



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

) **GWA DOCKET 13-01**
)
) **ORDER**
)
PETITION OF
GUAM WATERWORKS AUTHORITY)
FOR RATE RELIEF)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition for approval of a \$3.199 million increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, filed by the Guam Waterworks Authority (“GWA”) on April 1, 2014.

DETERMINATIONS

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

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

² *Id.*

On April 1, 2014, GWA filed the subject petition. Thereafter, the Administrative Law Judge of the PUC (the “ALJ”), Joephet R. Alcantara, authorized Lummus Consultants International Inc. (“Lummus”), the PUC’s consultants for water and wastewater matters, to examine GWA’s request for the \$3.199 million increase in the PMO Contract. On April 19, 2014, Lummus transmitted to GWA certain requests for information relating to the PMO contract and projects. On May 15, 2014, GWA provided Lummus with its responses to Lummus’ requests for information. On June 20, 2014, Lummus submitted its report to the ALJ (the “Lummus Report”).

A. Report by Lummus Consultants International

In its report, Lummus found that the PMO provides “valuable services to the GWA and is greatly improving the Authority’s performance in meeting Court ordered and other regulatory deadlines.”³ However, Lummus noted that “in certain areas the level of their performance may need improvement, or their performance in those areas needs to be verified with measurable results.”⁴

In addition, the consultants further found that “GWA needs to insure that the skills and capabilities of their current staff are being improved over time, coupled with hiring new staff with requisite competencies over the next 2 to 3 years, GWA should be able to greatly reduce or eliminate the need for a PMO in 2 to 3 years (rather than several more years with the PMO, as all or most of those services could and should be handled ‘in

³ Lummus Report, p. 4.

⁴ Lummus Report, p. 4.

house’).”⁵ Based on its examination, Lummus offered the following recommendations to the Commission relative to GWA’s request for an increase in its PMO contract.

1. Focused Reporting

Lummus found that the reports provided by GWA pursuant to the PUC’s December 30, 2013 Order were “inadequate” and should be “expanded going forward.”⁶ Accordingly, the consultants recommended that GWA provide the PUC with quarterly reports that are comprised of a narrative, numerical, and graphical format.⁷ The consultants recommended that such reports should be due two weeks before the end of each quarter, with the exception of the first report, which should be due before July 31, 2014.⁸

2. Reduction of Lag Time

Lummus also recommended that GWA put into place certain plans and procedures intended to “greatly reduce or eliminate the time lag that currently leads to situation in which the PMO begins work on projects for which payment has not been approved by the Commission”⁹; which would require “GWA to plan for and anticipate the

⁵ Lummus Report, p. 4.

⁶ Lummus Report, p. 4.

⁷ Lummus Report, p. 5.

⁸ Lummus Report, p. 5.

⁹ Lummus Report, p. 2.

need for Commission approval earlier in the process and for GWA to seek such approval in a timelier manner.”¹⁰

3. Training

Lummus further recommended that GWA “should establish firm goals for more formal training of its technical management Staff by the PMO”; that “[t]he number of training days should be increased to about 40 per year and spread as uniformly as possible throughout the year”; and that “performance measures should be established to verify the level and quality of one-on-one/on-the-job training being provided and/or verification of employee skills and competencies.”¹¹

4. Staffing

The consultants further recommended that GWA hire more professional staff with training and experience, with the goal of hiring two (2) professional engineers this current year, and two (2) to four (4) more next year.¹²

5. Local Firms

The consultants additionally recommended that “[t]he current level of fees going to local firms should be set at increasing levels over the next few years and payments specified in quarterly reports”; for example, “30% of all PMO fees go to local

¹⁰ Lummus Report, p. 2.

¹¹ Lummus Report, p. 2.

¹² Lummus Report, p. 2.

firms next year (2015); 35% the year after (2016), and 40% the following year (2017) . . .
»,¹³

6. Competitive Bidding Process

The consultants also recommended that GWA “pursue competitive bidding processes for all projects that are not typical management and supervisory assistance handled by a PMO, and for which there is adequate time.”¹⁴ The consultants noted that this would help GWA maximize its financial resources, as well as “encourage rate discounts for PMO volume work.”¹⁵

7. Approval for \$2.2 Million

Based on its review, Lummus recommended partial approval of about \$2.2 million “with the remainder to be considered for approval after the first 2 more focused quarterly reports are received,” pursuant to Lummus’ list of reporting requirements, and demonstrating “adequate progress.”¹⁶

B. ALJ’s June 23, 2014 Report

On June 23, 2014, the ALJ filed an ALJ Report detailing his review of the instant matter. In his report, the ALJ found, based on the review of the record, and the recommendation of Lummus, that the request was reasonable insofar as GWA requires the

¹³ Lummus Report, p. 2.

¹⁴ Lummus Report, p. 3.

¹⁵ Lummus Report, p. 3.

¹⁶ Lummus Report, p. 10.

additional funding in order to meet the deadlines and complete the projects imposed under the federal Stipulated Order, but subject to the following conditions.

The ALJ recommended that GWA should be ordered to provide the PUC with quarterly reports comprised of a narrative, numerical, and graphical format detailed in the Lummus Report; and that such reports should be due two weeks before the end of each quarter, with the exception of the first report, which should be due before July 31, 2014.

With respect to regulatory review, the ALJ agreed with Lummus' recommendation that GWA put into place certain plans and procedures intended to "greatly reduce or eliminate the time lag that currently leads to situation in which the PMO begins work on projects for which payment has not been approved by the Commission"¹⁷; and, therefore, requiring "GWA to plan for and anticipate the need for Commission approval earlier in the process and for GWA to seek such approval in a timelier manner."¹⁸ As a result, the ALJ recommended that the PUC require GWA to file any petitions related to increases in its PMO contract at least ninety (90) days before the PMO begins work on projects for which costs have yet to be reviewed and approved by the Commission.

