



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: REQUEST FOR REVIEW)
AND APPROVAL OF)
MAEDA PACIFIC)
CONTRACT BY PORT)
AUTHORITY OF GUAM)

PAG DOCKET 12-05
ALJ REPORT

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") pursuant to the October 22, 2012 Petition for review and approval of the Maeda Pacific Corporation ("Maeda") contract related to the Port Security Enhancement Project (the "PSE Project"), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam ("PAG") (hereinafter referred to as the "Petition").

BACKGROUND

The PSE Project "is a multiple component project that includes the [] construction of the Maritime & Port Security Operations Center and the integration of all security and communications systems."1 "The system integration component includes the installation, programming, and maintenance of multiple systems such as security surveillance system, CCTV, security access control, CATV, radio communications, voice and data systems."2

On August 1, 2012, PAG began the Invitation for Bid ("IFB") process for the competitive solicitation of bids related to the PSE Project3 by publishing the IFB in the Pacific

1 PAG's Petition, p. 1 (Oct. 22, 2012).

2 Petition, p. 1.

3 Petition, p. 1.

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LAW OFFICES OF
HORECKY & ASSOCIATES

Date: 11/14/2012
Time: 11:35 By: JMW

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Daily News.⁴ On August 16, 2012, PAG held a pre-bid conference.⁵ Thereafter, PAG held the bid opening on September 28, 2012.⁶ Seven bids were received and publicly opened.⁷ Upon PAG's review of the bids, PAG determined that Maeda submitted the lowest responsive and responsible bid,⁸ and that Maeda satisfied all the requirements set forth in the IFB. Accordingly, Maeda recommended that its Board of Directors approve the award to Maeda in the amount of \$2,933,000.00.

On October 22, 2012, PAG petitioned the PUC to approve the subject Maeda contract. On October 25, 2012, PAG's Board of Directors ratified the award to Maeda for the amount of \$2,933,000.00. By way of Resolution No. 2012-22, which is attached hereto as "Exhibit A," the Board of Directors approved PAG's recommendation to award the contract to Maeda in the amount of \$2,933,000.00.

The entire project is federally funded by multiple grants from the U.S. Department of Homeland Security through the Federal Emergency and Management Agency's ("FEMA") grant program.⁹ In particular, the project is funded by the following federal grants: 2008-GB-T8-0148; 2009-PU-R1-0164; 2009-PU-T9-0043; and 2010-PU-T0-0080. According to PAG, the total grant award for this project is \$4,948,064.00.

⁴ Petition, p. 1.

⁵ Petition, p. 1.

⁶ Petition, p. 1.

⁷ Petition, p. 1.

⁸ Petition, p. 1.

⁹ Petition, p. 2.

DISCUSSION

1. PAG's Petition

In its Petition, PAG requests that the PUC approve the Maeda contract related to the PSE Project. According to PAG, the Project is a “multiple component project that includes the [] construction of the Maritime & Port Security Operations Center and the integration of all security and communications systems.”¹⁰ PAG maintains that through FEMA’s grant program, PAG utilized this grant opportunity as a method to “further enhance its Maritime Security capabilities, as well as, to be in-line with the National Preparedness Goal and the 2003 Guam Homeland Security Strategy.”¹¹

PAG submits that the PSE Project “will enable the Port to effectively manage, mitigate, prepare for, respond and recover from any and all types of natural and man-made emergency incidents and/or disasters.”¹² PAG further submits that “[t]he integration of security and communication systems will further allow the Port to effectively communicate and provide essential information to port-wide emergency responders, other agencies in the Guam Emergency Management system and the U.S. Coast Guard Sector Guam.”¹³

Finally, PAG maintains that approval of the Maeda contract “is instrumental to PAG’s objectives to have a fully integrated command center facility for the implementation of its protective and security measures.”¹⁴

¹⁰ Petition, p. 1.

¹¹ Petition, p. 2.

¹² Petition, p. 2.

¹³ Petition, p. 2.

¹⁴ Petition, p. 2.

