

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN RE: )  
 ) **GPA Docket 11-02**  
 )  
REQUEST BY GUAM WATERWORKS )  
AUTHORITY FOR APPROVAL OF A ) **ORDER**  
\$1.2M INCREASE IN GWA’S )  
PROGRAM MANAGEMENT OFFICE )  
CONTRACT WITH BROWN & )  
CALDWELL )  
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**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of Guam Waterworks Authority [“GWA”] for approval of a \$1.2M Increase in GWA’s Program Management Office [“PMO”] Contract with Brown & Caldwell.<sup>1</sup>

**BACKGROUND**

2. In its Order in this Docket dated March 21, 2011, the PUC authorized GPA to procure PMOs for GPA and GWA.<sup>2</sup>In the Order dated January 11, 2012, the PUC authorized the hiring of Brown & Caldwell for GWA for a PMO Contract “not to exceed \$3.2M.”<sup>3</sup>
3. Subsequent to the PUC Order dated January 11, 2012, GWA entered into a PMO contract with Brown & Caldwell on February 6, 2012.<sup>4</sup>
4. In its Petition, GWA indicates that the project/tasks being performed by Brown & Caldwell are necessary for GWA to comply with the November 10, 2011 Order of the District Court of Guam in Civil Case No. 02-00035 (the “Stipulated Order”).<sup>5</sup>
5. GWA has already issued 15 work authorizations to Brown & Caldwell totaling \$2.9M. A description of those projects and the Work Authorization Titles is set

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<sup>1</sup> GWA Petition for Approval of a \$1.2M Increase in GWA’s Program Management Office Contract with Brown & Caldwell, GPA Docket 11-02, filed November 13, 2012.

<sup>2</sup> PUC Order, GPA Docket 11-02, dated March 21, 2011.

<sup>3</sup> PUC Order, GPA Docket 11-02, dated January 11, 2012.

<sup>4</sup> GWA Petition for Approval of a \$1.2M Increase in GWA’s Program Management Office Contract with Brown & Caldwell, GPA Docket 11-02, filed November 13, 2012; see Exhibit A thereto.

<sup>5</sup> Id. at p. 2.

forth in Exhibit "1" attached to the Counsel Report hereto ["Summary of the GWA PMO Budget Allocation"]. The project expenditures involve such critical projects as the improvements to the Agana and Northern District Wastewater treatment plants, a development of a program management plan, and assistance in developing scopes of work and work plans for CIP projects, PUC stipulated projects, and Court Order Projects.

6. In Guam Consolidated Commission on Utilities Resolution No. 53-FY2012, the CCU approved GWA management's request to increase the funding for Brown & Caldwell PMO Contract in the amount of \$1.2M.<sup>6</sup>The source of funding for the proposed increase in the Brown & Caldwell PMO contract is the 2010 bond series proceeds.<sup>7</sup>
7. It appears that a large amount of the PUC approved funding for the Brown & Caldwell PMO contract has been expended. See Exhibit "2" attached to the Counsel Report, GWA Program Management Office Work Authorization Budget Summary.
8. The additional amounts sought by GWA are for additional program management and engineering services and support in managing the 2011 EPA Stipulated Order deadlines in 2013, and specific expenditures for the southern facility evaluations, southern SSES, and central/I and SSES. These are additional amounts for work which was not funded in the original request of \$3.2M. See Exhibit "1", Summary of the GWA PMO Budget allocation.

#### DETERMINATIONS

9. The original PMO Contract with Brown & Caldwell commenced in February of this year. It appears that GWA has been authorizing expenditures and/or expending approximately \$300,000 per month for this contract. The GWA Petition does not indicate what accomplishments have been achieved by B&C for this large expenditure of funds.
10. There is no indication in any of the materials presented by GWA as to the time period in which the additional funds sought will be expended. GWA seeks an additional \$1.2M increase; if past practice is a guide, such additional amounts could

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<sup>6</sup> CCU Resolution No. 53-FY2012, Relative to Approving Contract Amendment No. 1 for Program Management Services, adopted August 28, 2012.