Regarding training, staffing, and project bidding, the ALJ agreed with Lummus' recommendations concerning these issues, and therefore recommended that the PUC require GWA to provide the PUC with a report detailing plans related to these issues by October 31, 2014.

¹⁷ Lummus Report, p. 2.

¹⁸ Lummus Report, p. 2.

Specifically, with respect to training, the ALJ recommended that GWA provide the PUC with a report detailing plans related to: providing “more formal training of its technical management Staff by the PMO”; increasing training days “to about 40 per year and spread as uniformly as possible throughout the year”; and establishing “performance measures should be established to verify the level and quality of one-on-one/on-the-job training being provided and/or verification of employee skills and competencies.”¹⁹

With respect to GWA staffing, the ALJ recommended that GWA submit a report with the PUC that details its plans to hire more professional staff, with the goal of hiring two (2) professional engineers this current year, and two (2) to four (4) more next year.²⁰

And with respect to project bidding, ALJ recommended that GWA submit a report with the PUC indicating whether or not certain projects managed by the PMO could be separately pursued under the “competitive bidding processes for all projects that are not typical management and supervisory assistance handled by a PMO, and for which there is adequate time.”²¹

With respect to the PMO’s use of local firms, the ALJ agreed with Lummus’ recommendation related to this issue, and therefore recommended that GWA

¹⁹ Lummus Report, p. 2.

²⁰ Lummus Report, p. 2.

²¹ Lummus Report, p. 3.

indicate in its quarterly reports any plans to increase the PMO's use of local firm "over the next few years and payments specified in quarterly reports."²²

The ALJ again reminded GWA 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 project performance and progress. These reports are to be provided to the PUC and Lummus inasmuch as Lummus has been authorized to monitor the effectiveness of the PMO.

Based on the foregoing, the ALJ recommended that the PUC approve the instant petition, but only for the amount of \$2.2 million and that approval of the remaining amount should be subject to GWA's satisfactory filing of the first two quarterly reports described in the Lummus Report. Upon subsequent discussions with GWA and Lummus, however, the parties agreed to a \$2.6 million approval, and that approval of the remaining amount shall be subject to GWA's satisfactory filing of the first two quarterly reports described in the Lummus Report.

The Commission hereby adopts the findings contained in the June 23, 2014 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the June 20, 2014 Lummus Report filed in this docket, the June 23, 2014 ALJ Report, and the record herein, for good cause shown, on motion duly made, seconded and carried by the

²² Lummus Report, p. 2.

undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS the following:

1. The April 1, 2014 Petition for a \$3.199 million increase in the Program Management Office contract with Brown & Caldwell is approved for the amount of \$2.6 million only, and that approval of the remaining amount shall be subject to GWA's satisfactory filing of the first two quarterly reports described in the Lummus Report.

2. GWA shall file with the PUC quarterly reports comprised of a narrative, numerical, and graphical format detailed in the Lummus Report; and that such reports should be due two weeks after the end of each quarter, with the exception of the first report, which should be due by August 15, 2014.

3. With respect to regulatory review, GWA shall put into place certain plans and procedures intended to "greatly reduce or eliminate the time lag that currently leads to situation in which the PMO begins work on projects for which payment has not been approved by the Commission"²³; GWA shall "plan for and anticipate the need for Commission approval earlier in the process and for GWA to seek such approval in a timelier manner"²⁴; and GWA shall file any petitions related to increases in its PMO contract at least ninety (90) days before the PMO begins work on projects for which costs have yet to be reviewed and approved by the Commission.

4. Regarding training, staffing, and project bidding, GWA shall file with the PUC a report detailing plans related to these issues by October 31, 2014;

²³ Lummus Report, p. 2.

²⁴ Lummus Report, p. 2.

5. The report related to training shall detail plans related to: providing “more formal training of its technical management Staff by the PMO”; increasing training days to at least thirty (30) per year, with at least five (5) per quarter and no more than ten (10) in any one quarter; and establishing “performance measures should be established to verify the level and quality of one-on-one/on-the-job training being provided and/or verification of employee skills and competencies.”²⁵

6. The report related to staffing shall detail GWA’s plans to hire more professional staff, with the goal of hiring two (2) professional engineers this current year, and two (2) to four (4) more next year.²⁶

7. The report related to project bidding shall indicate whether or not certain projects managed by the PMO could be separately pursued under the “competitive bidding processes for all projects that are not typical management and supervisory assistance handled by a PMO, and for which there is adequate time.”²⁷

8. With respect to the PMO’s use of local firms, GWA shall indicate in its quarterly reports any plans to increase the PMO’s use of local firm “over the next few years and payments specified in quarterly reports.”²⁸

9. GWA shall continue to provide the PUC with monthly reports generated by Brown & Caldwell to track project performance and progress; these reports are to be

²⁵ Lummus Report, p. 2.

²⁶ Lummus Report, p. 2.

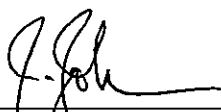
²⁷ Lummus Report, p. 3.

²⁸ Lummus Report, p. 2.

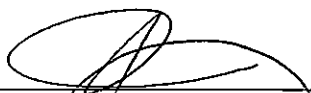
provided to the PUC and Lummus inasmuch as Lummus has been authorized to monitor the effectiveness of the PMO.

10. GWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses associated with the instant contract review. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§12002(b), 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

SO ORDERED this 31st day of July, 2014.



JEFFREY C. JOHNSON
Chairman




ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner



FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner