



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

)	GWA DOCKET 13-01
)	
PETITION OF)	ALJ REPORT RE: \$2.16M
GUAM WATERWORKS AUTHORITY)	INCREASE FOR PMO
FOR RATE RELIEF)	CONTRACT
)	
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition for a \$2.16 million increase in the Program Management Office contract (“PMO Contract”) with Brown & Caldwell, filed by the Guam Waterworks Authority (“GWA”) on July 30, 2013.

BACKGROUND

Back in February, 2012, GWA entered into a PMO Contract with Brown & Caldwell for an amount not to exceed \$3.2 million. On November 13, 2012, GWA petitioned the PUC for approval to increase its PMO Contract with Brown & Caldwell by \$1.2 million. On December 11, 2012, the PUC conditionally approved GWA’s request by authorizing the \$1.2 million increase conditioned on GWA’s submission of certain documents identified in the Order.

On April 30, 2013, the PUC approved the \$1.2 million increase, but required GWA to file a detailed report regarding GWA’s long-term plans with its PMO, along with other information. On May 28, 2013, the PUC ordered GWA to provide the PUC with monthly reports generated by Brown & Caldwell to track its progress.

ORIGINAL

On July 30, 2013, GWA filed the subject petition. On August 23, 2013, the Administrative Law Judge (the "ALJ") of the PUC, David A. Mair, authorized Lummus Consultants International Inc. ("Lummus"), the PUC's consultants for water and wastewater matters, to examine GWA's request for the \$2.16 million increase in the PMO Contract. On December 13, 2013, Lummus filed a report (the "Lummus Report") detailing its findings and recommendations to the PUC.

DISCUSSION

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12004, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to GWA's Contract Review Protocol issued in Administrative Docket 00-04, "[a]ll professional service procurements in excess of \$1,000,000" require "prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun" ¹ GWA must also seek PUC approval for any uses of bond funds. ²

B. GWA's July 30, 2013 Petition

In the instant Petition, GWA maintains that it presently faces compliance with "Court Ordered requirements, PUC Stipulated orders, Findings of Significant Deficiencies in the Water System, Requests for Information in the Wastewater System, and

¹ GWA's Contract Review Protocol ("GWA CRP"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

² *Id.*

NPDES permit requirements to upgrade the wastewater systems to secondary treatment”; and in order “[t]o execute the volume of work,” GWA needs “support by the PMO.”³

GWA submits that the PMO brings “technical resources, subject matter knowledge, and seasoned management from a pool of national experts”; and assists GWA with “identifying project needs, planning the work, executing the work, and coordinating with other Government of Guam agencies,” as well as “developing scopes of work and work plans for CIP Projects, PUC Stipulated Order projects and Court Order projects as required including preparation of work authorization.”⁴

GWA further submits that “[t]he PMO effectively manages project team members and performs administrative tasks for the projects to obtain a quality product within budget and schedule.”⁵ Accordingly, GWA intends to engage the PMO for its Court-ordered projects, as the PMO has been assisting GWA in meeting deadlines and completing such projects.

GWA maintains that the additional funding is “consistent with the Five-Year Plan” and that GWA believes that “the aforementioned projects are necessary for GWA to comply” with the federal Stipulated Order, and that “[t]he additional amount is

³ GWA’s Petition for Approval of an Additional \$2.16 Increase in GWA’s Program Management Office Contract with Brown & Caldwell (“Petition”), GWA Docket 13-01, p. 2 (July 30, 2013).

⁴ Petition, p. 2.

⁵ Petition, p. 2.

required since GWA's approved PMO funding for certification purposes must be consistent with the effort required to meet the Court Order."⁶

1. CCU Resolution No. 34-FY2013

The Petition is supported by Resolution No. 34-FY2013 ("Resolution") issued by the Consolidated Commission on Utilities on June 25, 2013. The Resolution authorizes GWA to amend the PMO contract with Brown & Caldwell for an additional amount "not to exceed" \$2.16 million.