<sup>7</sup> Id. at p. 2.

be authorized and/or expended in four months (\$300,000 per month for four months).

11. At present, GWA has presented very little documentation to justify the additional expenditure of \$1.2M. The only descriptions available for the Southern Facility Evaluations Phase 1, Southern SSES, and Central I/I and SSES were a few lines on the Summary of the GWA PMO Budget Allocation. Then, on December 7, 2012, GWA submitted a "draft" Work Authorization, 2012-12, for the Southern Facility Evaluations Phase I. It is not a final document and not approved by either party. Normally, it would be expected that GWA would submit the work authorization, a description of each project including timeframes and deadlines, the scope of work, and cost estimates, with its Contract Review Request to the PUC.
12. GWA's response to Counsel's request for such information was that Work Authorizations for the \$1.2M increases "were still being worked out." This material should be prepared in advance of the submission of a Petition to the PUC requesting contract review approval of an obligation. See Paragraph 6 of the Guam Waterworks Authority Contract Review Protocol. Exhibit "3" indicates that no work authorization no's have ever been assigned for the Southern SSES, Central I/I and SSES, nor has the WA been prepared or approved. On GWA's December 7 submission, there is an entirely new project, Agana Phase I Construction Management, which was not referenced in GWA's Petition. GWA has not submitted documentation justifying these projects or the projected costs.
13. Notwithstanding these significant concerns, it appears that GWA likely needs additional funds in order to meet the deadlines imposed for the Stipulated Order Projects. However, the need for such funds and the amounts should be properly justified.
14. Approval herein should be conditioned upon submission by GWA of a final Work Order 2012-12, and Work Authorizations for the additional projects being submitted to PUC, which documentation includes the appropriate descriptions of the projects, including timeframes and deadlines, and cost estimates with explanations. GWA's submittals must comply with paragraph 6 of the GWA Contract Review Protocol.
15. PUC approval is required for any additional expenditure of bond funds.<sup>8</sup>

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<sup>8</sup> PUC Order, GPA Docket 11-02, dated January 11, 2012.

16. It does not appear that the increase requested herein will have an impact on rates or “could increase rates.”<sup>9</sup>The source of funding for the increase is from the 2010 Bond Series proceeds, which are tied directly to the 2011-2012 CIP.<sup>10</sup>
17. In accord with Counsel’s recommendation, the PUC should conditionally approve GWA’s request for a \$1.2M increase in its Program Management Office Contract with Brown & Caldwell. However, approval is conditioned on submission by GWA of the materials indicated in paragraph 14. Counsel shall certify compliance when GWA has filed appropriate documentation under paragraph 14.
18. It appears that the principal cost of this increase is provided for in the bond fund allocations. There should be no additional rate impact.
19. The PUC should not consider any further requests for PMO expenditure increases unless GWA submits proper documentation under Paragraph 6 of the GWA Contract Review Protocol.

### ORDERING PROVISIONS

After careful review and consideration of the record herein, the above determinations, the Petition of GWA, the Report of PUC Counsel, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GWA’s Petition for Approval of a \$1.2M increase in GWA’s Program Management Office Contract with Brown & Caldwell is conditionally approved; approval is conditioned on submission by GWA of the materials indicated in paragraph 14 of this Order. Counsel shall certify compliance when GWA has filed appropriate documentation under paragraph 14.
2. GWA shall not expend the additional funds sought of \$1.2M until Counsel has certified compliance with this Order.
3. Should GWA seek to utilize any additional bond or revenue funds related to the PMO Contract, it shall submit appropriate work authorizations and comply with express documentary requirements of Paragraph 6 of the Contract Review Protocol.

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<sup>9</sup> See 12 GCA §12004.

<sup>10</sup> CCU Resolution No. 53-FY2012 at p. 2, issued August 28, 2012.

4. GWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 11th day of December, 2012.

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Jeffrey C. Johnson  
Chairman

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Joseph M. McDonald  
Commissioner

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Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Michael A. Pangelinan  
Commissioner

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Peter Montinola  
Commissioner