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Chapter 4: Guam



4.1 Guam

Guam is a United States territory with a locally-elected government. The people of Guam elect a Governor, who serves a four-year term, 21 senators who serve two-year terms in a unicameral legislature, and a Delegate to Congress, who also serves a two-year term. The people of Guam became U.S. citizens in 1950 when the Congress enacted the Guam Organic Act, which established institutions of local government and made Guam an organized territory. Guam is an unincorporated territory because not all provisions of the Constitution apply to the island.

The local judicial system is made up of a Superior Court and a Supreme Court led by judges appointed by the Governor. Local judges are subject to confirmation by the voters every six years. A U.S. District Court for Guam is headed by a District Court Judge appointed by the President.

Guam consists of a single island of approximately 212 square miles. It is located 3,700 miles west-southwest of Honolulu. The population of Guam in 1995 was estimated at 149,249. The annual rate of growth is about 2.3 percent.

4.2 Political Status Developments and Federal Relations

Guam Commonwealth

Guam's quest for commonwealth status has been on-going since 1982. In 1987, island plebiscites approved the draft Commonwealth Act. The Guam Commonwealth bill, which contains the details of the proposed commonwealth relationship, has been introduced in every Congress since 1988 by the Delegate from Guam. In 1989, Congressman Ron de Lugo (D-VI), then chairman of the House Insular Affairs Subcommittee, directed Guam and the executive branch to work out their differences regarding the bill before Congress would act on it. Under Presidents Reagan and Bush, two Federal Interagency Task Force Reports criticized key provisions on constitutional, legal and policy grounds. Large differences remained unresolved.

In the Clinton Administration, federal review continued under former U.C. Berkeley Chancellor, I. Michael Heyman until February 1995, when he became Secretary of the Smithsonian Institution. The current negotiator for the Administration is John Garamendi, Deputy Secretary for Interior. Mr. Garamendi took over when his

immediate predecessor, Stanley Roth, former Special Assistant to the President and Director of Asian Affairs for the National Security Council, resigned in December 1995.

Since January of 1996, the bulk of the Commonwealth negotiations have focused on resolving key priority issues rather than all the provisions of the original Commonwealth bill. These core issues include: Chamorro Self-Determination (desire of the indigenous Chamorro people to determine the ultimate political status of Guam); "Mutual Consent" (permitting changes in the Commonwealth Act only upon agreement by both parties); Immigration (limiting the influx of permanent alien immigrants to Guam while making it easier for Guam to attract temporary workers, investors and tourists); Taxation (authorizing Guam to "de-link" from the Internal Revenue Code and enact its own tax code); Economic Development (providing Guam with fair treatment in the application of federal laws and regulations); and Input Into Federal Policies (process in which Guam seeks input regarding the application or implementation of federal policies which may impact Guam).

This approach has provided Deputy Secretary Garamendi with the first real opportunity since 1988 to bring these negotiations to a successful conclusion. He has moved aggressively in scheduling a series of weekly negotiation sessions with Guam and federal interagency representatives. He plans to complete work on a document by the summer of 1996, with subsequent White House review and transmittal to Congress by late summer.

Compact Impact

Other major issues in federal relations with Guam in 1996 include the Compact of Free Association Act of 1985 (P.L. 99-239), which establishes the relationship between the United States and the FSM and Marshalls, authorized unrestricted immigration of FSM and Marshalls citizens into the United States, its territories and possessions. This enabled citizens of these island states to enter Guam and the CNMI and to lawfully engage in occupations as nonimmigrant aliens. Guam's resident population of these aliens is estimated to have increased by about 7,000 persons since 1986. The Palau Compact (P.L. 99-658), containing identical immigration provisions, came into effect Oct. 1, 1994.

The Government of Guam estimates that it has expended about \$70 million in services to Compact citizens since the Compact was implemented. These costs include \$30 million for primary and secondary education and more than \$10 million in direct benefits for health and welfare programs. The Compact law included an authorization for appropriation of funds to cover the costs of increased demands placed on educational and social services by immigrants from the RMI, FSM and Palau.

