



**BEFORE THE PUBLIC UTILITIES COMMISSION**

**IN RE:** ) **PAG DOCKET 18-06**  
 )  
**PETITION FOR APPROVAL** )  
**OF ADDITIONAL FUNDING** ) **ORDER**  
**FOR OWNERS/AGENT** )  
**ENGINEERING SERVICES** )  
**AGREEMENT WITH** )  
**WSP USA, INC.** )  
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**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”) on August 15, 2018, whereby PAG requests review and approval of Task Orders No. 7 and 8 of its Owners/Agent Engineering Services contract with WSP USA, Inc. formerly known as Parsons Brinckerhoff (hereinafter referred to as either “Parsons,” “WSP” or the “Consultant”).

On August 27, 2018, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**DETERMINATIONS**

Back in 2015, PAG sought professional services and technical support in the areas of design and engineering services, program management, financial consulting and analysis, and other related services for PAG. Specifically, PAG sought services related to the following: assistance with PAG’s 5-Year Tariff Petition before the PUC; assistance with PAG’s Capital Program, to include assistance with the issuance of revenues bonds; implementation of a new

Terminal Operating System (“TOS”) by assistance with the TOS contract and task order negotiations; assistance with studies related to rate adjustments and PUC petitions; and technical services during the construction phase of the Marine Service Life Extension Project at the Port’s wharfs.<sup>1</sup>

On August 27, 2015, the PUC approved the subject contract at a cost of \$1,380,000.00, which funded Task Orders No. 1 and 2. The Commission found that the terms of the agreement appeared commercially reasonable and not burdensome; and that since the contract was fully funded by the federal Office of Economic Adjustment, such funding relieved ratepayers of any negative impact.<sup>2</sup>

With respect to the term of the Contract, the initial term was for a period of one (1) year with four (4) year-long options to renew, not to exceed a total of five (5) years.<sup>3</sup> Any renewal was conditioned on the availability of appropriated or budgeted funds; and should no funds be appropriated or budgeted, then the Contract could be terminated.<sup>4</sup>

Since that time, Parsons and the Port engaged in six (6) Task Orders, which resulted in a total contract cost of \$1,761,332.00. Also, in 2017, Parsons Brinckerhoff became WSP USA, Inc.

**A. Regulatory Review**

Under 12 G.C.A. §12105, the PUC must expressly approve any contractual agreements or obligations which could increase PAG’s rates and charges. In addition, under

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<sup>1</sup> PUC Order, PAG Docket 15-05, pp. 1-2 (Aug. 27, 2015).

<sup>2</sup> See PUC Order, PAG Docket 15-05, pp. 7-8.

<sup>3</sup> RFP No. PAG-015-003, Attachment 2 (“Contract”), PAG Docket 15-05, p. 2.

<sup>4</sup> Contract, PAG Docket 15-05, p. 2.

PAG's Contract Review Protocol, "[a]ll professional service contracts in excess of \$1,000,000" "shall require prior PUC approval . . . ."<sup>5</sup>

**B. Approval of Task Order Nos. 7 and 8**

In this instance, the Port is requesting PUC approval of Task Orders No. 7 and No. 8 under the contract. According to documents submitted by the Port, Task Order No. 7 concerns work that includes the following: review of the Port's implementation of its TOS; program development for the dismantling and destruction of STS Cranes No. 2 and 3, and the procurement, transport, and installation of the replacement crane for STS Crane No. 3; review of the Port's progress on its facility and equipment maintenance; assistance with planning of construction projects under the Port's CIP; and general programming management, and financial analysis services.<sup>6</sup> According to the Port, Task Order No. 7 will be fully funded by a grant issued by the federal Office of Economic Adjustment.

The Port submitted that Task Order No. 8 involves the development of an environmental health and safety program. According to the task order, this work will include: site tours and interviews; the development of a comprehensive environmental health and safety plan and manual; and project management and administration, at total cost of \$294,615.00. PAG submits that this amount will be funded by Port revenues.

The environmental health and safety manual will include policies regarding disciplinary action, accident investigations, safety inspections, new employee orientation, drug and alcohol abuse, hazardous waste, electrical safety, special pollutants, emergency action

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<sup>5</sup> Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

<sup>6</sup> Petition, p. 1.

planning, air quality, oil and petroleum, use of cranes, among a whole host of other Port-specific matters.

With regard to prior task orders, PAG further submitted with its Petition Task Orders Numbers 3, 4, 5, and 6. Task Order No. 3 concerned the redesign of PAG's Hotel Wharf; and Task Order No. 4 concerned engineering services to help determine site locations for the Port's new administrative buildings. Task Order Nos. 3 and 4 totaled \$128,332.00, an amount which was fully funded by Port revenue.

