tr>
<td></td>
<td>Total Limited Obligation Bonds</td>
<td>$539,029,363</td>
</tr>
<tr>
<td></td>
<td>Total Outstanding General and Limited Obligation Bonds</td>
<td>$1,024,844,235</td>
</tr>
</tbody>
</table>

As of December 1, 2011, the date of issuance of the Business Privilege Tax Bonds, Series 2011A, the Government of Guam’s debt ceiling was $1,025,518,367 which represented 10% of the assessed value as of that date of $10,255,183,674. The government’s aggregate outstanding debt as of that date was $1,024,844,235 which was 99.9% of the government debt.
ceiling. With the enactment of P.L. 31-196, signed by the Governor on March 28, 2012, the assessed value of property on Guam was raised to $11,394,648,526, and the government's debt ceiling was correspondingly raised to $1,139,464,853, an increase of $114,620,618 that could be used to issue new bonds. P.L. 31-196 also authorized the proceeds of an additional series of Business Privilege Tax Bonds to be used to pay amounts due to GGRF, the costs of certain school projects, additional tax refunds and certain health insurance premiums.

New Bonds

Presently, the Administration is planning to issue the newly authorized bonds in the amount available of approximately $114.6 Million in the near future. The primary use of proceeds of this new bond issue would be to pay amounts due to GGRF, TY 2011 tax refunds not included for payment from Series 2011A bond proceeds and certain health insurance premiums. This plan treats these newly authorized “Series B” bonds as the bonds referenced in Section 5(c) of P.L. 31-76. As shown, the issuance of these bonds is viable. If such bonds are issued, it is estimated that the annual debt service after the capitalized interest period could be between $7 to $8 Million, depending on the interest rate and final maturity. To determine the government's ability to seek financing of an existing debt, it should be reiterated that the government, from each fiscal year’s revenue collection, had disbursed anywhere between $40M to $70M annually for prior years’ unpaid tax refunds that were NOT included in the government’s annual budget appropriations, causing annual deficits and cash management challenges. When compared to the maximum annual debt service of $16.2M for the Series A and an estimated $7M to $8M for Series B bonds to finance existing debt (UTRs) there is an annual potential short-term cash flow savings of between $15.8M ($40M-$16.2M-$8M) to $45.8M ($70M-$16.2M-$8M). This alone, indicates that funding for the required debt service payments for Series A and B is achievable, at least in the short term. As stated above, the General Fund has had no ability to set aside cash for specific purposes in recent years and this $40M to $70M of immediate cash relief could be used to allow for set asides to alleviate near payless paydays and to accumulate cash for the related initial debt service requirements. In addition, economic growth, cost-containment/reduction initiatives, aggressive tax collection, and other efforts of
this Administration to stabilize finances should be factored into the equation. Also note that within this 10-year period (used for discussion), there will be one general obligation bond and three loans that will roll-off. These four obligations are: 1) the General Obligation Bonds, 1993 Series A in FY 2019, 2) the $10M 2002 Loan in FY 2013, 3) the $13.8M 2008 Loan in FY 2012, 4) the 2011 GMHA Loan in FY 2018. The following review of the government’s current debt service is presented for further information.

Annual Debt Service Payments

The Guam Economic Development Authority (GEDA) has developed an annual debt service payment schedule from the current FY 2012 to FY 2044. It shows annual debt service payment amounts ranging from $94.5M in FY 2015 to $0.8M in FY 2045. Because this debt payment schedule is government-wide, payments made by specific autonomous agencies whose bond debt is backed by GF revenues, are included as well. These specific autonomous agencies are the University of Guam (UOG), the Guam Memorial Hospital Authority (GMHA), and the Solid Waste Operations Fund (SWOF). Because these agencies are to pay their annual bond debt services respectively, an annual debt service payment schedule, net of these autonomous agencies debt service payment, for a 10-year period is reflected in the table below:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Debt Services</th>
<th>UOG</th>
<th>GMHA</th>
<th>SWOF</th>
<th>Net Debt</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$59,529,653</td>
<td>($2,777,958)</td>
<td>($1,255,603)</td>
<td>($4,497,097)</td>
<td>$50,998,995</td>
</tr>
<tr>
<td>2013</td>
<td>$70,570,027</td>
<td>($2,777,763)</td>
<td>($1,255,603)</td>
<td>($11,980,494)</td>
<td>$54,556,167</td>
</tr>
<tr>
<td>2014</td>
<td>$74,823,796</td>
<td>($2,777,484)</td>
<td>($1,255,603)</td>
<td>($11,980,208)</td>
<td>$58,810,501</td>
</tr>
<tr>
<td>2015</td>
<td>$94,467,027</td>
<td>($2,778,104)</td>
<td>($1,255,603)</td>
<td>($11,978,392)</td>
<td>$78,454,928</td>
</tr>
<tr>
<td>2016</td>
<td>$75,967,014</td>
<td>($2,777,314)</td>
<td>($1,255,603)</td>
<td>($11,978,392)</td>
<td>$59,955,705</td>
</tr>
<tr>
<td>2017</td>
<td>$80,369,523</td>
<td>($2,777,322)</td>
<td>($1,255,603)</td>
<td>($11,978,000)</td>
<td>$64,358,598</td>
</tr>
<tr>
<td>2018</td>
<td>$87,539,239</td>
<td>($2,777,847)</td>
<td>($8,436,026)</td>
<td>($11,979,888)</td>
<td>$64,345,478</td>
</tr>
<tr>
<td>2019</td>
<td>$79,103,260</td>
<td>($2,777,847)</td>
<td>-</td>
<td>($11,978,459)</td>
<td>$64,346,954</td>
</tr>
<tr>
<td>2020</td>
<td>$79,101,645</td>
<td>($750,060)</td>
<td>-</td>
<td>($11,980,017)</td>
<td>$66,371,568</td>
</tr>
<tr>
<td>2021</td>
<td>$79,095,321</td>
<td>($750,060)</td>
<td>-</td>
<td>($11,980,697)</td>
<td>$66,364,564</td>
</tr>
<tr>
<td>Total</td>
<td>$780,566,505</td>
<td>($23,721,759)</td>
<td>($15,969,644)</td>
<td>($112,311,644)</td>
<td>$628,563,458</td>
</tr>
</tbody>
</table>
Executive Branch Debt Service