The Department of the Interior has provided technical assistance funding of \$848,000 to a Compact Impact Information and Education Program, \$1,787 in technical assistance for mitigation of the costs of Compact impact as well as funding surveys and Censuses of Micronesians to help assess the impact.

In FY 1995, \$2.5 million was specifically appropriated as a contribution toward the costs Guam has incurred in providing social services to these Micronesian immigrants. In FY 1996, Congress reallocated \$4.6 million in mandatory funding from the CNMI section 702 Covenant funding to Guam as an additional contribution toward Compact impact costs. This funding will be part of OIA's annual budget to the year 2001, for a total of \$27.5 million. Thus, Congress has appropriated or committed \$30 million for Compact Impact assistance in addition to the \$2.6 million provided from Interior's technical assistance program.

For FY 1996, OIA also began discussions with federal agencies that have social programs in Guam to explore whether such programs may be structured to help mitigate Micronesian impact to the island. In a related development, the Government of Guam filed a court action in 1996 seeking the preparation of a federal report on the impact of the Compact. OIA has indicated that it plans to complete and submit such a report by August 1996.

Guam Wildlife Refuge

The establishment of the Guam National Wildlife Refuge by the U.S. Fish and Wildlife Service (FWS) continued to be an issue in 1996. The refuge is the result of several years of effort by the DOI to address concerns of Guam leaders and Guam and national environmental groups for preservation of several endangered bird species on the island. The refuge consists of 22,873 acres. About 22,502 acres are an "overlay" jurisdiction on DOD-held lands, while the remaining 371 acres at Ritidian Point are held directly by the FWS.

Many Guam leaders, including the current Governor and Delegate to Congress, continue to oppose federal control of the refuge, preferring it be under local control. These leaders also object to the transfer of 371 acres of formerly DOD-held land at Ritidian Point to Interior as part of the refuge establishment.

In 1996, litigation over this and related issues continued among the Government of Guam, certain private parties and the Federal government. One case involves, among other things, the ownership of Ritidian Point and the management of the Guam Wildlife Refuge. A second proceeding involves claims by individual land owners and claimants regarding access to private property and the alleged taking of various private property interests.

4.3 Current Economic Conditions

Guam's economy has recovered from a downturn during the 1993-1994 period following extraordinary growth from 1988 to 1993. The outlook is for sustained growth, led by a resilient visitor industry, although a return to the growth rates of the "boom" years is unlikely.

Guam's gross island product increased by 3.9 percent in 1994 to \$3,030 million after an increase of 69 percent from \$1,729 million in 1988 to \$2,917 million in 1993, an annual average growth rate of 10 percent. Growth slowed somewhat in 1995 and is expected to pick up in 1996. Total employment fell to 65,130 in December 1995 from 65,800 in 1994 and 68,464 in 1993. Unemployment increased to 7.8 percent in the last quarter of 1995. Total personal income increased from \$1,327 million in 1988 to \$2,241 million in 1993, and to \$2,325 million in 1995. Rapid expansion of the visitor sector was a major driver of overall economic growth. Total visitor arrivals increased from 586,000 in 1988 to 1,362,000 in 1995.

The driving forces behind Guam's growth were outside investment, primarily from Japan, and the island's continuing popularity as a tourist destination. After a decline in Japanese real estate investment from 1990 to 1993 and a series of natural disasters, including six typhoons late in 1992 and a Richter 8.2 earthquake in August 1993, Guam's economy made a strong recovery in 1994 and 1995.

The surge in visitor arrivals is only slowly translating into increased employment, as visitor demand has been met largely through increased utilization of the existing workforce and stock of hotels and other facilities.

