



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

) **GWA DOCKET 13-01**
)
) **ORDER**
)
PETITION OF GUAM WATERWORKS)
AUTHORITY FOR APPROVAL OF)
ADDITIONAL \$2.458M IN PROGRAM)
MANAGEMENT OFFICE CONTRACT)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition for approval of a \$2.458 million increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, filed by the Guam Waterworks Authority (“GWA”) on October 10, 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’s 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.*

A. GWA's Petition for \$2.458 Million Increase

In the instant Petition, GWA maintained that it continues to be faced with insufficient staff in the Engineering and Planning Divisions, and therefore needs assistance relative to compliance with Court Ordered requirements, PUC Stipulated orders, and Findings of Significant Deficiencies in the Water System, as well as Administrative Orders on Umatac-Merizo WWTP issued by the U.S. E.P.A.³ Accordingly, GWA submitted that it needs the continued support of the PMO in order for it to be successful in its compliance efforts.

B. List of PMO Projects

The Petition was also supported by certain Brown & Caldwell work authorizations submitted by GWA, which pertain to the following projects: (1) Formal Training Program Assistance; (2) Management of Design for Agat-Santa Rita WWTP; (3) State Revolving Fund (SRF) Grant Project Support; (4) Umatac-Merizo WWTP Disinfection and Water Quality Standards (WQS) Monitoring Support; and (5) Baza Gardens Wastewater Cross-Island Pumping and Conveyance System – 10% Concept Design.

C. Report by Lummus Consultants International

To aid in the instant regulatory review, the ALJ assigned Lummus to examine GWA's request. On November 10, 2014, Lummus transmitted to GWA forty-three (43) requests for information relating to the PMO contract and projects; and on

³ Petition, p. 2.

November 21, 2014, GWA submitted its responses to the requests for information.⁴ On December 20, 2014, Lummus submitted its report to the ALJ (the “Lummus Report”).

According to the Lummus Report, Lummus found that “the efforts being managed through the PMO are critical to GWA’s operations and management”; and that “equally critical is the need to build internal capabilities to provide the type of expertise offered by the PMO.”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. **Review of Work Authorizations**

a. **Formal Training Program Assistance (WA No. 2014-09)**

With respect to this project, Lummus recommended approval of the project, but recommended that the PUC monitor the progress and effectiveness of the subtasks contained in the work authorization throughout the duration of the project. In addition, Lummus further recommended that GWA amend this work authorization to reflect the following:

1.f. – Specify the number or percentage of skills assessment tests that will be developed by the PMO;

1.h. – Specify the number of courses (and/or the names of courses) for which the PMO will have primary responsibility to develop their content. (For example, those listed in section 1.c.);

1.i. – Specify the percentage of training curriculum and content that will be delivered/taught by the PMO, or the

⁴ Lummus Report, p. 5.

⁵ Lummus Report, p. 2.

number of courses that the PMO will deliver/teach. (For example, those listed in section 1.c.);

Task 3 – Specify the number or percentage of performance measures that the PMO will have primary responsibility for establishing/developing.⁶

b. **Management of Design for Agat-Santa Rita WWTP (WA No. 2014-10)**

Lummus recommended approval of this project, but recommended the following: that “Task 4” be amended to indicate that the PMO will prepare any documents required for construction bidding and any RFPs or RFQs that may arise during the execution of the Agat WWTP project; and that “Task 6” should be amended to indicate that the PMO will provide assistance to GWA’s Communications and Customer Service, assuring that technical engineering documents presented for public viewing are organized, presentable, meaningful, public-friendly, and convey appropriate messages approved by GWA.⁷ In addition, Lummus further recommended that any references to construction management services should be removed.⁸

c. **State Revolving Fund (SRF) Grant Project Support (WA No. 2014-11)**

With respect to this particular project, Lummus recommended that the PUC approve funding for the first year of this project, and then revisit approval of the second

⁶ Lummus Report, p. 3.

⁷ Lummus Report, p. 3.

⁸ Lummus Report, p. 3.

half of the project after an evaluation of eleven (11) months of progress and results.⁹ In particular, Lummus recommended a two-phase approach, which is detailed as follows.

Phase 1 – First year – Fully fund the WA for approximately half of the proposed hours (about \$545,000) assuming that the PMO will expend approximately half of its projected labor hours in the first year. The GPUC should also authorize GWA to hire two Engineers/Technicians (to be funded from savings in phase 2 below and by avoiding the need for similar services by the PMO going forward) whose primary duty will be to shadow appropriate PMO personnel (for example – Smith, Cheng, Watson and the Inspector) during the first year to become fully familiar with and knowledgeable about the tasks performed by those consultants (one-on-one training) for this WA. GWA should take other similar steps to increase the training of GWA’s Grants Manager and the Assistant Grants Manager. This enhanced Grants Management Team should also receive specific training as a result of implementation of WA-09.

Phase 2 – Second year – Near the end of year 1 or the beginning of year 2 GWA should assess the capabilities of GWA’s Grants Managers and the 2 new Engineers/technicians to handle many if not most of the tasks performed by the PMO in phase 1. Based on this assessment adjust the needed continuation of PMO Fees to reflect activities that can be undertaken by the new GWA staff and Grants Personnel.¹⁰

Accordingly, Lummus recommended approval for full funding of the first half of the project, with the remaining balance subject to the PUC’s review of the project after eleven (11) months.

⁹ Lummus Report, p. 4.

¹⁰ Lummus Report, p. 4.

