

## **Executive Order No. 332**

*To establish a Water and Sewer Transition Committee to develop policies and procedures for shared services between Palau Water and Sewer Corporation and Palau Public Utilities Corporation.*

**WHEREAS**, RPPL No. 8-30 was enacted to provide authority to the President of the Republic to enter into a loan agreement with the Asian Development Bank for a loan to finance improvements to the water and sewer operations of the Republic; and

**WHEREAS**, RPPL No. 8-31 was enacted to create the Palau Water and Sewer Corporation and provides in Section 29 broad authority to the President of the Republic to give effect to the provisions of the Palau Water and Sewer Corporation Act when he sees fit as follows:

- “A. The provisions of this Act shall, after being signed into law by the President or otherwise becoming law without being signed by the President, come into effect by Executive Order of the President to that effect, and the President may order that certain provisions of this Act shall take effect at different times.
  
- B. The President may make any Executive Orders which are consistent with this Act and necessary for its effective implementation, and for the establishment of the PWSC and the commencement of its operations, including arrangements for the engagement of management expertise in the transitional phases.”; and

**WHEREAS**, the loan agreements specify that in order to receive the second tranche of funds from the Asian Development Bank an independent entity to conduct the water and sewer operations of the Republic must be up and running by March 1, 2013; and

**WHEREAS**, pursuant to the authority set forth in RPPL No. 8-31, and consistent with the loan agreements, two Executive Orders have been issued by the Office of the President, Executive Order No. 282, which established the Water Sector Steering Committee, and Executive Order No. 303, which appointed the Ministry of Finance as the “Executing Agency” under the loan documents and the Palau Water and Sewer Corporation as the “Implementing Agency” under the loan documents; and

**WHEREAS**, since the fire at the Aimeliik power plant and the installation of new electrical generators in Malakal the water situation has been such that the new power plants in Malakal require water to cool the generators, while the water and sewer operations also require electricity to run, which causes the water and sewer operations and the Malakal power plant operations to be inextricably linked to one another; and

**WHEREAS**, on January 30, 2013, Executive Order No. 324 was issued, which repealed Executive Order Nos. 282 and 303 and created a Water and Sewer Task Force; and

**WHEREAS**, the repeal of Executive Order Nos. 282 and 303 in Executive Order No. 324 effectively repealed the Effective Date of RPPL No. 8-31 and stripped the Palau Water and Sewer Corporation of its legal authority to act, which logically moved the legal authority to manage and operate the water and sewer systems of the Republic back under the purview of the National Government through the Bureau of Public Works; and

**WHEREAS**, despite the fact that Executive Order No. 324 moved the legal authority for the water and sewer system back to the Bureau of Public Works, the reality on the ground is that individuals working in the Palau Water and Sewer Corporation have effectively been maintaining, improving, and operating the water and sewer systems of the Republic with the Bureau of Public Works of the National Government essentially acting as a mechanism of approval for actions taken by the Palau Water and Sewer Corporation during this transition phase of moving the nationalized water and sewer system to a privatized water and sewer system; and

**WHEREAS**, the fact that the water and sewer operations of the Republic are effectively operated by the Palau Water and Sewer Corporation, but approved by the Bureau of Public Works has created uncertainty for the employees of the Bureau of Public Works, particularly because the employee and asset transfer that purportedly happened under the auspices of RPPL No. 8-31 did not occur prior to Executive Order No. 324 revoking legal authority of the Palau Water and Sewer Corporation; and

**WHEREAS**, the Water and Sewer Task Force was ordered to evaluate: the water and sewer operations of the Republic, the steps that the Water and Sewer Corporation has taken, and evaluate the timing and process through which the Palau Water and Sewer Corporation should become fully operational or whether it would be more financially appropriate for the water and sewer operations to be merged into the Palau Public Utilities Corporation; and

**WHEREAS**, the Water and Sewer Task Force, relying heavily on the Asian Development Bank's technical expertise, found that the "most cost efficient" option is for the Water and Sewer operations to be merged into the Palau Public Utilities Corporation; and

**WHEREAS**, the Water and Sewer Task Force identified a number of areas in which a merged electricity operations and water and sewer operations entity would reap significant savings, which are estimated at approximately twenty percent (20%), from shared services, such as: ( 1) shared Board of Directors; (2) shared information technology systems; (3) unified billing; (4) shared customer payment system; (5) shared customer services; (6) a single process for work orders; (7) shared administrative support services; and (8) shared corporate headquarters; and