The near-term forecast for Guam's economy shows steady, gradual improvement, according to local government projections. The gross island product increased

slightly in 1995 and is expected to grow more robustly in 1996. Guam's economic model is currently being updated with revised 1995 figures and projections for 1996 to be published soon. Guam's economy is now larger and more mature than in the 1980s and it is reasonable to expect more moderate rates of growth off this much larger economic base in the last years of this decade.

Total visitor arrivals are projected to increase at an annual rate of about 10 percent to 1.5 million in 1996, and by 8 percent to 1.62 million in 1997. Guam's future visitor industry will be more diversified. Consistent with the experience of the past several years, growth rates in non-Japanese visitor arrivals are expected to exceed growth rates in Japanese visitors. Non-Japanese visitor arrivals are projected to grow at a higher annual rate, reflecting the continued expansion of tourism from South Korea and Taiwan.

Korean tourists increased by 73 percent in 1994 and 57 percent in 1995, making South Korea the second largest and fastest growing market for Guam's visitor industry. Taiwanese visitors increased 65 percent in 1994 but fell 18 percent in 1995, due to limited room availability. These increases resulted from the establishment of direct air service between Guam and Taiwan/South Korea, tourism promotion in those markets by the Guam Visitors Bureau, and the inclusion of South Korea and Taiwan in the Guam Visa Waiver Program.

Japanese visitors, who account for about 70 to 80 percent of all visitors, are projected to grow at about a 5.5 percent average annual rate, but to drop below 70 percent of the total market by the late 1990's. Retail spending by visitors remains strong, although visitors are tending to be younger, more budget conscious, and staying for a shorter amount of time.

The number of hotel rooms on Guam in 1994 increased to 6,873 from 6,616 in the previous year. In 1995 the hotel occupancy tax generated \$19.9 million for the local government, up from \$14.6 million in 1993.

Guam's economic expansion has also raised local investment capacity to record highs. Guam's newly increased ability to generate capital from local sources will be important in sustaining the island's growth. Bank deposits on Guam have grown 78 percent since 1987; in 1994, total bank deposits reached \$1.4 billion. Bank loans have increased more dramatically, more than tripling since 1987. Bank loans in 1994 stood at \$2.5 billion. Another indicator of revival -- the value of construction permits -- totaled \$614 million in 1994, compared to \$431 the previous year.

Tourism generated about 40 percent of direct and indirect employment in the private sector in Guam. The Government of Guam employed 13,850 workers in 1994, a decrease from the 13,973 workers recorded the previous year. Federal employment on the island stood at 7,490 in 1994, down slightly from 7,692 in 1993. Public employees represent about a third of the total workforce. The unemployment rate in 1995 was 7.3 percent with an estimated 3,500 workers actively seeking employment.

Since the mid-1980s, job creation has outpaced growth in the work force. A beneficial result of this has been low unemployment, but it is apparent that much of the growth in employment is the result of multiple job holdings. Guam has become dependent upon an in-migration of labor from Pacific Rim countries through the H-2 program and from Micronesians immigrating under the provisions of the Compact of Free Association allowing unrestricted entry into the U.S. These additions to the labor force from outside Guam are essential to economic growth but have increased demands for local government services as the laborers adjust to Guam's cultural and social modes.

cited in Davis v. Guam, No. 13-15199 archived on June 1, 2015

The Guam government reported FY95 General Fund revenues of \$524 million, up from \$501 million in FY 94 by still below FY93's \$561.5 million. However, the slowdown in growth of government revenues resulted in an operating deficit in the General Fund of \$184.7 million by the end of FY 1994. (See Government Administration, below, for steps to reduce the deficit.)

According to the U.S. Bureau of the Census's Federal Expenditures by State and Territory for Fiscal year 1994, direct federal grants to the Government of Guam in FY94 amounted to about \$153 million, up from \$89 million in 1993. These include major grants from the U.S. Departments of Education, Health and Human Service, Transportation, FEMA, etc. Total Federal expenditures on Guam, including military spending and payments to individuals, as well as direct grants to the local government, are estimated by the U.S. Census Bureau at \$1,048 million for FY94.