2. Brown & Caldwell Work Authorizations

The Petition is also supported by certain Brown & Caldwell work authorizations submitted by GWA. These work authorizations involve the following: (1) a \$583,714 increase in "General Program Management Support"; (2) a \$205,363 increase for Brown & Caldwell to prepare wastewater systems evaluations for the Umatac-Merizo Phase II wastewater system; (3) a \$21,325 increase for Brown & Caldwell to update the O&M Manual for the Ugum SWTP; (4) a \$171,488 increase for project management of Phase II of the Agana WWTP Primary Treatment Upgrades; (5) a \$326,452 increase for construction management of Phase II of the Agana WWTP Primary Treatment Upgrades; (6) a \$49,729 increase for "Central System III Flow Monitoring Technical Support"; (7) a \$589,577 increase for Brown & Caldwell to prepare wastewater systems evaluations for the Agat-Santa Rita and Baza Gardens services areas; and (8) a \$218,505 increase for Brown & Caldwell to prepare the Consulting Engineer's Report for the 2013 Revenue Bond; for a total amount of \$2,166,154.

⁶ Petition, p. 3.

C. Lummus' December 13, 2013 Report

In the Lummus Report, Lummus found that GWA indicated that the request for additional funding “is consistent with the Five Year Plan” and that GWA intends to “further engage its PMO in Court Ordered work as its in house staff requires support to manage the magnitude” of the Stipulated Order programs.⁷ Further, Lummus found that GWA has provided scopes of work for each of the increases that comprise the \$2.16 million request.

Lummus, however, found that the scopes of work “as packaged, make it difficult to assess the statement by GWA that these increases are in agreement with the Five-Year Plan” because they provide “varying levels of detail.”⁸ Lummus found that the projects were “all necessary to ensure the PMO is able to monitor and manage the projects, yet it is unclear . . . without a summary presentation of anticipated budgets by work scope as compared to expenditures to date by work scope, how well the GWA is doing relative to budget.”⁹ Lummus further found that “[i]t is difficult to understand where GWA is relative to its total Five-Year Plan budgets and also difficult to gauge what type of progress GWA has made toward addressing the Stipulation and Court Ordered work” but recognized that the projects must move forward.¹⁰

⁷ Lummus Report, p. 1.

⁸ Lummus Report, p. 2.

⁹ Lummus Report, p. 2.

¹⁰ Lummus Report, p. 2.

Ultimately, Lummus recommended that the PUC approve GWA's request to increase the PMO Contract of \$2.16 million.¹¹ It further recommended that GWA provide the PUC with regular reports "that describe the major project categories, indicate the anticipated spending per year of the Five-Year Plan, indicate allocated budgets to date, and actual spending to date along with an assessment of project percentage completion."¹² Lummus noted that such reports would "provide a tracking report for the PUC with which it can monitor and respond to interested parties relative to the progress being made on infrastructure improvement."¹³

CONCLUSION AND RECOMMENDATION

Based on the review of the record, and the recommendation of Lummus, the ALJ herein finds the \$2.16 million increase reasonable inasmuch as GWA needs the additional funding in order to meet the deadlines and complete the projects imposed under the federal Stipulated Order. GWA should be ordered, however, to provide the PUC with regular reports that describe the major project categories, indicate the anticipated spending per year of the Five-Year Plan, indicate allocated budgets to date, and actual spending to date along with an assessment of project percentage completion. The first of such reports should be filed with the PUC on January 15, 2014, with subsequent reports due roughly sixty days thereafter.

¹¹ Lummus Report, p. 3.

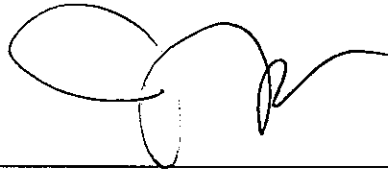
¹² Lummus Report, p. 3.

¹³ Lummus Report, p. 3.

GWA is further reminded that, pursuant to the PUC's May 28, 2013 Order, it should continue to provide the PUC with monthly reports generated by Brown & Caldwell to track its progress. These reports are to be provided to the PUC and Lummus so that Lummus can monitor the effectiveness of GWA's PMO and update the Commission regularly on Brown & Caldwell's progress.

Based on the foregoing, the ALJ recommends that the PUC approve the instant petition. Accordingly, GWA and Brown & Caldwell should be authorized to proceed with the projects and budgets identified in the petition, not to exceed \$2,166,154. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 26th day of December, 2013.



JOEPHET R. ALCANTARA
Administrative Law Judge

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