Task Order No. 5 primarily concerned assisting the Port with its CIP Bond program support and issuance of the Port's inaugural bond. Finally, Task Order No. 6 concerned facilitation of the Port's new TOS system "post-go-live activities." The activities included WiFi improvements, planning projects for the Port's IT team, and cyber security projects, among others. Task Order Nos. 5 and 6 totaled \$256,000.00, an amount which was also fully funded by Port revenue. This amount, however, brought the total cost of the subject contract beyond the ten percent (10%) contingency threshold provided under PAG's Contract Review Protocol.

### **CONCLUSION**

Based on the documentation provided, the ALJ found that the Consultant is required to assist PAG with the following: assistance with PAG's 5-Year Tariff Petition before the PUC; assistance with PAG's Capital Program, to include tasks associated with the issuance of revenue bonds; implementation of a new TOS by assisting PAG with the TOS contract and task order negotiations; assistance with studies related to rate adjustments and PUC petitions;

and technical services during the construction phase of the Marine Service Life Extension Project at the Port's wharfs.<sup>7</sup>

The ALJ further found that the WSP's assistance to the Port has been instrumental in the development of the Port's CIP program, and in the issuance of the Port's inaugural bond. With the issuance of the Port's first revenue bond, and with the Port's modernization now underway, initiation and completion of Port projects are crucial. In addition, the ALJ found that federal grant money has been essential in providing the Port with these critical engineering services. And since a huge part of the cost of this contract has been funded by federal money, such funding has relieved ratepayers of a fairly sizeable impact.

Accordingly, based on the record before the Commission in the instant docket, and for the other reasons set forth herein, the ALJ found that the subject request for approval of Task Order Nos. 7 and 8, as well as prior Task Orders submitted to the PUC for its review, along with their costs, terms and conditions, are reasonable.

The ALJ further noted that the subject contract exceeded the ten percent (10%) contingency under the original contract. However, since Task Orders No. 5 and 6 involved substantial work related to the Port's Engineering Report required for the issuance of Port revenue bonds, as well as assistance related to such bond issuance, the Commission should ratify this expenditure as being reasonable and necessary to the Port's modernization efforts.

Accordingly, the ALJ recommended that the PUC approve Task Order Nos. 7 and 8 issued under the Professional Services Agreement between PAG and WSP, and therefore authorize the Port to expend the total amount of \$1,194,615.00. In addition, the ALJ further

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<sup>7</sup> Contract, PAG Docket 15-05, pp. 1-3.

recommended that the PUC ratify the amount of \$381,332.00 for Task Orders No. 5 and 6, which exceeded the initial ten percent (10%) contingency under the original contract. The Commission hereby adopts the findings made in the August 27, 2018 ALJ Report, and therefore, issues the following:

**ORDERING PROVISIONS**

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

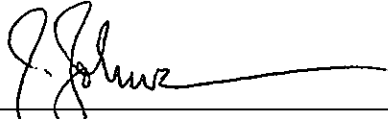
1. PAG's Petition for approval of Task Order Nos. 7 and 8 issued under the Professional Services Agreement between PAG and WSP are approved, and PAG is authorized to expend the total amount of \$1,194,615.00.

2. The amount of \$381,332.00 for Task Orders No. 5 and 6, which exceeded the initial ten percent (10%) contingency under the Contract is hereby RATIFIED.

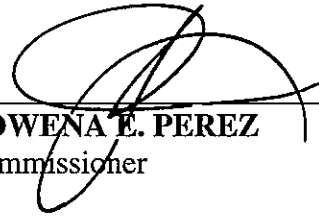
3. PAG is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

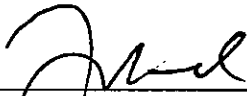
SO ORDERED this 30<sup>th</sup> day of August, 2018.



**JEFFREY C. JOHNSON**  
Chairman



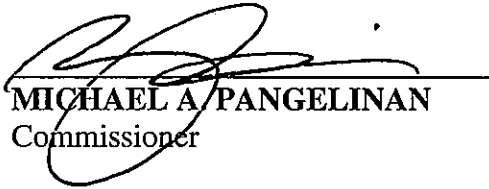
**ROWENA E. PEREZ**  
Commissioner



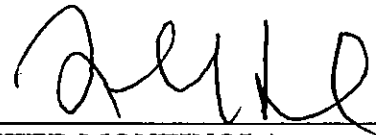
**JOSEPH M. MCDONALD**  
Commissioner



**FILOMENA M. CANTORIA**  
Commissioner



**MICHAEL A. PANGELINAN**  
Commissioner



**PETER MONTINOLA**  
Commissioner

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