The residents of Guam have seen many improvements in the island's standard of living over the last several years. Guam's economic success, however, has its less beneficial aspects. During the boom years, inflation on Guam had been higher than in the U.S. Mainland, and rents and land prices are much higher than in most mainland communities.

Guam's economic recovery has been complicated by Defense Department cut-backs over the past three years. As U.S. Defense spending and jobs on the island decline, the private sector is attempting to absorb these workers as well as generate employment opportunities for the new workers entering the labor force.

4.4 Government Administration

In 1993-1994, the downturn in tourism and declining DOD spending on the island lowered Government of Guam revenues. While expenditures remained relatively constant. The local government moved from a surplus of \$52.6 million at the end of FY 1990 to a deficit of \$184.7 million at the end of FY 1994. This deficit has been financed by borrowing from revenues in future years, borrowing internally from special funds and local government agencies, by issuing general revenue bonds, and by delaying payments to vendors. Spending on capital improvement projects over this period has been dramatically constrained.

Governor Carl T.C. Gutierrez, who took office in January, 1995, has taken several steps to bring Government of Guam spending in line with revenues, to pay vendors, and to fund important capital projects. On June 30, 1995 Guam successfully sold \$115 million in general revenue bonds to pay overdue tax refunds to 30,000 local residents (about \$41 million), fund construction of a public high school, and to pay vendors.

The previous administration on Guam had issued about \$225 million in general obligation bonds, including a 1993 issue of \$175 million for the construction of Southern High School and other educational facilities, and a \$45 million issue in 1994 to pay overdue tax returns to residents. Standard and Poor gave Guam's June, 1995, bond issue a rating of BBB, and estimated that the local government's general fund direct debt to be about \$332.5 million.

Government of Guam autonomous agencies, including the Guam Airport Authority and the Guam Power Authority, also have issued bonds for capital work in the past several years. Total bond indebtedness of Government of Guam line and autonomous agencies is estimated at about \$850 million.

Governor Gutierrez has set six major financial management goals for his administration: 1) Eliminate the General Fund deficit; 2) Pay off the recently-issued Government of Guam bonds; 3) Streamline Government of Guam operations; 4)

Restore public confidence in the Government of Guam as a provider of public services; 5) Maximize the economic benefits of island base closures; and 6) Create a \$30 million cushion in the General Fund.

Gutierrez, who has pledged to work closely with the island's private sector to strengthen the economy, said he would accomplish his goals, in part, by "tightening GovGuam's belt and establishing a "pay-as-you-go" government in which island residents pay the entire cost of the GovGuam services they receive." He also promised that government vendors would be paid promptly and that their faith in the government would be restored. Vowing no new taxes, Gutierrez said his Administration will more aggressively enforce existing tax laws, and collect back taxes. The Government of Guam in 1995 also enacted laws which will increase the property taxes of island residents and charge fees for government trash collection and solid waste dumping at the government landfill.

The Government of Guam also is attempting to improve its audit capability. The government has established an office of an independent auditor, but it is not yet adequately funded or fully staffed. The Guam Government needs to develop a sufficient capability to fully implement the requirements of the Single Audit Act. Audit coverage in Guam has been undertaken by the Department of the Interior's Inspector General and by contracted private CPA firms.

4.5 Infrastructure

Water System

Approximately 74 percent of the water produced on Guam is provided by the Public Utility Agency of Guam (PUAG). The remainder is produced by the Air Force and Navy installations on Guam. The Guam government's water sources are groundwater and surface water (Ugum River). The Navy water source is a surface reservoir (Fena Lake) in the southern part of the island. The PUAG water originates primarily in an aquifer known as the northern lens, which is tapped by 94 active wells. According to the PUAG Well Monitoring Report, about 26 million gallons per day (MGD) are currently pumped from the northern lens. The \$12 million Ugum River project at the southern end of the island, completed a few years ago, added an additional 1 to 2 MGD of potable water to Guam's daily supply.