2. **Maeda Contract**

The scope of work for the PSE Project is outlined in the Bid Schedule Form contained in the bid packet for the project, which is attached hereto as “Exhibit B.” The basic bid includes for the following work: to provide “all necessary labor, materials, equipment, tools and services required for completion of the project all in accordance with the drawings, specifications, and other contract documents” related to the Security Surveillance System, Construction of Maritime and Port Security Operations Center, Communications and Security Duct bank Backbone/Infrastructure, Access Control and TWIC Readers, Command and Control Integration, and Contract Management and Administration.

In addition, the subject project is fully funded by the multiple grants from the U.S. Department of Homeland Security through FEMA’s grant program,¹⁵ with a federal grant award of \$4,948,064.00. Maeda’s bid appears to be over \$1,737,949.00 less than the Government of Guam’s estimate for the project.

3. **PAG’s Contract Review Protocol**

Pursuant to 12 G.C.A. §12004, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to PAG’s current Contract Review Protocol, “[a]ny contract or obligation not specifically referenced above which exceeds \$1,000,000” “shall require prior PUC approval under 12 G.C.A. Section 12004.” Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

¹⁵ Petition, p. 2.

4. **Board Approval**

At the October 25, 2012 Board of Directors meeting, the Board ratified the award to Maeda for the amount of \$2,933,000.00. There, the Board of Directors issued Resolution No. 2012-22. The Resolution issued by the Board of Directors approved PAG's recommendation to award the contract to Maeda.

RECOMMENDATION

Based on the documentation provided, the ALJ agrees that the PSE Project "is instrumental to PAG's objectives to have a fully integrated command center facility for the implementation of its protective and security measures."¹⁶ Thus, the ALJ finds that PAG's utilization of this funding opportunity "will enable the Port to effectively manage, mitigate, prepare for, respond and recover from any and all types of natural and man-made emergency incidents and/or disasters,"¹⁷ as well as "allow the Port to effectively communicate and provide essential information to port-wide emergency responders, other agencies in the Guam Emergency Management system and the U.S. Coast Guard Sector Guam."¹⁸

The ALJ further finds that the subject project is fully funded by multiple federal grants, at no cost to PAG's consumers, and that the Maeda contract is about \$1,737,949.00 less than the Government of Guam's estimate for the cost of the project.

Furthermore, PAG's Petition is supported by Resolution No. 2012-22, which was issued by PAG's Board of Directors on October 25, 2012, and which approved the award to

¹⁶ Petition, p. 2.

¹⁷ Petition, p. 2.

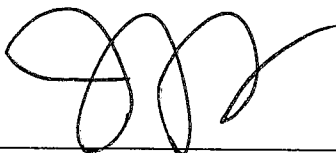
¹⁸ Petition, p. 2.

Maeda. Accordingly, the ALJ therefore recommends that the PUC approve the Maeda contract related to the PSE Project for the total cost of \$2,933,000.00.

CONCLUSION

Based on the documentation provided by PAG in this docket, along with the approval of PAG's Board of Directors, and for the other reasons set forth herein, the ALJ recommends that the PUC approve the Maeda contract related to the Port Security Enhancement Project, for work outlined in the Bid Schedule Form contained in the bid packet for the project ("Exhibit B"), and for the total cost of \$2,933,000.00. A proposed Order for the PUC is attached hereto for the PUC's consideration.

Respectfully submitted this 16th day of November, 2012.


for _____
DAVID A. MAIR
Administrative Law Judge

P124101.JRA

BOARD OF DIRECTORS

*Daniel J. Tydingco, Chairman
Michael T. Benito, Vice Chairman
Mary Michelle Gibson, Secretary
Eduardo R. Ilaio, Member
Christine Won Pat Baletto, Member*



Resolution No. 2012-22

**RELATIVE TO THE APPROVAL OF THE CONSTRUCTION AGREEMENT
FOR THE PORT SECURITY ENHANCEMENT PROJECT**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF GUAM:

WHEREAS, on August 1, 2012, the Port initiated the Invitation for Bid process for the competitive solicitation of bids from interested firms for IFB No. PAG-CIP-012-006 Design/Build Port Security Enhancements Projects; and