The net debt service column in the table above reflects the debt obligations that the Executive Branch (i.e., a source other than an autonomous agency) is responsible to pay each fiscal year. The funding sources for each debt are noted in the table below.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Net Debt</th>
<th>TEFF¹</th>
<th>TAF²</th>
<th>GF</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$46,189,258</td>
<td>$ (10,682,914)</td>
<td>$ (3,801,287)</td>
<td>$31,705,057</td>
</tr>
<tr>
<td>2013</td>
<td>$49,746,430</td>
<td>$ (10,674,249)</td>
<td>$ (6,998,363)</td>
<td>$32,073,818</td>
</tr>
<tr>
<td>2014</td>
<td>$54,000,764</td>
<td>$ (10,671,537)</td>
<td>$ (6,999,188)</td>
<td>$36,330,039</td>
</tr>
<tr>
<td>2015</td>
<td>$59,964,151</td>
<td>$ (10,667,241)</td>
<td>$ (6,997,819)</td>
<td>$42,299,091</td>
</tr>
<tr>
<td>2016</td>
<td>$59,955,705</td>
<td>$ (10,658,241)</td>
<td>$ (6,998,625)</td>
<td>$42,298,839</td>
</tr>
<tr>
<td>2017</td>
<td>$64,358,598</td>
<td>$ (10,652,238)</td>
<td>$ (6,998,775)</td>
<td>$46,707,585</td>
</tr>
<tr>
<td>2018</td>
<td>$64,345,478</td>
<td>$ (10,648,703)</td>
<td>$ (6,995,775)</td>
<td>$46,701,000</td>
</tr>
<tr>
<td>2019</td>
<td>$64,346,954</td>
<td>$ (10,643,003)</td>
<td>$ (6,994,750)</td>
<td>$46,709,201</td>
</tr>
<tr>
<td>2020</td>
<td>$66,371,568</td>
<td>$ (12,671,700)</td>
<td>$ (6,996,988)</td>
<td>$46,702,880</td>
</tr>
<tr>
<td>2021</td>
<td>$66,364,564</td>
<td>$ (12,669,450)</td>
<td>$ (6,996,200)</td>
<td>$46,698,914</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$595,643,470</strong></td>
<td><strong>$ (110,639,276)</strong></td>
<td><strong>$ (66,777,770)</strong></td>
<td><strong>$418,226,424</strong></td>
</tr>
</tbody>
</table>

¹ Territorial Education Facilities Fund
² Tourist Attraction Fund

There are three funding sources used to satisfy the annual debt services each year. As per the table, above, these three funding sources are: 1) the Territory Education Facilities Fund (TEFF) (real property taxes), 2) the Tourist Attraction Fund (TAF) (hotel occupancy taxes), and 3) the General Fund (GF).

Territorial Education Facilities Fund

This Special Revenue Fund is funding two bond issues as follows:
<table>
<thead>
<tr>
<th>FY</th>
<th>GO Bond 1993 A</th>
<th>GO Bond 2007 A</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$2,808,214</td>
<td>$7,874,700</td>
<td>$10,682,914</td>
</tr>
<tr>
<td>2013</td>
<td>$2,799,549</td>
<td>$7,874,700</td>
<td>$10,674,249</td>
</tr>
<tr>
<td>2014</td>
<td>$2,796,837</td>
<td>$7,874,700</td>
<td>$10,671,537</td>
</tr>
<tr>
<td>2015</td>
<td>$2,792,542</td>
<td>$7,874,700</td>
<td>$10,667,242</td>
</tr>
<tr>
<td>2016</td>
<td>$2,783,541</td>
<td>$7,874,700</td>
<td>$10,658,241</td>
</tr>
<tr>
<td>2017</td>
<td>$2,777,538</td>
<td>$7,874,700</td>
<td>$10,652,238</td>
</tr>
<tr>
<td>2018</td>
<td>$2,774,002</td>
<td>$7,874,700</td>
<td>$10,648,702</td>
</tr>
<tr>
<td>2019</td>
<td>$2,768,302</td>
<td>$7,874,700</td>
<td>$10,643,002</td>
</tr>
<tr>
<td>2020</td>
<td>$</td>
<td>$12,671,700</td>
<td>$12,671,700</td>
</tr>
<tr>
<td>2021</td>
<td>$</td>
<td>$12,669,450</td>
<td>$12,669,450</td>
</tr>
<tr>
<td>Total</td>
<td>$22,300,525</td>
<td>$88,338,750</td>
<td>$110,639,275</td>
</tr>
</tbody>
</table>

**GO Bond 1993 Series A**

The funding source for these bonds are real property tax revenues which is the funding source for the TEFF.

**GO Bond 2007 Series A**

Principal and interest are being paid out from the TEFF.

**TEFF Revenue Projection**

A revenue projection is made to determine whether or not this Special Fund can be applied to future bond debt service. The basis for this projection is the projected level of the TEFF identified in P.L. 31-77 and the projection level identified in the FY 2013 Executive Budget, using an annual growth factor of 2% going forward from 2013. This projection is noted below.
Tourist Attraction Fund

This Special Fund provides funding for the limited obligation Hotel Occupancy Tax (HOT) Bonds Series 2011 A. Hotel occupancy tax revenue is the basis for the TAF. The table below reflects both annual revenue projection and payments for the next 10-year period. As in the revenue projection for the TEFF, the revenue projection for the TAF is based on the TAF revenues identified in P.L. 31-77 and in the FY 2013 Executive Budget, applying an annual growth factor of 2% going forward from FY 2013.
Tourist Attraction Fund Revenue Projection

<table>
<thead>
<tr>
<th>FY</th>
<th>TAF Revenue Projection</th>
<th>Bond Indenture Commitment</th>
<th>Available for Additional Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$23,160,585</td>
<td>$3,801,287</td>
<td>$19,359,298</td>
</tr>
<tr>
<td>2013</td>
<td>$23,168,200</td>
<td>$6,998,363</td>
<td>$16,169,837</td>
</tr>
<tr>
<td>2014</td>
<td>$23,631,564</td>
<td>$6,999,188</td>
<td>$16,632,376</td>
</tr>
<tr>
<td>2015</td>
<td>$24,104,195</td>
<td>$6,997,819</td>
<td>$17,106,376</td>
</tr>
<tr>
<td>2016</td>
<td>$24,586,279</td>
<td>$6,998,625</td>
<td>$17,587,654</td>
</tr>
<tr>
<td>2017</td>
<td>$25,078,005</td>
<td>$6,998,775</td>
<td>$18,079,230</td>
</tr>
<tr>
<td>2018</td>
<td>$25,579,565</td>
<td>$6,995,775</td>
<td>$18,583,790</td>
</tr>
<tr>
<td>2019</td>
<td>$26,091,156</td>
<td>$6,994,750</td>
<td>$19,096,406</td>
</tr>
<tr>
<td>2020</td>
<td>$26,612,979</td>
<td>$6,996,987</td>
<td>$19,615,992</td>
</tr>
<tr>
<td>2021</td>
<td>$27,145,239</td>
<td>$6,996,200</td>
<td>$20,149,039</td>
</tr>
<tr>
<td>Total</td>
<td>$249,157,767</td>
<td>$66,777,769</td>
<td>$182,379,998</td>
</tr>
</tbody>
</table>

Any new pledge of hotel occupancy taxes would need to be consistent with the pledge securing the Series 2011A bonds (either by meeting the additional bonds test or by being subordinate to that pledge).

