

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 18-09
)
The Application of the Guam Power)
Authority for an increase in the Stanley) **ORDER**
Engineering, Procurement and)
Construction Management (EPCM))
Contract.)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of the Guam Power Authority [“GPA”] for an Increase in the Stanley Engineering, Procurement and Construction Management (EPCM) Contract.¹

BACKGROUND

2. In the present Petition, GPA seeks an increase for the Stanley EPCM contract in the amount of \$2.6M for consulting and technical services through 2021/2022.²
3. When GPA first sought to retain an EPCM Contractor in 2015, it anticipated that the cost would be “a one-time expense” in the amount of \$750,000, to be funded from 2014 Bond Funds.³
4. Initially, GTA contemplated that the primary task of the EPCM Contractor was the development of bid documents for the 180MW plant and the selection of a bidder.⁴
5. However, the anticipated role of the EPCM Contractor has now transformed into a far broader concept. That role now includes an expanded set of tasks and responsibilities for Stanley as the “Owner’s Representative” through the entire construction process for the 180MW plant (which spans over a four-year period).
6. As outlined in GPA’s petition, Stanley’s additional tasks will now include provision of the following:

¹ GPA Petition for an Increase in the Stanley Engineering Procurement and Construction Management (EPCM) Contract, GPA Docket 18-09, filed October 30, 2018.

² Id. at p. 1.

³ PUC Order, GPA Docket 17-05, dated October 27, 2016, at §17, p. 3.

⁴ PUC Counsel Report, GPA Docket 18-09 at §7, at p. 2, dated March 26, 2018.

- a. Procurement Process Support; Stanley will assist GPA in the selection of the contractor for the 180MW plant from the prequalified short list; assist GPA in contract negotiations with the selected IPP proponent in 2019; and provide responses to proponent questions and clarifications of the bid documents. Stanley will be present during contract negotiations and contract review, and will make recommendations.⁵
- b. Project Management of the EPCM Contract, which will continue through the entire project; as project manager, Stanley will be responsible for submitting project status reports to GPA, monthly progress reports, and an updated project schedule. It will monitor the project and control the budget.⁶
- c. Project support including a schedule for deliverables by the project contractor; Stanley will provide a list of deliverables by the IPP contractor with an estimated schedule.⁷
- d. Engineering services to GPA for the IPP New Generation, including Owner's Representative services, design review of proposer's submitted documents, and verification of compliance with technical specifications.⁸
- e. Commercial and contractual support, including preparation of responses to requests for information.⁹
- f. Construction services for IPP New Generation, including technical review and comment on submitted IPP Construction documents, participation in factory acceptance tests, monitoring of IPP construction progress, and the provision of commissioning and start-up support. Construction mobilization is planned for April 2020.¹⁰
- g. Regulatory Support, which includes expert testimony before the PUC, Legislature and CCU, and preparation of a rate impact study for the selected IPP proponent.¹¹

⁵ Stanley Consultants Inc., Scope of Work for Budget Forecast for GPA EPCM-New Generation Project, dated October 14, 2018, at p. 1. (Attached to GPA's Petition).

⁶ Id. at p. 2.

⁷ Id. at p. 2.

⁸ Id. at pgs. 2-3.

⁹ Id. at p. 3.

¹⁰ Id. at p. 3.

¹¹ Id. at p. 4.

7. To date, the PUC has previously approved roughly \$1.35M for the Stanley EPCM Contract:
 - a. In GPA Docket 17-05, on October 27, 2016 the PUC authorized GPA to expend \$750,000 for an EPCM contractor for the proposed new plant, to be paid from 2014 bond fund allocation for LNG Initial Startup.¹²
 - b. In this Docket (GPA Docket 18-09), on March 29, 2018, the PUC approved an additional expenditure of \$600,000.00 for completion of bid documents, incorporation of LNG details in the bid, addressing of regulatory requirements, and support for procurement activities.¹³
 - c. However, the PUC Order reduced the amount approved from \$650,000 to \$600,000, prohibited GPA from using authorized funds for “marketing, lobbying, community outreach, or public relations, or any similar or related activity”, and indicated that “GPA should do more to limit the scope and cost of this contract.”¹⁴
8. On October 19, 2018, the Guam Consolidated Commission on Utilities authorized the General Manager of GPA to petition the PUC for approval to increase the Stanley EPCM contract by an additional \$2.6M for a contract total of \$3.95M for services through September 2022.¹⁵
9. With its Petition, GPA has submitted a proposed “GPA EPCM New Generation Full Project Budget Estimate.”¹⁶ The Budget Estimate is attached to the ALJ Report as Exhibit “A”. The greatest portion of the expenditures are for support for GPA oversight of IPP Project, and Owner’s Engineer Services.¹⁷ The increase in funds for the Stanley EPCM Contract would be paid from Cabras 3 & 4 Insurance Proceeds.¹⁸
10. The CCU submits that the projected budget is necessary to complete the procurement support and to provide owner’s engineer support during construction and commissioning through 2022. The CCU also suggests that the total projected

¹² PUC Order, GPA Docket 15-05, dated October 27, 2016, at p. 9.

