

January 12, 2010

To: Janjeera Hail, KUAM News

From: Anthony Blaz, GEDA Administrator

Regarding: **Disapproval of Guam Resource Recovery Partners (GRRP) request for authorization by the Guam Economic Development Authority to issue \$250 million in Private Activity Bonds to finance a municipal landfill and waste-to-energy facility in Guatali, Guam.**

Overview:

- GEDA serves as the central financial manager for the government of Guam and mandated to administer the issuance of bonds.
- Private Activity Bonds (PABs) are tax-exempt bonds issued by public entities, to provide low-cost financing for private projects that serve a public purpose. Interest on private activity bonds is exempt from federal taxes if bonds fall within certain defined categories that include about seven types of bonds, but specific to this application, we're looking at exempt facility bonds issued to finance various types of facilities owned or used by private entities, including airports, docks, water, sewer and certain other local utility facilities; solid and hazardous waste disposal facilities; certain residential rental projects; and certain other types of facilities.
- Unlike general obligation or limited obligation bonds, wherein the government of Guam takes on the debt obligation, although GEDA will be the "issuer" of these bonds due to the "tax-exemption," ultimately, the debt obligation will be the full responsibility of the private developer/owner of the proposed project, in this case, GRRP.
- The Board's decision must be based on the following criteria: 1) in the public interest (Will this project benefit the community?) 2) is it feasible and economically viable and 3) is it consistent with the current policies of the government of Guam for the use and issuance of Private Activity Bonds allocated for the year.

GEDA's Board of Director's Disapproval was based on the following:

1. There are questionable assumptions in the financial model concerning construction costs, power revenues, and comparisons to the Layon site.
2. GRRP's use of the one-sided financial conditions in 1996 Agreement as a basis for a future agreement with the Government.
3. Building a second landfill will cannibalize the efforts to spread the costs of the Layon site.

4. GRRP does not have any current contracts to provide solid waste for its incinerator and there is a legal question if they can obtain one in the future without first going through the Federal Receiver.

5. No permits have been issued to date by the Guam Environmental Protection Agency nor the Department of Public Works.

6. GRRP has 13 years left on its existing lease with the Chamorro Land Trust Commission. This is not a sufficient time to build and operate a solid waste facility. At this point in time, unless amended by the Guam Legislature, the maximum lease term for Chamorro Land Trust properties is 21 years.

7. Approving the authorization for GRRP's Solid Waste Facility will be contrary to the Government of Guam's position taken in the Federal Court about the Layon site, inclusive of the issuance of the 2009 Limited Obligation (Section 30) Landfill Bonds and/or the U.S. Department of Agriculture's Solid Waste Landfill Financing.

8. The Attorney General of Guam recently implied that this project was an "interference" with the development of the Layon site, and has recommended that GEDA not approve this application, deeming the application "premature."