The General Fund

A table has been established below to reflect the bond debt service that is funded by the General Fund.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$1,281,818</td>
<td>$3,471,276</td>
<td>$21,534,018</td>
<td>$2,637,922</td>
<td>$2,780,433</td>
<td>$0</td>
<td>$31,705,467</td>
</tr>
<tr>
<td>2013</td>
<td>$1,717,449</td>
<td>$0</td>
<td>$21,532,221</td>
<td>$3,692,212</td>
<td>$5,131,938</td>
<td>$0</td>
<td>$32,073,820</td>
</tr>
<tr>
<td>2014</td>
<td>$0</td>
<td>$0</td>
<td>$21,532,898</td>
<td>$3,692,124</td>
<td>$5,131,013</td>
<td>$5,974,006</td>
<td>$36,330,041</td>
</tr>
<tr>
<td>2015</td>
<td>$0</td>
<td>$0</td>
<td>$21,531,902</td>
<td>$3,691,564</td>
<td>$5,127,613</td>
<td>$11,948,013</td>
<td>$42,299,092</td>
</tr>
<tr>
<td>2016</td>
<td>$0</td>
<td>$0</td>
<td>$21,531,413</td>
<td>$3,691,564</td>
<td>$5,127,850</td>
<td>$11,948,013</td>
<td>$46,701,340</td>
</tr>
<tr>
<td>2017</td>
<td>$0</td>
<td>$0</td>
<td>$21,535,029</td>
<td>$3,691,443</td>
<td>$5,130,600</td>
<td>$16,350,513</td>
<td>$46,703,835</td>
</tr>
<tr>
<td>2018</td>
<td>$0</td>
<td>$0</td>
<td>$21,534,013</td>
<td>$3,692,025</td>
<td>$5,128,200</td>
<td>$16,346,763</td>
<td>$46,705,626</td>
</tr>
<tr>
<td>2019</td>
<td>$0</td>
<td>$0</td>
<td>$21,534,329</td>
<td>$3,691,585</td>
<td>$5,131,900</td>
<td>$16,351,388</td>
<td>$46,704,702</td>
</tr>
<tr>
<td>2020</td>
<td>$0</td>
<td>$0</td>
<td>$21,532,379</td>
<td>$3,692,065</td>
<td>$5,131,550</td>
<td>$16,346,888</td>
<td>$46,703,132</td>
</tr>
<tr>
<td>2021</td>
<td>$0</td>
<td>$0</td>
<td>$21,532,452</td>
<td>$3,692,275</td>
<td>$5,127,050</td>
<td>$16,347,138</td>
<td>$46,698,915</td>
</tr>
<tr>
<td>Total</td>
<td>$0</td>
<td>$0</td>
<td>$215,330,654</td>
<td>$35,864,779</td>
<td>$48,948,147</td>
<td>$111,612,722</td>
<td>$422,625,970</td>
</tr>
</tbody>
</table>

Of the bond issues noted in the above table, the $10M Loan in 2002, the $13.8M Loan in 2008, and the Limited Obligation Bond 2009 were secured by pledging Section 30 funds.
Section 30 Funds

For discussion purposes, a table has been prepared below to reflect the availability of Section 30 Funds that could be used to pledge for new debt. The basis for this projection is the amount projected for the Section 30 Funds in P.L. 31-77 and the projection level identified in the FY 2013 Executive Budget, using an annual growth factor of 2% going forward from 2013. The impact of the Military buildup is not factored into this projection as no final decision has been made by Congress.

<table>
<thead>
<tr>
<th>FY</th>
<th>SECTION 30 Revenue Projection</th>
<th>Bond Indenture Commitment</th>
<th>Available for Additional Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$ 50,228,855</td>
<td>$ 7,391,016</td>
<td>$ 42,837,839</td>
</tr>
<tr>
<td>2013</td>
<td>$ 53,451,519</td>
<td>$ 5,409,661</td>
<td>$ 48,041,858</td>
</tr>
<tr>
<td>2014</td>
<td>$ 54,520,549</td>
<td>$ 3,692,124</td>
<td>$ 50,828,425</td>
</tr>
<tr>
<td>2015</td>
<td>$ 55,610,960</td>
<td>$ 3,691,564</td>
<td>$ 51,919,396</td>
</tr>
<tr>
<td>2016</td>
<td>$ 56,723,180</td>
<td>$ 3,691,564</td>
<td>$ 53,031,616</td>
</tr>
<tr>
<td>2017</td>
<td>$ 57,857,643</td>
<td>$ 3,691,443</td>
<td>$ 54,166,200</td>
</tr>
<tr>
<td>2018</td>
<td>$ 59,014,796</td>
<td>$ 3,692,025</td>
<td>$ 55,322,771</td>
</tr>
<tr>
<td>2019</td>
<td>$ 60,195,092</td>
<td>$ 3,692,585</td>
<td>$ 56,502,507</td>
</tr>
<tr>
<td>2020</td>
<td>$ 61,398,994</td>
<td>$ 3,692,065</td>
<td>$ 57,706,929</td>
</tr>
<tr>
<td>2021</td>
<td>$ 62,626,974</td>
<td>$ 3,692,275</td>
<td>$ 58,934,699</td>
</tr>
</tbody>
</table>

However, any new pledge of Section 30 revenues would need to be consistent with the pledge securing the 2009 bonds (either by meeting the additional bonds test or by being subordinate to that pledge) and with the pledge securing GWA loan from Bank of Guam (which may require the consent of the bank).

It should be noted that the balance of the debt service is from the reimbursement from tipping fees. The Receiver has stated that should a second landfill be opened, such as the private development in Guatali, the Receiver predicts that his tipping fees will need to drop to remain competitive, negatively impacting his ability to continue with the reimbursement for Layon costs, estimated at $12M beginning in FY2013.
**Business Privilege Tax**

The Business Privilege Tax (BPT) is pledged to secure the Business Privilege Tax Bonds Series 2011A. A table has been prepared below to reflect the availability of BPT Funds that could be pledged to secure new debt. The basis for this projection is the amount projected for the BPT Funds in P.L. 31-77 and the projection level identified in the FY 2013 Executive Budget, using an annual growth factor 2% going forward from 2013.