Since 1990 over 300 water leaks on the distribution system have been identified and repaired. The program has saved an estimated 6 million gallons per day. Despite the success, the Water Facilities Master Plan indicates that 30 to 40 percent of daily water production is unaccounted for. Leakage and un-metered use account for much of the total loss.

As a result of the August 8 earthquake, the Governor ordered a \$10 million emergency program to install generators at approximately 146 facilities, which water wells, water booster pumps, sewage pump stations, and wastewater treatment plants. This work is currently proceeding under private contract, but it is being administered by the Guam Power Authority (GPA) since GPA will maintain the facilities after completion of the installations. In the aftermath of the earthquake, major water leaks were repaired immediately and a follow-up contract for a leak detection program for the entire water system is approximately 25 percent complete. The leak detection program is being paid for by funds appropriated by the Guam Legislature.

A Geographical Information System (GIS), the cost for which OIA is sharing under the Operations and Maintenance Improvement Program, is currently underway for both GPA and the PUAG. As-built drawings and plans for existing utility facilities are being digitized for input into the GIS by both agencies, as well as the Department of

Public Works, the Guam Telephone Authority, and others. When completed, the GIS will provide computerized base maps of the island infrastructure which will be an invaluable tool for the Government of Guam in managing growth so that the impacts of development on infrastructure and annual recurring maintenance and repairs costs can be properly planned, budgeted, and executed.

The OMIP Team continues to recommend the formation of an independent Guam Water and Sewer Authority, to incorporate the functions of the PUAG and place the operation and maintenance of Guam water and sewer activities on a more business-like basis. Under this concept, the PUAG would be strengthened by becoming an independent authority with a Board of Directors setting policy for the utilities and appointing a General Manager to operate and administer the water and sewer systems. The Board of Directors would have the authority to set rates, establish its own personnel rules, financial systems, and purchasing procedures.

Sewer System

Improvements have been made in the operation of the wastewater utility during the past year. The North District (ND) and the Agana sewage treatment plants (STP) are about to be released from Administrative Orders issued by the U.S. EPA for not complying with NPDES discharge standards. The transfer of Tumon Bay sewage to the ND plant and the completion of the ND STP rehabilitation have facilitated this change. PUAG has also reached agreement with the U.S. Navy in regard to the relocation of the Agat STP and the joint outfall has been designed and will be put out for bid in the near future. The plant will provide 20 MGD of secondary treatment capacity. The new Agat STP will phase out the Agat STP and the Port treatment facility will be phased out and the effluent pumped to the Agana STP.

The Umatac/Merizo treatment facility which involves land disposal continues under an Administrative Order due to runoff entering the adjacent stream. An inflow/infiltration rehabilitation contract is out for bid which should help mitigate this problem. The Inarajan STP on the southeast side of the island was damaged by last year's typhoons and it is currently in the process of rehabilitation.

Solid Waste Disposal

Guam also enacted legislation in 1995 to charge user fees for the collection and dumping of solid waste at the government landfill. That legislation will free up \$2.7 million in federal funding (provided in FY88 and FY89) to close the Ordot landfill, and develop a new solid waste dump.

In addition, a baseline study for a new site near Apra has also been submitted to the EPA. This new site is on land owned by the Guam government and a new landfill at that location is expected to be privately operated. The establishment of a new site remains of primary importance because of the depleted capacity at the Ordot landfill site, the remaining useful life of which, without expansion, is now estimated to be approximately one year. The Ordot site remains under an Administrative Order by the U.S. EPA. Guam has submitted to the EPA a feasibility study of four alternative schemes for interim expansion of the Ordot landfill.