¹³ PUC Order, GPA Docket 18-09, dated March 29, 2018, at p. 2 & 4-5.

¹⁴ Id. at pgs. 4-5.

¹⁵ CCU Resolution No. 2018-25, Relative to Authorization of Contract Increase for Engineering, Procurement, and Construction Management through 2022, adopted October 19, 2018, at p. 2.

¹⁶ Attachment to Stanley Consultants Inc., Scope of Work for Budget Forecast for GPA EPCM-New Generation Project, dated October 14, 2018.

¹⁷ See Exhibit A attached hereto.

¹⁸ CCU Resolution No. 2018-25 at p. 1.

cost for EPCM “is within a reasonable percentage (1%-3%) of the total new power plant cost expected in developing and commissioning a new power plant.”¹⁹ GPA’s Petition includes an October 17, 2018, statement by Stanley Consultants Inc. that “[T]he percentage of total cost for Owner’s Engineer services on a power plant project can range from 1% to 4% of total project costs depending on the scope and level of services to be provided.”²⁰

11. The ALJ Report was filed herein on November 27, 2018.²¹ The PUC adopts the conclusions and recommendations set forth therein.

DETERMINATIONS

12. In various prior Orders, the PUC has previously approved the procurement of an EPCM contract and found justification for increased expenditures for the Stanley EPCM Contract.²²
13. GPA clearly has a need for an EPCM Contractor. The proposed 180MW IPP project is a substantial and technical undertaking. It has some complicated aspects including provision for dual firing with both ULSD and LNG and the need to install a new pipeline. GPA needs the technical assistance of a contractor such as Stanley to assist it as Owner’s Representative and to guide GPA through the construction and commissioning process. Such assistance can help to ensure that the new plant is constructed in an efficient and safe manner.
14. On the other hand, expenses for services as Owner’s Representative must be reasonable. Such costs cannot alone be based upon formulaic calculations of total project costs and percentages thereof.
15. Stanley’s Project Budget Estimate has listed projected expenses for regulatory support, support for GPA oversight of the IPP project, and Owner’s Engineer Services. However, the PUC has not been provided any backup support for the estimated costs, nor detailed task information as to how the estimates in the Budget Estimate Report were arrived at. The estimated costs are not apportioned to any specific services to be provided.

¹⁹ Id. at p. 1.

²⁰ October 17, 2018, Statement by Stanley Consultants Inc., attached to GPA’s Petition.

²¹ ALJ Report, GPA Docket 18-09, dated November 27, 2018,

²² PUC Order, GPA Docket 15-05, dated October 27, 2016, at p. 4; PUC Order, GPA Docket 18-09, dated March 29, 2018, at p. 2 & 4-5.

16. From the estimate provided, it does appear that GPA could reduce costs for some of the proposed services. For example, GPA lists “regulatory support” through financial close at a total of \$187,569 (four-year budget). This includes such tasks as “to provide expert testimony to PUC, the Legislature, and the CCU.”
17. While some such support could be required, it is difficult to believe that the amount of such services would be at the cost indicated. Even at \$300 per hour, such task would involve over 626 hours of consultant time. GPA itself is very capable in handling testimony before the PUC, the Legislature and the CCU. While limited expert testimony could be required before the PUC, it should not arise to the cost level projected by Stanley.
18. The ALJ recommends that the PUC reduce the proposed budget for “regulatory support” by \$60,000. There is already a separate allocation of \$32,500 for the PUC required “Rate Impact Study”, which will assess the rate impact of the winning proponent’s proposal upon GPA ratepayers.
19. GPA has further opportunities to cut costs and expenses from this contract. The greatest part of the expenses relates to items involving support for GPA Oversight of the IPP Project and Owner’s Engineer Services. Until the last year, these expenses are both over \$230,000 per year. Through careful budgeting, GPA and Stanley should be able to reduce costs in these areas. The total amount approved for 2019 through 2022 should be \$2.4M, a reduction of \$200,000 from the amount sought. Such a reduction will encourage the parties to streamline the costs for this project.
20. GPA should be authorized to increase the Stanley EPCM contract for consulting and technical services for GPA up to an amount not to exceed \$2.4M for years 2019 through 2022.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GPA, the Report of the Administrative Law Judge, 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** that:

1. GPA’s request to increase funds for the Stanley EPCM contract is approved.
2. GPA is authorized to expend up to an amount not to exceed \$2.4M for consulting

and technical services under the Stanley EPCM Contract through 2022.

3. The funding source for such increase in the Stanley contract shall be from the Cabras 3 & 4 Insurance proceeds.
4. GPA has recently tapped the insurance proceeds for many expenditures. Within 30 days from the date of this Order, GPA shall submit to the PUC a report indicating the total amount of proceeds received under the Cabras 3 & 4 Insurance Settlement to date, itemizing each and every expenditure which has been made from such proceeds, or projected expenditures, and the purpose(s) for which such expenditures or projected expenditures have been made.
5. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Order
GPA Application for an Increase
in the EPCM Contract
November 29, 2018

Dated this 29th day of November, 2018.

Jeffrey C. Johnson
Chairman

Rowena E. Perez
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Filomena M. Cantoria
Commissioner