<table>
<thead>
<tr>
<th>FY</th>
<th>BPT Revenue Projection</th>
<th>Bond Indenture Commitment</th>
<th>Available for Additional Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$202,564,171</td>
<td>$0</td>
<td>$202,564,171</td>
</tr>
<tr>
<td>2013</td>
<td>$214,931,153</td>
<td>$0</td>
<td>$214,931,153</td>
</tr>
<tr>
<td>2014</td>
<td>$219,229,776</td>
<td>$5,974,006</td>
<td>$213,255,770</td>
</tr>
<tr>
<td>2015</td>
<td>$223,614,372</td>
<td>$11,948,013</td>
<td>$211,666,359</td>
</tr>
<tr>
<td>2016</td>
<td>$228,086,659</td>
<td>$11,948,013</td>
<td>$216,138,646</td>
</tr>
<tr>
<td>2017</td>
<td>$232,648,392</td>
<td>$16,350,513</td>
<td>$216,297,879</td>
</tr>
<tr>
<td>2018</td>
<td>$237,301,360</td>
<td>$16,346,763</td>
<td>$220,954,597</td>
</tr>
<tr>
<td>2019</td>
<td>$242,047,387</td>
<td>$16,351,388</td>
<td>$225,695,999</td>
</tr>
<tr>
<td>2020</td>
<td>$246,888,335</td>
<td>$16,346,888</td>
<td>$230,541,447</td>
</tr>
<tr>
<td>2021</td>
<td>$251,826,102</td>
<td>$16,347,138</td>
<td>$235,478,964</td>
</tr>
</tbody>
</table>

The foregoing charts and analyses are snapshots of the individual Fund's uncommitted annual balances, net of required annual debt service payments, and are based on a revenue growth rate of 2%.

Recommendations for operating cost reductions are discussed in item A and also contained in E.O. 2012-01 (see Attachment A). In addition, work is ongoing pursuant to Governor’s Directive No. 2012-01, which orders the identification of $43M in spending cuts and impaneling the Spending Cuts Task Force (see Attachment B).

**C. Proposals to address the unfunded actuarial accrued liability towards ensuring the solvency of the Government of Guam Retirement Fund**

The Government of Guam Retirement Fund’s unfunded actuarial accrued liability is determined by subtracting the Fund’s value of assets by its actuarial accrued liability. As of
September 30, 2011 the unfunded liability amounted to $1.64 Billion with a security ratio at 43.5%. In the last 10 years the unfunded liability was at its lowest point at $1.06 Billion dollars as of September 30, 2001. Plan changes and missed actuarial assumptions have led to the increase in the unfunded liability. The 2011 actuarial valuation reported that low investment performance and plan changes that increased survivor benefits, were causes of the increase in the unfunded liability. The investment yield on the total market value of assets ending September 30, 2011 was negative 1.1%. The actuarial assumption on the interest rate for the same period was 7.0%. The Fund had recognized 1/3rd of the investment loss from this period which increased the 2011 Government of Guam’s contribution rate by 50 basis points. A greater impact was seen through Legislation that increased survivor and child annuities. Benefits payable to a surviving spouse was increased from 50% to 60% of the member’s retirement annuity. The annuity payable to a surviving child was increased from $2,160 to $2,880 per year. The actuary had highlighted the impact of this Legislation which increased the Government’s contribution rate by 95 basis points.

4 GCA Ch. 8 Sec. 8137 (b) provides for the repayment of the unfunded liability through an amortization schedule computed by the Retirement Fund’s actuary. The current law mandates that the unfunded liability will be paid off in 19 years or by May 1, 2031.

The ability for the Government of Guam to keep up with such annuity payments may be seriously hindered in light of the overall government of Guam’s General Fund deficit. This hindrance fosters the potential of initiating major employment reduction that will impact the government’s retirement contribution in the near future. The outcome is a higher retirement contribution that may exceed current actuarial rates, which may be passed on to the government or its employees.

To stabilize this situation, it is highly recommended that the mandate to pay off the unfunded liability be extended for at least another 10-year period to May 1, 2041. This time extension would provide the time needed to smooth out the rate preparation each year to reflect current and projected staff levels, spreading any major rate adjustment as the result of staff reduction over a greater period of time. In addition, a recommendation for an experience
study will be requested. The information on this study will provide important data in
determining if any changes to future actuarial assumptions should be made.

D. A plan that addresses the recurring fiscal gap between the annual revenue collections and
expenditures of the government of Guam, including, but not limited to, increasing
revenues, decreasing expenditures, or a combination of both.

This requirement is addressed in the previous items A and B. In addition, it is
imperative that revenue projections should not be over inflated to meet an increasing
appropriation level. Cost Containment and right sizing the government is also very important to
manage the deficit. Executive Order No. 2011-01 required all Executive Agencies to identify
cost-savings within their respective departments. That effort netted over $4M in savings. Executive Order No. 2011-02 effectuated an unpopular but fiscally necessary action and rolled
back the implementation of salary adjustments which would have cost $13M annually. These
are just a couple of examples of this Administration's commitment to fiscal stability and effective
government. In summary, any amount collected over what is projected should be used and
applied to deficit reduction and not be automatically designated as a fund source for new
appropriations.

Prior to the mandated "plan" requirements of P.L. 31-76, and as stated earlier, the
Administration had commenced and is currently completing its Fiscal Stabilization and
Sustainability Plan. There are proposals delineated in the FSSP outlining in more detail, the
Administration's cost containment initiatives, revenue enhancement measures and “right-
sizing” the government through reorganization directives. Many of these fiscal measures are in
place and the Administration will continue to pursue pending measures that are designed to
enhance or facilitate fiscal stability. Executive Order No. 2012-1 implements the administrative
framework needed to support the fiscal initiatives mentioned and basic guidelines that will
enable departments and agencies to achieve the goal of fully maximizing the appropriation of
limited financial resources at their disposal.

Other supporting components of the FSSP include economic development strategies
and various programs that will help generate new revenues for the government and ultimately
provide the level of tax revenues needed to sustain current government operations and to meet the financial demands associated with providing essential public services today and in the future. It is important to note that the Fiscal Stabilization and Sustainability Plan must possess a degree of fluidity and be subject to continuous adjustment so that changing financial conditions are periodically taken into account.

The Governor’s transmittal letter (see Attachment C) for the FY 2012 Budget Bill now P.L. 31-77, contains additional discussion on plans to bridge the gap between collections and expenditures.

E. A signed memorandum of understanding or equivalent document with the Internal Revenue Service or the Department of the Treasury or the Department of Interior that outlines the method and terms of repaying the ARRA Make Work Pay overpayments to Guam for Tax Years 2009 and 2010.

In FY 2009 and FY 2010, the government of Guam received advance reimbursements for the MWPTC from the federal government totaling $73M. Any funds not used for the MWPTC is to be remitted to the IRS by January 2013. In both fiscal years, the MWPTC was built into the revenue projections adopted by the Legislature for those budget years and appropriated accordingly for general operations. However, those funds were to be used for the reimbursements to Guam for those tax filers claiming the tax credit and the unused portion of the advance reimbursement should have remained available and returned to the IRS by January 2013. The amount estimated to be returned is $22M for which the government does not anticipate cash will be available for repayment purposes.