**NOW THEREFORE**, by virtue of the broad authority set forth in Section 29 of RPPL No. 8-31 that authorizes the President of the Republic to order the provisions of the Water and Sewer Corporation Act to take effect by Executive Order, and that the President may order that certain provisions of this Act shall take effect at different times, and the authority set forth in the Constitution of the Republic of Palau as vested in the President of the Republic, the President hereby orders as follows:

- (1) That Subsections (A), (B), (C), (D), (E), and (G) of Section 8 of RPPL No. 8-31 are hereby effective, which means that all employees and assets that are currently under the authority of the Bureau of Public Works “shall be transferred to the PWSC on terms no less favorable than those they were entitled to immediately prior to the commencement of this Act.” Until all of RPPL No. 8-31 is effective, all employees that are transferred that are currently civil service employees shall enjoy the protections of the Civil Service Act. Subsection (F), which refers to capital, cash, and accounts receivable, shall not be effective until a later Executive Order expressly states as such.
- (2) That the water and sewer operations of the Republic shall continue to be conducted under the current status quo: the Palau Water and Sewer Corporation shall continue to operate and manage the water and sewer system of the Republic with all actions subject to the approval of the Bureau of Public Works. The government procurement law of the Republic, codified at 40 PNC § 601 et. seq., shall apply to all procurement needed for the improvement of the water and sewer system of the Republic.
- (3) That the Palau Water and Sewer Corporation, the Bureau of Public Works, and the Chief of the Division of Property and Supply of the National Government (the Procurement Officer of the National Government) shall undertake all reasonable efforts consistent with the procurement law of the Republic to expedite the procurement of equipment, supplies, and parts, that are, in the opinion of the Chief Operations Officer of the Palau Water and Sewer Corporation, necessary to eliminate leaks in the water and sewer system.

- (4) That the Water and Sewer Task Force is hereby abolished and is to be replaced by a Water and Sewer Transition Committee, which shall consist of the following members:
- (A) Elbuchel Sadang, Chief of Staff, Office of the President, or his designee, who shall act as the Chairman of the Committee.
  - (B) Kione Isechal, Manager of Palau Public Utilities Corporation.
  - (C) J. Maireng Sengebau, Chief Executive Officer of Palau Water and Sewer Corporation.
  - (D) Nick Swords, Chief Operating Officer, Palau Water and Sewer Corporation.
  - (E) Brian Melairei, Manager of the Capital Improvement Project Office and Acting Director of the Bureau of Public Works.
  - (F) Jesse Oldesomel, Water Billing and Collection Office.
- (5) That the Water and Sewer Transition Committee shall--
- (A) Ensure that the working relationship between the Palau Water and Sewer Corporation, the Bureau of Public Works, and the Palau Public Utilities Corporation continues to develop and strengthen. The overarching goal of all individuals and entities involved is to keep costs down, ensure that water is running consistently, and ensure that the water is safe for consumption.
  - (B) Identify which employees and assets in the Bureau of Public Works shall be transferred to the Palau Water and Sewer Corporation under this order.
  - (C) Develop cooperative policies and procedures between the Palau Water and Sewer Corporation and the Palau Public Utilities Corporation in the areas identified by the Water and Sewer Task Force as areas in which the Palau Water and Sewer Corporation and the Palau Public Utilities Corporation may share services in order to save costs. Specifically, the Committee shall develop policies and procedures in the following areas:

- (I) shared information technology systems;
  - (ii) shared meter reading and billing preparation;
  - (iii) shared customer payment system;
  - (iv) shared customer services;
  - (v) a shared process for work orders; and
  - (vi) shared administrative support services.
- (D) Investigate possible locations for a shared corporate headquarters.
- (6) That the Water and Sewer Transition Committee shall provide a monthly report on its progress to the President on the first of each month. As the progress of the Water and Sewer Transition Committee moves forward the further effectiveness of RPPL No. 8-31 shall continually be revisited.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal this April 19, 2013 in the Republic of Palau.

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/s/  
Tommy E. Remengesau, Jr.  
President of the Republic of Palau