

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF GUAM**

**UNITED STATES OF AMERICA,**

Plaintiff,

vs.

**GOVERNMENT OF GUAM,**

Defendant.

Civil Case No. 02-00022

**ORDER RE: AS-ALONSO AREA  
AND ROUTE 4 SAFETY ISSUES**

**I. AS-ALONSO SLOPE STABILITY ANALYSIS**

On December 27, 2011, the Guam Department of Public Works (“DPW”) filed a Special Report Re: Route 4 in response to a court order requiring the agency to conduct a slope stability analysis of the As-Alonso area. *See* ECF Nos. 867, 759. The Receiver filed a Special Report in response to the DPW Special Report on February 14, 2012. *See* ECF No. 885.

As indicated in its Special Report, DPW contracted with a geotechnical engineer who conducted a field review and prepared a technical memorandum concerning the As-Alonso slope stability. *See* DPW’s Special Report at 3, ECF No. 867. In his technical memorandum, the geotechnical engineer recommends that a slope stability analysis be performed to determine a factor of safety for the slope and from there determine if additional slope stability improvements are necessary. *See id.* DPW proposes to contract the slope stability analysis to Kleinfelder Guam, LLC (“Kleinfelder”). *See id.* at 4.

The geotechnical engineer also found that the existing topographic survey appears to be inaccurate and recommends that a new topographic survey be performed to properly calibrate and complete the slope stability analysis. *See id.* DPW proposes to contract the topographic survey to

1 Prudencio R. Balagtas & Associates, Inc. (“Balagtas”). *See id.*

2 The Receiver concurs with DPW’s recommendation that a slope stability analysis be  
3 performed and with DPW’s proposal to contract the slope stability analysis to Kleinfelder, provided  
4 that DPW complies with the applicable procurement procedures. *See* Special Report of the Receiver  
5 at 2, ECF No. 885. The Receiver, however, noticed minor discrepancies regarding the scope of  
6 work in the technical memorandum and in the proposal from Kleinfelder, both of which were  
7 submitted by DPW. *See id.* at 3; *see also* Attachs. A, B to DPW’s Special Report, ECF No. 867-1,-  
8 2. The Receiver recommends that the scope of work in the proposal be revised to correct these  
9 discrepancies.

10 As for the topographic survey, the Receiver agrees that a new survey is needed to accurately  
11 complete the slope stability analysis and concurs with the DPW’s proposal to contract the survey  
12 to Balagtas, provided that they comply with the applicable procurement procedure.

13 After reviewing DPW’s Special Report and the recommendations of the Receiver, the court  
14 hereby orders DPW to conduct the As-Alonso area slope stability analysis as soon as practicable.  
15 However, before commencing work on the analysis, DPW shall correct the discrepancies regarding  
16 the scope of work to the satisfaction of the Receiver. The court further approves DPW’s proposal  
17 to contract the slope stability analysis to Kleinfelder, provided that they comply with the applicable  
18 procurement procedures. Robert M. Stephens of Parsons Transportation Group, Inc. shall review  
19 Kleinfelder’s slope stability analysis data and report.

20 The court further orders DPW to conduct a new topographic survey of the As-Alonso area  
21 and approves DPW’s proposal to contract the topographic survey to Balagtas, provided that they  
22 comply with the applicable procurement procedures.

23 Lastly, the court authorizes the Receiver to work with DPW to pay the costs related to the  
24 scope stability analysis and the new topographic survey.

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1 **II. ROUTE 4 SAFETY ISSUES**

2 On January 9, 2012, DPW filed a Special Report to respond to Winzler & Kelly’s report  
3 concerning Route 4 safety. *See* ECF No. 874-1. In its Special Report, DPW indicated that it  
4 “generally agrees with the Winzler & Kelly report, that the addition of shoulders in the curves along  
5 the route would enhance safety for all vehicles, especially when a transfer truck is encountered  
6 travelling in the opposite direction.” *See id.* at 4. However, due to a lack of local funding, DPW  
7 could not pay the costs of the recommended shoulder construction. *See id.* at 5. DPW stated that  
8 it would seek funds from the Federal Highway Administration, but that doing so could be a timely  
9 process.

10 The Receiver believes that the shoulder enhancements are necessary to ensure the safety of  
11 the public and for the safe operation of the Layon Landfill. *See* Special Report of the Receiver at  
12 3–4, ECF No. 885. Furthermore, the Receiver believes that these safety measures should not be  
13 contingent upon the possibility of federal funding. *See id.* at 4. The court agrees with the Receiver.

14 Accordingly, the court hereby orders the following: (1) DPW shall immediately proceed with  
15 the design and construction of the Route 4 shoulder enhancements in accordance with the cost  
16 estimate in Table 1 of its Special Report concerning Route 4 safety issues; (2) DPW shall use its best  
17 efforts to obtain local or federal funding to pay for the enhancements; (3) if DPW can not obtain  
18 local or federal funds without significantly delaying the construction of the enhancements, the  
19 Director of DPW shall certify such to the court and the court will authorize the Receiver to pay for  
20 the costs of the enhancements from capital funds that are available to the Receiver; and (4) if the  
21 Receiver provides capital funds to DPW to fund the enhancements, the Guam Solid Waste Authority  
22 shall not reimburse the Government of Guam for the debt service on any such capital funds used to  
23 pay for the enhancements.

24 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood  
Chief Judge  
Dated: Feb 15, 2012