To satisfy the requirement for a "signed memorandum of understanding or equivalent document" with the IRS or applicable federal agency as mandated in P.L. 31-76, the government of Guam plans to formalize an agreement to off-set these overpayments with Compact Impact funding that is owed to the Territory of Guam. The Government’s underfunding of these bi-lateral agreements between the United States and various states in Micronesia has for years had a detrimental financial effect on the financial posture of the government of Guam. This issue continues to overwhelm the Territory’s ability to sustain the delivery of essential public services such as health care, education, public safety and
infrastructure development. It has also had the effect of eroding the financial resources of the resident taxpayers of Guam and continues to be a burden on the local treasury since its inception. The documented costs of unfunded Compact Impact outlay are in excess of $500M in aggregate. It is the position of the Administration that these costs must be addressed and the proposed method of financial off-set is an appropriate recourse to this long-standing financial dilemma. It should be noted that these overpayments should not have been an issue had these monies not been recognized as revenues and appropriated in FY09 and FY10 for operations. As stated earlier, the amendment to reduce FY10 revenues by $34M, relative to the Make Work Pay Tax Credit, did not happen until September 2, 2010, one month before the end of FY2010 when the actual cash had substantially been expended. As an alternative plan to address the repayment of the estimated $22M, a payment schedule of $2M annually beginning in FY 2015 could be proposed. This will have the least adverse impact from the perspective of a fiscal year’s budget. This timeframe supports the projected realization of revenues from economic development initiatives and would also coincide with the start of the anticipated relocation of U.S. Department of Defense personnel to Guam.

II. Collateral Policy Issues and Impacts

In formulating its recommendations, the FRTRC shall consider the following; the schedule of the relocation of the Third Marine Division other military personnel and support activities from Okinawa and Japan to Guam, the realistic projection of the timing and amounts of incremental revenues the government will collect from such relocation, and the incremental increase in expenditures to support and mitigate such relocation. Additional assessments or analyses are required to address the impact of U.S. Public Law 112-25 as it relates to the recommendations of the Joint Select Committee on Deficit Reduction on the continuance of federal programs and services and the need for local funding to absorb any cuts affecting the operations of the government of Guam and current debt service requirements of existing debt or any new debt, the effect on the continued delay in the issuance of the final ruling on the granting of parole authority by the U.S. Department of Homeland Security for tourists from China and other factors (global, national or regional) and other matters that the FRTRC may deem appropriate.
A. The schedule of the relocation of the Third Marine Division and other military personnel and support activities from Okinawa and Japan to Guam.

Recent passage of the U.S. National Defense Authorization Act of 2012 suspended funding for relocation of the Third Marine Division until the Secretary of Defense submits an “updated and specific plan” to Congress for the transfer of Marine Corps and other military personnel and support activity from Okinawa to Guam. In the late part of 2011, the U.S. Congress expressed the intent to provide Committee oversight on the DOD build-up plans for the region and to revisit the Japan-U.S. agreement and funding requirement associated with the relocation effort. The deadline announced in the defense budget bill for the submission of the regional realignment plans to the Congress is the middle part of CY 2012 at which time funding requirements will be presented to the respective oversight committees.

As of this date, preliminary reports indicate that the number of Marines to be stationed in Guam is targeted at 4,700 to 5,000 or approximately fifty-eight percent of the earlier reported figure of 8,000. Additionally, there are plans to deploy troops on a rotational basis among Guam, the Philippines and Australia meaning that the number of Marines on the island at any one point in time will be significantly lower than the full contingent but details are undisclosed. The number of military dependents that would accompany such redeployment is also expected to decrease; however, estimates have not yet been finalized by the U.S. Department of Defense. The date for the troop relocation will be reported in the Defense Secretary’s plan along with more definitive information on the logistical and funding requirements needed to implement the plan. The impact of this deployment plan will enhance the Section 30 receipts as remittances will cover both rotational and stationed personnel.
B. The impact of the recommendations of the Joint Select Committee on Deficit Reduction as required by U.S. Public Law 112-25, if implemented, on the continuance of federal programs and services and the need for local funding to absorb such cuts upon the operations of the government and current debt service requirements of existing debt or any new debt.

In November 2011, Representative Jeb Hensarling and Senator Patty Murray Co-Chairs of the Joint Select Committee on Deficit Reduction, announced that the Committee is “unable to come to a bi-partisan deficit reduction agreement” before the Committee’s established deadline. As a result, the deficit elimination effort which is considering up to $450 Billion in U.S. Department of Defense cuts over the next decade remains in the Congressional arena and will be greatly influenced by the administration’s efforts to reassess Department of Defense priorities and to realign military presence accordingly. However, President Obama and Defense Secretary Leon Panetta both stressed part of the military’s future plans and programs which emphasizes the need to “rebalance the military’s force structure and investments toward the Asia-Pacific region and the Middle East.” This indicates the growing importance of the build-up and relocation plans for Guam and the rest of the Pacific region. Guam’s representative in Congress Delegate Madeleine Bordallo reiterated the President’s pledge that cuts to Department of Defense activities will not come at the expense of strengthening military presence in our region.

C. The realistic projection of the timing and amounts of incremental revenues the government will collect from such relocation, and the incremental increase in expenditures to support and mitigate such relocation.

A "realistic" projection of timing, revenues and expenditures relating to the military buildup is "unrealistic" at this time. There is much uncertainty as to the timing of relocation of military personnel even in Washington. There is equal uncertainty as to the amount of the actual commitment to Guam. For speculative purposes, financial projections of revenues and expenditures expected from the U.S military relocation initiative were incorporated in the Bureau of Budget and Management’s 10-Year budget forecast provided to I Mina’ Trentai Unu Na Liheslaturan Guåhan (31st Guam Legislature) during discussions of Bill No. 1(3-S), now Public Law 31-76. At the insistence of the Legislature, these projections were provided using just one
scenario of the incremental revenues and expenditures anticipated by the government of Guam due in part to the military build-up. BBMR has since developed other scenarios. Until such time as final decisions on the timing and quantitative commitment relative to the build-up are made, there can be many other scenarios generated but would again be speculative at best. The Administration is focusing on economic development, cost-containment/reduction and deficit elimination initiatives as the government's primary solution to financial stability and effectiveness.