A number of other positive developments have occurred during the past few years with regard to solid waste management. Key to these changes is a manager in charge of solid waste operations. The existing solid waste landfill at Ordot is now being operated more professionally. Waste is covered on a daily basis, the fill has been terraced, the waste stream is now being segregated to remove vehicle tires, scrap metal, aluminum cans, and cardboard. A contractor has also been hired to operate a tire-shredding facility at the landfill, and new legislation requires all cardboard to be bailed prior to delivery to the site. Waste-stream analyses

conducted for the Guam government are being used as a guide to reduce waste volume. The Government of Guam has previously received U.S. EPA approval to use a site at Malojloj for the disposal of construction debris and yard waste. The items were banned from disposal at the Ordot landfill and Dededo transfer station in February, 1993.

Power Generation and Distribution

The Guam Power Authority (GPA), an autonomous agency of the Government of Guam, has the responsibility to provide electricity throughout the island. Total power consumption in 1991 was 862.4 million kilowatt hours (KWH). The average KWH per customer increased from 11,127 in 1990 to 12,064 in 1991, an increase of 8 percent. Average annual residential power cost per customer in 1991 was \$1070.40.

The tremendous pace of development on Guam has put a strain on existing power facilities. The island suffered serious inconveniences because of brownouts and load shifting over the past two years. GPA has listed power generating increases of 178 megawatts to be put on line by the end of the decade. Included in the roster is a 23 MW unit recently installed, and a 16 MW unit to be installed by the Navy. GPA installed two 23 MW units in 1993, and plans to install a 23 MW unit in 1994, and additional 35 MW slow speed diesel units in 1995 and 1998.

The balance of \$27 million on GPA's 1980 note with the Federal Financing Bank was prepaid by Guam in January 1993. The payoff was part of a GPA bond refinancing package that provided Guam with capital for financing the additional generating capacity described above.

Roads

The estimated length of the road network on Guam was approximately 975 miles at the end of 1992. Of that total, 420 miles of roads are classified as non-public roads. Many of these roads are located on federal government installations located throughout Guam. Of the 550 miles of public road, approximately 144 miles are the primary network (this includes some secondary roads); about half of this mileage is classified as urban roads.

There are about 222 miles of streets and 123 miles of local or collector roads. The primary network is paved. In the case of the streets and local roads, 330.3 (80 percent) are paved and the remaining 83 miles (20 percent) are unpaved. There are 27 bridges in the road system.

The Guam 2010 Highway Master Plan calls for capital investments in the primary road and highway system estimated to cost \$470 million over the next 18 years. A large portion of the funding to construct and maintain these highway improvements will come from bond issues backed by fuel taxes and vehicle registration fees which are allocated to the Department of Public Works (DPW).

Maintenance of the road system is currently divided among the Highway Maintenance and Construction Section of the DPW, the Rapid Response Office, and some Mayors. For this reason, the OMIP Fourth Year Review Report for Guam recommends the creation of a Highway Management System within the DPW to better manage highway construction and maintenance. In response, DPW authorities have recently submitted an application for maintenance assistance funds to hire a consultant to develop a comprehensive Highway Management System which includes an Information System, Planning and Programming Management, Design/Specification/Contracts Management/Construction Management, Operational Systems and Maintenance Management System.

cited in Davis v. Guam, No. 13-15199 archived on June 1, 2015

Airport

The A.B. Won Pat Guam International Air Terminal and surrounding facilities are administered by the Guam Airport Authority (GAA). The airport facilities are first-rate, but the growth in passenger arrivals and cargo warrants increasing the capacity of the facilities. Guam has recently expanded its airport aprons to alleviate the problems of aircraft waiting in the taxiways.

The GAA hopes to triple the size of the airport when the \$253 million program to construct a new terminal at the eastern end of the existing facility is completed later this year. Terminal enlargement would increase the number of passenger gates to seventeen. The closing of the Guam Naval Air Station in 1995 provided additional acreage and facilities for expansion of the airport operations. NAS, which owns the airport's runways, was ordered closed by the Base Realignment and Closure Commission in August, 1993.

Guam authorities expect passenger traffic to reach 3.6 million passengers by 1995. The facility now handles some 1500 flights a month. The airport is a regional aviation hub and base of operations for Continental Micronesia's (the regional carrier) fleet.

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