Moreover, Lummus additionally recommended the following: that “Task 2” be amended to indicate that the PMO team has primary responsibility for the initial drafting of each Project Implementation Plan (“PIP”).

d. **Umatac-Merizo WWTP Disinfection and Water Quality Standards (WQS) Monitoring Support (WA No. 2014-12)**

Lummus recommended approval of this project with the added recommendation that GWA amend this work authorization by indicating under “Task 6” that the PMO is responsible for preparing the documents required for construction bidding and any RFPs or RFQs that may arise during the design engineering phase of the project.¹¹

e. **Baza Gardens Wastewater Cross-Island Pumping and Conveyance System – 10% Concept Design (WA No. 2014-13)**

Lummus recommended approval of this project with no added recommendations.¹²

2. **Proposed Ordering Provisions**

In its report, Lummus found that “[a]lthough some advances have been made, GWA has not fully complied” with the ordering provisions contained in the PUC’s July 31, 2014 Order.¹³ Based on its review, Lummus recommended that the PUC continue to require that GWA “comply fully with all the Ordering Provisions listed in the Order

¹¹ Lummus Report, p. 5.

¹² Lummus Report, p. 5.

¹³ Lummus Report, p. 5.

...”¹⁴ With respect to certain provisions, Lummus further recommended some minor modifications.

For instance, with respect to Ordering Provision No. 2, Lummus recommended that the quarterly reports include staff training planned for the following quarter; number of local hires; budgeting information; and new professional employee information. A detailed discussion of these additional requirements is contained on pages 6 through 7 of the Lummus Report.

With respect to Ordering Provision No. 3, Lummus determined that it was unclear whether GWA satisfied this reporting requirement, and therefore it recommended that GWA file its plans and procedures with the PUC.¹⁵ With respect to Ordering Provision No. 4, Lummus recommended that GWA file a report on staffing and project bidding by February 28, 2015.¹⁶

With respect to Ordering Provision No. 6, Lummus determined that it was unclear whether GWA satisfied this reporting requirement, and therefore it recommended that GWA file its staffing plans with the PUC.¹⁷

With respect to Ordering Provision No. 7, Lummus again determined that it was unclear whether GWA satisfied this reporting requirement, and therefore it recommended that GWA file its project bidding plans with the PUC.¹⁸

¹⁴ Lummus Report, p. 6.

¹⁵ Lummus Report, p. 7.

¹⁶ Lummus Report, p. 7.

¹⁷ Lummus Report, p. 8.

Based on the administrative record before the Commission, the ALJ found the request reasonable, insofar as GWA requires the 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 therefore recommended that the PUC approve the instant petition, but only for the amount of \$1,913,390, as recommended by Lummus. Pursuant to the recommendation, GWA may increase its contract price with Brown & Caldwell, not to exceed \$1,913,390. Approval of the remaining amount should be subject to project re-evaluation, with respect to Work Authorization No. 2014-11, after eleven (11) months of progress and results.

As further recommended by Lummus, the ALJ indicated that GWA should continue to be ordered to provide the PUC with quarterly reports comprised of a narrative, numerical, and graphical format detailed in both the June 20, 2014 Lummus Report, as well as the December 20, 2014 Lummus Report. Thus, these reports should be due two weeks after the end of each quarter. Further, the other provisions contained in the PUC's July 31, 2014 Order should be amended based on Lummus' recommendations detailed herein and in the Lummus Report.

The Commission hereby adopts the findings contained in the December 20, 2014 Lummus Report, the December 24, 2014 ALJ Report and, therefore, issues the following:

¹⁸ Lummus Report, p. 8.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the December 20, 2014 Lummus Report filed in this docket, the December 24, 2014 ALJ Report, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS the following:

1. The October 10, 2014 Petition for a \$2,458,315.00 increase in the Program Management Office contract with Brown & Caldwell is approved for the amount of \$1,913,390.00 only, and that approval of the remaining amount should be subject to project re-evaluation, specifically Work Authorization No. 2014-11, after eleven (11) months of progress and results. GWA shall petition the PUC for the additional funds, if necessary, prior to the expiration of this period.

2. GWA shall file with the PUC quarterly reports comprised of a narrative, numerical, and graphical format detailed in both the June 20, 2014 Lummus Report and the December 20, 2014 Lummus Report; and that such reports should be due two weeks after the end of each quarter.

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”¹⁹; *these plans and procedures shall be filed with the PUC by February 28, 2015*; GWA shall “plan for and anticipate the need for Commission

¹⁹ June 20, 2014 Lummus Report, p. 2.

approval earlier in the process and for GWA to seek such approval in a timelier manner”²⁰; 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 staffing and project bidding by February 28, 2015*;

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.”²¹

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 year²²; *and shall file its report on staffing plans with the PUC by February 28, 2015.*

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

²⁰ June 20, 2014 Lummus Report, p. 2.

²¹ June 20, 2014 Lummus Report, p. 2.

²² June 20, 2014 Lummus Report, p. 2.

bidding processes for all projects that are not typical management and supervisory assistance handled by a PMO, and for which there is adequate time”²³; *and shall file this report on project bidding with the PUC by February 28, 2015.*

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.”²⁴

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 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.


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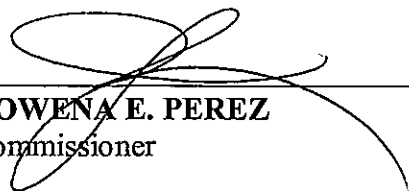
²³ June 20, 2014 Lummus Report, p. 3.

²⁴ June 20, 2014 Lummus Report, p. 2.

SO ORDERED this 29th day of December, 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

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