D. Other global, national and regional economic factors which could affect economic activity and investments on Guam.

The performance of the U.S. and regional economies such as Japan, China, Korea and the Republic of China (Taiwan) will correspondingly affect the Gross Domestic Product (GDP) of Guam. Historically, when the economies mentioned experience steady growth, Guam enjoys ripple economic benefits as a result. Although these emerging Asian economies have seen a decline in their annual GDP growth rates, they have shown greater resilience to global market factors that have induced recessions and negative growth in other regions of the world. This is a generally accepted phenomenon that reinforces the belief that performances of both the U.S. economy and also the Asian Pacific rim nations have and will continue to bear equally significant impact on Guam’s GDP.

It is believed by some that President Obama's economic stimulus programs which took effect several years ago are now just beginning to see fruition. National unemployment rates in the last part of 2011 have leveled and during the first quarter of 2012; and is trending downward. GDP and investments are still below projected growth targets but did not show further signs of decline in 2011. The forecast for a rebound of the U.S. economy is showing sluggish but somewhat steady growth and as the 2012 U.S. presidential election nears, some industry experts are forecasting marginal upward ticks in various sectors of the economy.

Stabilizing the U.S. housing and construction industry, job creation particularly in the manufacturing sectors and lowering the national unemployment rate are key indicators to gauge overall U.S. economic performance. Other significant indicators include valuation of the
U.S. dollar against other currencies and any success or failure in the Obama administration’s initiatives and stimulus programs which will greatly affect gross domestic production levels in the U.S. and on Guam as well.
ATTACHMENTS
WHEREAS, the Executive branch of the government of Guam intends to stringently adhere to authorized spending thresholds that are sustained by annual operating revenue collections with the aim of improving the overall financial health and stability of the General Fund;

NOW, THEREFORE, I, EDWARD J. B. CALVO, I Mage'iathen Gutkan, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, do order:

I. General Cost-containment Measures:
   A. Power Usage and Consumption: The requirement of agency-wide conservation practices is mandatory and electricity usage shall be maintained at a minimum level. Cost-saving technologies to help reduce power demand shall be acquired through prescribed procurement practices. Cost saving initiatives to include weatherization, the use of optimum energy efficient air conditioners, alternative energy programs, and conservation measures shall be adhered to by all departments and agencies. Government offices shall maintain room temperature at seventy-six degrees Fahrenheit (76°F) during working hours. The Guam Energy Office shall monitor power usage and consumption by the departments/agencies/instrumentalities and provide quarterly reports to I Mage'iathen Gutkan on any non-compliance no later than 20 days after the close of each quarter. The Bureau of Budget and Management Research (BBMR) shall sequester a percentage of the non-compliant agency's annual appropriation for each quarter of non-compliance.
   
   B. Maximized Use of Office Space: Minimum standard floor space requirements, as prescribed by OSHA, shall be determined by each entity leasing office space and shall identify excess lease space and negotiate leases accordingly. Such entity shall submit a report to BBMR as an attachment to office space lease agreements, detailing its findings. BBMR shall review all office space lease agreements, inclusive of amendments, and consider the minimum space requirements in its review and recommend consolidation/reduction of office space where applicable.
   
   C. Reorganization: Adaptive reorganization plans are currently being developed for agencies of the government of Guam to generate cost containment and or reduction in operating costs. Organizational design and restructuring best suited to meet the operational needs of an agency shall be developed. Certain environmental and technological changes or requirements are key factors guiding reorganization initiatives. Achieving economies of scale, maintaining or enhancing efficiencies, improving service delivery and quality of services, at the optimum level of resource allocation shall be instituted and affected government entities shall ensure compliance with all laws, rules, regulations and policies in implementation of the reorganization.
   
   D. Fuel Consumption: Trends in the price of fuel, require departments and agencies to employ conservation practices throughout the government. Agencies maintaining rolling assets including equipment and machinery that are engaged in operations and support services and, who are major consumers of fuel such as the Guam Mass Transit Authority, Department of Public Works, Department of Public Health and Social Services, Department of Education, the Guam Police Department, Guam Fire Department and any agency that maintains an inventory of five (5) or more vehicles, equipment or machinery and other similar inventory are subject to this order. The primary objective of
this government is to reduce current fuel consumption by two to five percent in FY 2012 and subsequent fiscal years.

E. **Government Procurement:** DOA shall provide periodic training on procurement procedures to all departments, agencies and instrumentalities in order to ensure compliance with procurement laws, rules, regulations and guidelines. Year-end procurement requests shall be monitored by BBMR and DOA to identify excessive acquisition and storage practices or stock-piling tendencies. Such amounts identified in such practices shall be reported by DOA to BBMR who shall then sequester these funds.

F. **Consolidated Training and Staff Development:** During the course of the fiscal year, staff development and training programs are offered without full regard for maximized delivery and participation. Certain departments and agencies have provided internal training programs solely for the benefit of its employees. Agencies that lack resources or expertise to provide similar training programs for its staff shall be considered for joint participation to the extent feasible with the objective of facilitating or promoting staff development and training opportunities on a government-wide basis.

G. **Fleet Management and Maintenance:** Reducing fuel costs associated with vehicle fleet maintenance and operation is a perennial budgetary challenge of the government of Guam in years past. The Department of Public Works (DPW) is tasked to develop recommendations in this regard, to include government vehicles in line agencies that are not currently maintained by DPW, and will incorporate findings in subsequent departmental budget requests. Subsequent to presenting its findings and recommendations, DPW will recommend cost effective program strategies to attain reduction in costs.

II. **Personnel Actions and Initiatives:**

A. **Filling of Vacancies:** All Executive branch agencies desiring to fill a vacant position or create a new position shall submit a request for recruitment to the BBMR for approval to ensure that only positions essential to public health, safety and welfare or vital to government operations are filled. Any action taken contrary to or in violation of this Executive Order shall be voidable.

Approval of filling any vacancy or a new position may be granted if one or more of the stipulated requirements below are met:

1. the position is critical to the agency’s operation and failure to fill will cause the inability of such agency to fulfill mandates or major mission responsibilities;
2. the position is vital to providing essential government functions directly related to public health, safety or welfare;
3. the position is fully funded by the federal government in accordance with the federal grant award and as evidenced by the federal granting official or authority;
4. the position is essential to the collection of government revenue;
5. the position is mandated by local or federal law or a contract;
6. the position is necessary to reduce personnel or operational costs such as accrual of overtime and or special pay.

B. **Promotions:** Any promotion or position upgrading by any Executive branch agency shall be submitted to BBMR for review and approval provided that the criteria established in subsection IIA of this Executive Order are met.
C. Authority to Detail Employees: The Director of BBMR shall have final approval of all planned detail appointments within and between Executive branch programs and departments to include General Fund, Federal and Special Fund programs consistent with the Personnel Rules and Regulations, applicable statutes, guidelines, and terms and conditions of federal grant awards.

