



EXECUTIVE SUMMARY
Recycling Revolving Fund
OPA Report No. 15-05, July 2015

The Guam Environmental Protection Agency (GEPA) has not promulgated the required rules and regulations to properly implement the Recycling Revolving Fund (RRF) law. Although RRF expenditures of \$158 thousand (K) for the Zero Waste Pacific Sustainable Materials Management Conference (Zero Waste Conference) and travel during fiscal year (FY) 2013 and FY 2014 reasonably assisted and encouraged recycling of recyclable materials, these RRF expenditures were made before the rules and regulations were promulgated. These rules would clarify the RRF purpose and priorities and leave less room for interpretation to meet legislative intent.

Rules and Regulations Need to Be Promulgated to Properly Implement Law

Title 10 of the Guam Code Annotated (GCA) Chapter 51 Article 3 § 51307 (c) states that GEPA “shall promulgate the necessary rules and regulations, in accordance with the Administrative Adjudication Law, to properly implement this Article.”

Since the enactment of Public Law (P.L.) 27-38 in November 2003, the RRF law was amended by several additional laws over a span of eight years, each separately modifying aspects of the RRF law. In June 2005, the recycling rules and regulations were finally approved by the GEPA Board but P.L. 28-70 disapproved the rules in October 2005. No explanation for the disapproval was provided in the legislative history for P.L. 28-70. Neither could GEPA officials provide an explanation. As such, there are no recycling rules and regulations in place.

Zero Waste Conference

In May 2014, GEPA sponsored Guam’s first Zero Waste Conference. According to the coordinators, the conference was a success with tracks focused on recycling, composting, and managing solid waste systems. The conference featured speakers from all over the globe. In addition, the over 300 attendees were also able to take advantage of national certification opportunities from the Solid Waste Association of North America (SWANA) in various solid waste management fields.

GEPA spent a total of \$86K to fund the Zero Waste Conference. A total of \$57K was spent on the conference venue, printing, giveaways, speaker fees, and training and exam fees. The remaining \$29K was used to fund the travel expenditures to bring instructors and presenters for the conference.

RRF Travel Expenditures

In FY 2013, RRF travel expenditures were \$34K, or 9% of the \$379K total RRF expenditures. Five GEPA employees and one individual from the Bureau of Budget and Management Research (BBMR) attended various meetings and trainings related to solid waste management.

In FY 2014, RRF travel expenditures were \$67K, or 11% of \$611K total RRF expenditures. Of the \$67K travel expenses, \$29K was related to the zero waste conference and \$38K funded travel for six GEPA employees and five individuals from the Office of the Governor to attend various meetings, conferences, and summits discussing solid waste management and recycling.

As required in 10 GCA §51304, we found that these expenditures reasonably assisted and encouraged recycling of recyclable materials because the travel and Zero Waste Conference helped increase knowledge and build networks to properly manage solid waste, and assist and encourage recycling in our region. In addition, all travel and conference expenditures were processed, approved, and cleared by BMR and the Department of Administration.

Other Matters

In our preliminary review of RRF expenditures for the past five years, we noted that up to 90% of RRF expenditures pertain to contractual services. Since FY 2010, these annual expenditures ranged from \$275K to \$630K.

In addition, we noted that between FY 2010 and FY 2014, a total of \$11.1 million (M) has been transferred out from the RRF. The largest amount transferred out was \$5M in FY 2010.

Further review of the contractual services for recycling companies and transfers out will be the subject of a future OPA audit.

Conclusion

Although RRF expenditures for the Zero Waste Conference and travel in FY 2013 and FY 2014 reasonably assisted and encouraged recycling of recyclable materials, GEPA has not promulgated the required rules and regulations for the proper implementation of the RRF law. Therefore, we have identified these RRF expenditures totaling \$158K as questioned costs.

Promulgating the RRF rules and regulations would clarify the RRF purpose and priorities, guide the RRF activities to ensure consistent application of the law, ensure the Legislature's intent is carried out, and would minimize the ambiguity of proper RRF uses. Currently, the law states that funds can be used "for the purposes of assisting and encouraging recycling of recyclable materials", which is open for interpretation. We recommend GEPA place a moratorium on all RRF spending until they develop and promulgate rules and regulations in accordance with the law.

As a matter of full disclosure, the Public Auditor recused herself from this audit due to an identified impairment regarding her stepson being a member of the GEPA Board. The Public Auditor did not participate in this audit.

Office of Public Accountability