WHEREAS, the pre-bid conference and project site inspection was held on August 16, 2012. Seven bids were received and publicly opened on September 28, 2012 in the presence of the bidders and Port representatives; and

WHEREAS, in compliance with Public Law 30-72, the Port engaged the designated Special Assistant Attorney General for procurement review and concurrence with the bid process; and

WHEREAS, the Port Security Enhancement Project (PSEP) is a multiple component project that includes the building construction on the Maritime & Port Security Operations Center and the integration of all security and communications systems; and

WHEREAS, the system integration component includes the installation, programming, and maintenance of multiple systems such as security surveillance system, CCTV, security access control, CATV, radio communications, voice and data systems; and

WHEREAS, after a thorough review and evaluation of the bids and confirmed by the Parsons Brinckerhoff Americas, as the Port's Owners Engineers and designer of the project, Maeda Pacific Guam has been determined to be the lowest responsive, responsible bidder for this project in the amount of \$2,933,000.00; and

WHEREAS, this project is made possible through multiple grant awards from the U.S. Department of Homeland Security by way of the Federal Emergency and Management Agency's grant program; now therefore be it

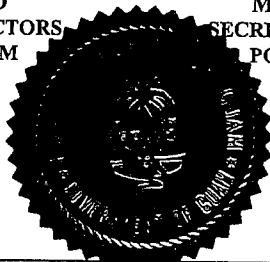
RESOLVED, on October 25, 2012, the Port Board of Directors approves the contract award to Maeda Pacific Corporation for IFB No. PAG-CIP-012-006 Design/Build Port Security Enhancements Projects in the amount of \$2,933,000.00; and be it further

RESOLVED, the Chairman certify to and the Secretary attest the adoption hereof and that a copy of this resolution be transmitted to the Public Utilities Commission.

**PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF
DIRECTORS THIS 25th DAY OF OCTOBER, 2012**

**DANIEL J. TYDINGCO
CHAIRMAN, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**

**MARY MICHELLE GIBSON
SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**



BID SCHEDULE FORM

INVITATION FOR BID IFB NO. PAG-CIP-012-006

PORT SECURITY ENHANCEMENTS PROJECT

| Item | Description of Item | Qty | Unit | Amount |
|------------------|---|-----|------|-----------|
| Basic Bid | Provide all necessary labor, materials, equipment, tools and services required for completion of the project all in accordance with the drawings, specifications, and other contract documents for the following: | | | |
| | A. Security Surveillance System <i>PSGP 2008-GB-T8-0148</i> | All | LS | \$ |
| | B. Construction of Maritime and Port Security Operations Center <i>2009-PU-T1-0164</i> | All | LS | \$ |
| | C. Communications and Security Duct Bank Backbone/Infrastructure <i>2009-PU-T9-0043</i> | All | LS | \$ |
| | D. Access Control and TWIC Readers <i>2009-PU-T9-0043</i> | All | LS | \$ |
| | E. Command and Control Integration <i>2010-PU-T0--80</i> | All | LS | \$ |
| | F. Contract Management and Administration | All | LS | \$ |
| | TOTAL BID AMOUNT: | | | \$ |

Notes:

- (1) In providing Lump Sum Prices as depicted above, note that the work illustrated on the drawings is grouped according to the individual bid items while some of the specifications sections may apply across the board to all bid items.
- (2) The work priced under Bid Item F above will encompass such items as project management, inspection, quality control, administrative support, and elements of field overhead and the like that support all other bid items from A through E.
- (3) This contract is being funded by a combination of individual federal grants and may be supplemented by PAG at or following award as circumstances dictate.
- (4) Granting authorities do not want their grant funds co-mingled at or following an award. Accordingly, invoicing against these bid items will be aligned with their supporting grants and with a more detailed breakdown of pricing to be presented as a mutually agreed upon Schedule of Values during the pre-award submittal process.
- (5) Grant funding in support of these individual bid items is capped and overall award is subject to available funding for each bid item and the aggregate total for all.
- (6) The cost of Bid Item F will be shared across all grants with the allocated amount determined when the Schedule of Values is finalized.