III. Travel Requests:
A. BBMR Approval: Executive branch travel requests shall be subject to BBMR’s final approval. All air travel by persons authorized to travel at government expense for official business shall be at the lowest fare possible. Unless otherwise justified and approved by BBMR, no more than one traveler shall attend the same seminar or training session. All travel requests shall be submitted to BBMR for approval at least fifteen (15) working days prior to the commencement date of travel. The guidelines for approval shall be, but not limited to the following:
   1) The travel is essential to the conduct of important government business. (This includes the accompanying of patients or inmates to off-island institutions); or
   2) The travel will result in securing additional revenues for the government of Guam, achieve current or future cost-savings for government operations and programs, or relate to the agency’s priority work program activities; or
   3) The travel is required pursuant to existing contracts, public law, rule or federal program; or
   4) The travel is paid by a federal grant;

B. Travel to Participate in Personnel Certification, Training and Staff Development or Educational Programs: BBMR and DOA shall review all travel requests to determine if it is financially feasible to conduct periodic staff education and training programs locally by:
   1) Requiring government agencies to promote, host or sponsor a person, business, institution or qualified entity to conduct educational and training programs on island;
   2) Maximizing the number of employee participants who can benefit from available educational and training opportunities on island;
   3) Eliminating redundant travel requests by employees who are repeat participants in certain educational and training opportunities which do not provide optimal cost-benefit return to departments and agencies;
   4) Consolidating costs of travel by one or more government entities to fund local training opportunities that foster greater employee participation and benefits;
   5) Allowing department and agency heads to afford greater scrutiny of travel requests and recommend to BBMR where greater cost benefit impacts can be attained.

IV. Overtime and Night Differential Pay:
All Executive branch agencies shall minimize work schedule of employees to reduce the accrual of overtime or night differential payment which shall be compensated only if such expenditures are documented, approved and submitted for processing within two weeks of the date
on which the work is performed. Each Executive branch agency shall adopt an overtime plan. The plan is due no later than thirty (30) days from the promulgation of this Executive Order with any future plans or amendments to be approved by BEMR. Overtime shall be an optional management tool or measure of last resort.

V. Contracts:

All contracts with any Executive branch agency shall require the review and approval of BEMR. All contracts shall be submitted to BEMR at least thirty (30) days prior to its effective date. Each agency must certify the contract complies with all laws and regulations of Guam. Upon obtaining BEMR approval, all contracts shall be submitted to the Attorney General’s Office for its disposition.

A. Office Space: All Executive branch agency contracts or renewals for office space shall not be approved unless the following criterion are met:
   1) Adequate space is not available at any public building; and
   2) The space requested is determined the minimum space required; and
   3) The lowest responsible bidder is selected; and
   4) Funding is allocated for the entire length of the contract; and
   5) The space is in compliance with the American Disabilities Act.

B. Procurement: All Executive branch agencies shall submit each procurement contract for approval by BEMR. Such contracts shall be accompanied by:
   1) Copy of the bid specifications; and
   2) A copy of prior year’s agreement, if applicable; and
   3) Evidence of funding to meet the obligations; and
   4) Justification showing that the procurement from the supplier is the most cost-effective means.

C. Off-island Recruitment and Consultant Contracts: Prior to recruitment, all contracts for off-island recruitment shall be submitted to BEMR for approval. Such contracts shall comply with the laws and regulations of Guam applicable to such. Departments, agencies, bureaus and other instrumentalities of the government of Guam shall provide proof that funding is available throughout the entire contract period.

D. Services and Contractual Agreements: Executive branch agencies seeking contractual arrangements shall submit proposals to BEMR for approval. The proposals shall indicate:
   (1) The agencies inability to perform the services sought in-house; and
   (2) Cost savings analysis or assessment; and
   (3) Funding is available for the entire contractual period.

E. Multi-year Contracts: Prior to the commencement of each respective fiscal year, departments and agencies shall submit proposed contract(s) requiring multiple fiscal year expenditures or appropriations to the Director of BEMR for approval. Such submittals shall occur no less than thirty (30) days prior to the proposed commencement date of the contract(s) unless otherwise accepted by the Director of BEMR for justifiable circumstance. Each contract submitted pursuant to this provision shall require the signature of the Director of BEMR to enable any department or agency to issue notice to proceed. Failure to meet BEMR review requirements established herein shall result in the non-release of funds for payment of contract(s) not in compliance with the provisions of this section.
VI. Indirect Cost Recapture (Federal Sourced Programs):
Department heads, program managers, administrators and other personnel who
manage or oversee federally funded programs are directed to comply with Guam State Clearing-
house (GSC) mandates and applicable federal program provisions concerning the recapture
of indirect cost outlay. Formal documentation and application for indirect cost reimbursement to
respective federal funding entities shall be a standard requirement (annually) of federally funded
program recipients. The recapture of indirect cost entitlements authorized by federal law shall be
monitored by GSC who shall report the total Indirect Cost applied for by department and program.
Departments that do not apply for Indirect Cost shall submit evidence of Grantor notification,
indicating the reason why Indirect Cost will not be reimbursed/funded.

VII. Authorization To Release Funds
The Director of BBMR shall make appropriation releases to government of Guam
entities only upon compliance with the requirements set forth in this Executive Order.

VIII. Monitoring of Non-General Fund Sourced Entities
All Executive branch agencies regardless of funding, shall submit at minimum,
quarterly financial statements and quarterly staffing patterns to BBMR. Such agencies, department,
bureau and other instrumentalities, shall in addition, submit copies of their current fiscal year’s
budget, and all other information as requested, to BBMR.

IX. Non-Compliance
Non-compliance with the requirements herein, inclusive of deadlines, shall result in
the immediate return/disapproval of such requests. All departments/agencies are liable and
responsible for the accuracy and compliance with all rules/regulations and policies governing the
respective requests/expenditures. BBMR/DOA shall promptly return/disapprove such requests
once identified.

This Executive Order hereby rescinds Executive Order No. 2007-02.

X. Implementation Date
This Executive Order shall take effect on January 25, 2012.

SIGNED AND PROMULGATED at Hagåtña, Guam this 25th day of January, 2012.

