

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

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

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.¹

BACKGROUND

2. In its Order in this Docket dated March 21, 2011, the PUC authorized GPA to procure PMOs for GPA and GWA.²
3. 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."³
4. Subsequent to the PUC Order dated January 11, 2012, GWA entered into a PMO contract with Brown & Caldwell on February 6, 2012.⁴
5. 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").⁵

¹ 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.

² PUC Order, GPA Docket 11-02, dated March 21, 2011.

³ PUC Order, GPA Docket 11-02, dated January 11, 2012.

⁴ 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.

⁵ Id. at p. 2.

6. GWA has already issued 15 work authorizations to Brown & Caldwell totaling \$2.9M. It is currently in the process of authorizing task orders for an additional \$200,000. Thus, "GWA is indeed close to reaching the \$3.2M cap."⁶ GWA indicates that it needs an additional amount of \$1.2M to continue to comply with the Stipulated Order.⁷
7. 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.⁸ The CCU indicates that the source of funding for the proposed increase in the Brown & Caldwell PMO contract is the 2010 bond series proceeds.⁹

ANALYSIS

8. At the request of PUC Counsel, GWA provided 16 "Work Authorizations" which detail the work that Brown & Caldwell have been providing to GWA as PMO. As GWA points out, the projects are necessary for GWA to comply with the November 10, 2011 Order of the District Court of Guam in Civil Case No. 02-00035.¹⁰
9. A description of those projects and the Work Authorization Titles is set forth in Exhibit "1" attached 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. This PMO assists GWA with 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.¹¹
10. Other projects include: Development of a Programmatic Project Management Plan for submission to the U.S. EPA Project Management for the Northern District Wastewater Treatment Plant; Report on measures to improve the Agat/Santa Rita

⁶ Id. at p. 2; see also Exhibit B to the Petition ["summary of GWA PMO Budget Allocation"], a copy of which is attached hereto.

⁷ Id.

⁸ CCU Resolution No. 53-FY2012, Relative to Approving Contract Amendment No. 1 for Program Management Services, adopted August 28, 2012.

⁹ Id. at p. 2.

¹⁰ GWA Petition for Approval of a \$1.2M increase in GWA's Program Management Office Contract with Brown & Caldwell.

¹¹ See Work Authorization No.: 20212-01, dated March 2, 2012, and Work Authorization No. 202-01A1, dated August 8, 2012.

Wastewater Treatment Plant; Measures Evaluation for the Baza Gardens Wastewater Treatment Plant; Project Management for the Agana Wastewater Treatment Plant; Development of the Chaot and Agana Heights design build package; Assessment of the Ugum Wastewater Treatment Plant; NPDES Permit Negotiation Support; Overflow evaluation of the Umatac/Merizo wastewater treatment plant, and others.¹²

11. It appears that a large amount of the PUC approved funding for the Brown & Caldwell PMO contract has been expended. However, it is not entirely clear as to the amount expended. Both GWA's Petition and the Summary of the GWA PMO Budget Allocation (Exhibit "1") indicate only a small balance remaining. In Progress Billing #7 dated November 8, 2012, Brown & Caldwell indicates that nearly \$2.64M has been expended out of the total contract amount of \$3.2M. That leaves a balance of \$562,690 as remaining PMO Funds. The remaining amounts are allocated for specific projects, and some projects have no additional funding. See Exhibit "2" attached hereto, GWA Program Management Office Work Authorization Budget Summary.¹³ Now, late on December 7, 2012, GWA has submitted a new "Summary of the GWA PMO Budget Allocation" which indicates that only \$1,647,444 was expended as of September 27, 2012. See Exhibit "3" attached hereto.
12. 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.
13. Counsel has a number of concerns with GWA's request. The original PMO Contract with Brown & Caldwell commenced in February of this year. It appears that GWA has been expending, or at least authorizing expenditure for, 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 to date. One must wonder whether GWA intends to continue

¹² See Work Authorization Nos. 2012-02, 2012-03, 2012-04, 2012-05, 2012-06, 2012-10, 2012-14, and 2012-16.

¹³ Letter dated November 8, 2012 from Brown & Caldwell to Mr. Thomas Cruz, Chief Engineer, GWA Re: Brown & Caldwell Program Management Office Progress Report for Invoice #85180510; Progress Billing No. 7, and GWA Program Management Office Work Authorization Budget Summary.

to authorize and/or expend funds into the future in a similar amount of over \$300,000 per month.

14. 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; based upon the past practice of GWA in the expenditure of PMO funds, one must assume that such additional amounts would be authorized/expended in four months (\$300,000 per month for four months).
15. At present, GWA has presented very little documentation to justify the additional expenditure of \$1.2M. The only descriptions initially 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, late on December 7, 2012, GWA submitted a "draft" Work Authorization, 2012-12, for the Southern Facility Evaluations Phase 1. It is not a final document and is 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.
16. 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 even 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 1 Construction Management, which was not referenced in GWA's Petition nor previously brought to Counsel's attention. The December 7 submission reduces funding for Southern SSES from \$600,000 to \$400,000 (as had previously been set forth in Exhibit "1", attached to GWA's Petition). GWA has submitted no documentation justifying the Southern SSES, Central I/I and SSES, and Agana Phase I Construction Management. These three projects constitute \$700,000 out of GWA's requested increase of \$1.2M.
17. Notwithstanding significant concerns, Counsel believes 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.

18. Additional expenditures may be needed for Stipulated Order Projects which were not budgeted in the original PMO allocation of \$3.2M.
19. 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.
20. GWA has properly sought approval from the PUC for this additional expenditure of bond funds, in accordance with PUC determination that its approval is required for any additional expenditure of bond funds.¹⁴ However, its request must include proper documentation.
21. It does not appear that the increase requested herein will have an impact on rates or “could increase rates.”¹⁵ As indicated, the source of funding for the increase is from the 2010 Bond Series proceeds, which are tied directly to the 2011-2012 CIP.¹⁶

RECOMMENDATIONS

22. Counsel recommends that the PUC 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 19. Counsel shall certify compliance when GWA has filed appropriate documentation under paragraph 19.
23. It appears that the principal cost of this increase is provided for in the bond fund allocations. There should be no additional rate impact.
24. 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.
25. An Order is submitted herewith for the consideration of the Commissioners.

¹⁴ PUC Order, GPA Docket 11-02, dated January 11, 2012.

¹⁵ See 12 GCA §12004.

¹⁶ CCU Resolution No. 53-FY2012 at p. 2, issued August 28, 2012.

PUC Counsel Report
GWA Request for
Increase in PMO Contract
GPA Docket 11-02
December 8, 2012

Dated this 8th day of December, 2012.

Frederick J. Horecky
PUC Legal Counsel