EXHIBIT B

BEFORE THE PUBLIC UTILITIES COMMISSION

| | | |
|---|-----------------------------|-------------------------|
| IN RE: | REQUEST FOR REVIEW) | PAG DOCKET 12-05 |
| | AND APPROVAL OF) | |
| | MAEDA PACIFIC) | ORDER |
| | CONTRACT BY PORT) | |
| | AUTHORITY OF GUAM) | |
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the October 22, 2012 Petition for review and approval of the Maeda Pacific Corporation (“Maeda”) contract related to the Port Security Enhancement Project (the “PSE Project”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG”) (hereinafter referred to as the “Petition”).

DETERMINATIONS

On August 1, 2012, PAG began the Invitation for Bid (“IFB”) process for the competitive solicitation of bids related to the PSE Project¹ by publishing the IFB in the Pacific Daily News.² On August 16, 2012, PAG held a pre-bid conference.³ Thereafter, PAG held the bid opening on September 28, 2012.⁴ Seven bids were received and publicly opened.⁵ Upon PAG’s review of the bids, PAG determined that Maeda submitted the lowest responsive and

¹ PAG’s Petition, p. 1 (Oct. 22, 2012).

² Petition, p. 1.

³ Petition, p. 1.

⁴ Petition, p. 1.

⁵ Petition, p. 1.

responsible bid,⁶ and that Maeda satisfied all the requirements set forth in the IFB. Accordingly, PAG recommended that its Board of Directors approve the award to Maeda in the amount of \$2,933,000.00.

On October 22, 2012, PAG petitioned the PUC to approve the subject Maeda contract. On October 25, 2012, PAG's Board of Directors ratified the award to Maeda for the amount of \$2,933,000.00. By way of Resolution No. 2012-22, the Board of Directors approved PAG's recommendation to award the contract to Maeda.

The entire project is federally funded by multiple grants from the U.S. Department of Homeland Security through the Federal Emergency and Management Agency's ("FEMA") grant program.⁷ In particular, the project is funded by the following federal grants: 2008-GB-T8-0148; 2009-PU-R1-0164; 2009-PU-T9-0043; and 2010-PU-T0-0080. According to PAG, the total grant award for this project is \$4,948,064.00.

On November 16, 2012, the Administrative Law Judge of the PUC (the "ALJ") submitted an ALJ Report detailing his findings and determinations regarding review of the Maeda contract. In the ALJ Report, the ALJ found that the PSE Project was "instrumental to PAG's objectives to have a fully integrated command center facility for the implementation of its protective and security measures."⁸ The ALJ also found that PAG's utilization of this funding opportunity would "enable the Port to effectively manage, mitigate, prepare for, respond and recover from any and all types of natural and man-made emergency incidents and/or disasters,"⁹

⁶ Petition, p. 1.

⁷ Petition, p. 2.

⁸ ALJ Report, p. 3 (Nov. 15, 2012) (citing Petition, p. 2).

⁹ ALJ Report, p. 3. (citing Petition, p. 2).

as well as “allow the Port to effectively communicate and provide essential information to port-wide emergency responders, other agencies in the Guam Emergency Management system and the U.S. Coast Guard Sector Guam.”¹⁰

The ALJ further found that the PSE Project was fully funded by multiple federal grants, at no cost to PAG’s consumers, and that the Maeda contract was about \$1,737,949.00 less than the Government of Guam’s estimate for the cost of the project. The ALJ found that the Petition was supported by Resolution No. 2012-22, which was issued by PAG’s Board of Directors on October 25, 2012, and which approved the award to Maeda. Accordingly, the ALJ recommended that the PUC approve the Maeda contract related to the PSE Project for the total cost of \$2,933,000.00.

The Commission hereby adopts the findings made in the November 16, 2012 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon consideration of the record herein, the November 16, 2012 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. The PUC approves the Maeda Pacific Corporation contract related to the Port Security Enhancement Project.
2. PAG is ordered to pay the PUC’s regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with the instant contract review process. Assessment of the PUC’s regulatory fees and expenses is

¹⁰ ALJ Report, p. 3 (citing Petition, p. 2).

authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 20th day of November, 2012.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

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