EDWARD J. B. CALVO
I Magåtåhu Guåhan
Governor of Guam

COUNTERSIGNED:

RAYMOND S. TENORIO
I Segundu na Magåtåhu Guåhan
Lieutenant Governor of Guam
Attachment B

DIRECTIVE NO. 2012-01
April 17, 2012

TO:       Deputy Chief of Staff
          Chief Fiscal Advisor
          Director of Communications
          Special Assistant to the Chief of Staff
          Chief Policy Advisor
          Legal Counsel
          Special Assistant, Social & Economic Affairs
          Chief Education Advisor
          Chief Information Officer
          Director of Administration
          Director of Budget Management & Research
          Director of Statistics and Plans
          Director of the Agency for Human Resources Development
          President, Guam Community College (or her designee)
          President, University of Guam (or her designee)
          Chief Procurement Officer
          Financial Manager, Department of Administration
          Administrator, Personnel Services, Department of Administration

INVIT. TO: Vice Chairman, Fiscal Responsibility & Tax Refunds Commission
          Chairman, Legislative Committee on Finance
          President, Guam Chamber of Commerce

FROM:      The Governor

SUBJECT:  Appointment to Spending Cuts Task Force

Plans for layoff and, subsequently, personnel savings are slowly progressing through the lengthy process proscribed by law and policy. Notwithstanding that the plans in place represent the first meaningful personnel reduction in GovGuam’s history through the layoff process, we have not cut spending enough in this government to live within our means. The cuts made to date are not adequate in order for this government to ensure tax refunds and vendors are paid on time.

For decades there has been and continues to be a debilitating structural imbalance of the General Fund. Put simply, the revenues coming in to the General Fund every year are clearly not enough to fund the level of expenditure to fund the services mandated by the legislature as well as the binding federal matching agreements to accept federal funds. The cumulative deficit, before the pay down of tax refunds and COLA debt last December was last audited at $336 million. The cumulative deficit is a moving...
target, as you know. Though $218 million was shaved off this deficit when tax refunds and COLA were paid last year, we must consider new vendor payables now added to the deficit, along with $105 million in estimated tax refund liability that will come due this year. The series B bond we are seeking will only pay down that cumulative deficit by $50- to $60 million for tax refunds debt, and by another $26 million for the General Fund debt to the Retirement Fund.

The practice of over-projecting revenues, understating expenditures, and refusing to cut spending led to a $37 million (preliminary) deficit in FY2011 alone, a $71 million deficit in FY2010, and another $111 million deficit (bond proceeds extracted) in FY2009. Now the math becomes apparent. This, added to court orders such as the COLA ($123M), EITC ($90M), Mental Health permanent injunction ($16M), and the landfill consent decree ($140M), has led to the unsustainable financial position we are in. You can see how the cumulative deficit has been growing. This government needed to cut spending years ago. To compare the government to a sick person: 20 years ago he caught a cold, and while his cold got worse over the years, he took some cough drops and occasionally ate some chicken soup. And, alas, he has come to a point where his condition is life-threatening and bed, rest, and kadon manok will no longer help his recovery. Bitter medicine is needed to save his life. This bitter medicine has to be deep cuts into operations.

I explained this predicament time and again to the legislature and to the Cabinet. I granted unprecedented access to the governor’s financial system to the legislative Office of Finance Budget. I ordered the suspension of the Hay study, began reorganizing, froze increments, and instituted a 15 percent reserve on the Executive Branch.

These measures are not enough. I am dissatisfied with the agencies’ rate of spending cuts made to balance the budget and ensure the solvency of the government far beyond our administration. This solvency will mean that the priority services of the people will be given with excellence as they expect.

To start with, I am ordering the identification of spending cuts amounting to at least $43 million that will no longer be spent from the General Fund for annual operations and, possibly, federal matching requirements for programs we can do without. $13 million of these spending cuts will be meant to reinvest into the implementation of Hay raises. The majority of the remaining $30 million in spending cuts will represent the start of permanent reduction in expenditures from the General Fund. I will explain further down what part of this cut will be used for. Clearly, the annual imbalance is closer to $40 million, at least based on the outcome of the Fiscal Year 2011 budget. I will hope, as a Governor who is in charge of only part of one of the three branches of the government, that the other instrumentalities and branches do their part to cut spending by another $10 million.

A total reduction of $43 million from General Fund expenditures will surely result in the layoff of government employees. As this process happens, I would like for this government to offer an early-out retirement incentive to potentially-displaced employees who are within five years of retirement. For all others facing displacement, we must consider the harsh economic impact upon their families and the community. Some of these employees may be trained and qualified for private sector job opportunities. It is critical we establish close relations with the Guam Chamber of Commerce, the hotel and restaurant association, and the contractors association to place laid off employees in private sector positions that may be available. I want part of the $30 million saved from the spending cuts to be invested into a special program I want created among Guam Community College, University of Guam and Guam Trades Academy. Those displaced government workers who need to be retrained should be given tuition assistance to be trained in certain trades and fields that are either currently lacking, or being filled with foreign workers. These include training for teachers, nurses, law enforcement, and the several fields of the construction trade.
I also want the Guam Economic Development Authority to pursue any opportunity to use any of their existing funding programs that will provide banks guarantees that will stave off mortgage foreclosures for displaced government employees who are looking for work for a 12 month period.

Furthermore, I am ordering the examination of the spending of all federal funds, and all state and district plans and agreements between Guam and federal agencies. I want unnecessary travel and administrative costs cut and reinvested into program services to the people, of course with the concurrence of federal agencies through the respective state or district plans. Revenue-generating autonomous agencies within my purview will not be exempt from these austerity measures. These agencies produce revenue on the backs of the people through their fees to fund their operations. I want this spending examined as well, and I want recommendations for cost cuts, fee adjustments, and replacement of General Fund employees into autonomous agencies. These agencies are to respect the fiscal realities of this government during these dire times; a government they must understand they are part of.

I have written these orders to you because I am impaneling a Spending Cuts Task Force within the Governor’s Office and I am appointing you to the task force. I expect a plan in place and ready for implementation of $43 million in annualized spending cuts by July 1, 2012. Your first meeting is scheduled for this Thursday at 2:30 p.m. in the Governor’s Conference Room. The Governor’s Chief Fiscal Advisor will chair the task force and the Governor’s Deputy Chief of Staff will co-chair.

I am also inviting the Vice Chairman of the Fiscal Responsibility & Tax Refunds Commission, the Chairman of the legislative finance committee, and the President of the Guam Chamber of Commerce to be members of this task force. Legislative and private sector collaboration with this effort will be critical.

Unlike the first round of spending cuts, I am directing that all your activities be conducted in public and in such a way that invites public participation in the decision-making processes. I have given you a directive to cut $43 million in spending, but how this is done among the administration agencies must be decided in concert with the employees of the government and the people of Guam. This is their government. They have the right to determine how such drastic cuts in services to them will be made.

You are to meet as a full task force on Thursday, solidify consensus around the top service priorities of the people, begin setting up the displacement programs, set the groundwork for macro-type cuts that include outsourcing and blanket cuts to benefits, and schedule to meet with each Cabinet member to begin the cutting process by agency.

This will not be an easy task. It will be painful. It will be unpopular. We will receive pushback, especially considering the escalating political environment that will last until November. But this must be done. We have no choices. We cannot withhold the bitter medicine from this dying government.

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