

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF:</b>	)	<b>GWA DOCKET 19-05</b>
	)	
<b>THE PETITION OF THE GUAM</b>	)	
<b>WATERWORKS AUTHORITY FOR</b>	)	<b>ORDER</b>
<b>APPROVAL TO EXTEND THE TERM</b>	)	
<b>OF IT'S LABORATORY SERVICES</b>	)	
<b>CONTRACT WITH EUROFIN EATON</b>	)	
<b><u>ANALYTICAL, LLC</u></b>		

**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant the Guam Waterworks Authority's ["GWA"] Petition for Approval to Extend the Term of GWA's Laboratory Services Contract with Eurofin Eaton Analytical, LLC ["Eurofin"].<sup>1</sup>
2. On August 2, 2013, GWA awarded Eurofin a contract for Laboratory Services which expired on August 2, 2018, and GWA requests that the PUC approve an amendment to this contract extending its term from August 3, 2018 through December 31, 2018.<sup>2</sup>

**BACKGROUND**

3. GWA must have a U.S. Environmental Protection Agency certified lab to conduct testing on water and wastewater samples provided by GWA to ensure GWA is complying with the federal Safe Drinking Water Act and Guam's Primary and Secondary Safe Drinking Water Regulations.<sup>3</sup>
4. Eurofin has been providing these laboratory services to GWA since August 2, 2013 and its contract with GWA was to expire, pursuant to five (5) year maximum term, on August 2, 2018.<sup>4</sup> GWA Docket 13-03, the PUC approved the one (1) year term of this contract and its four (4) year extension term for a maximum term of five (5) years of its term. GWA had estimated that the anticipated costs of this contract would be five-hundred-sixty-eight-thousand-one-hundred-eighty-five-dollars

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<sup>1</sup> GWA Petition for Approval to Extend the Term of GWA's Laboratory Services Contract, GWA Docket 19-05, filed on November 29, 2018.

<sup>2</sup> Id. at line 21, p. 2.

<sup>3</sup> Id., at line 28, p. 1.

<sup>4</sup> Id., at line 21.

(\$568,185) per year resulting in a total contract award of two-million-eight-hundred-forty-thousand-nine-hundred-twenty-five-dollars (\$2,840,925) for the entire five (5) year term of the contract and the source of funding for this contract would come from GWA's O&M Budget.<sup>5</sup>

5. On May 27, 2018, GWA issued GWA-IFB-2018-05 (Laboratory Services) to replace its expiring contract with Eurofin. However, GWA only received two (2) bids in response to that solicitation and, July 16, 2018, GWA rejected both bids because they were non-conforming.<sup>6</sup>
6. GWA's Laboratory Services contract with Eurofin expired on August 2, 2018. However, Eurofin continued to provide laboratory services to GWA under an amendment to its expiring contract that authorized Eurofins to continue to provide the laboratory services from August 3, 2018 through December 31, 2018 at an estimated rate of thirty-five-thousand-seven-hundred-dollars (\$35,700) per month.<sup>7</sup>
7. On September 10, 2018, GWA re-issued its solicitation for laboratory services, and on October 19, 2018, GWA awarded this contract to Eurofin, subject to the approval of the CCU and the PUC which is anticipated to occur in early 2019.<sup>8</sup>
8. On November 27, 2018, the CCU adopted Resolution No. 03-FY2019 which ratified the amendment to Eurofin's prior contract and authorized GWA's management to pay Eurofin the amount of thirty-five-thousand-seven-hundred-dollars (\$35,700) per month from August 3, 2018 to December 31, 2018 in accordance with the contract amendment.<sup>9</sup>
9. PUC Counsel issued his report on December 21, 2018.
10. GWA requests that the PUC approve the amendment to GWA's Laboratory Services Contract with Eurofin extending its term from August 3, 2018 through December 31, 2018.

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<sup>5</sup> Petition, GWA Docket No. 13-03, page 2.

<sup>6</sup> Consolidated Commission on Utilities ["CCU"] Resolution No. 03-FY2019, Relative to the Ratification of the Contract Extension with Eurofin for Laboratory Services, issued on November 27, 2018, page line 26, page 1 to line 3, page 2, and Exhibit B.

<sup>7</sup> Id. at line 5, p. 3.

<sup>8</sup> Petition for GWA Docket 19-5, line 3, page 2.

<sup>9</sup> Id., at line 24, page 3.

### DETERMINATIONS

11. As stated above, federal law and Guam regulations require GWA to have the laboratory services that were the subject of GWA's existing contract with Eurofin. GWA's compliance with these laws and regulations was jeopardized by the need to reject the bids submitted in response GWA-IFB-2018-05 because this resulted in GWA not having a new laboratory services contract to replace its existing contract with Eurofin that was expiring on August 2, 2018. GWA avoided the potential for statutory and regulatory non-compliance through amending its contract with Eurofin by extending its term from August 2, 2018 to December 31, 2018 so that it could solicit for and award a new laboratory services contract.
12. The extension of the GWA's laboratory services contract with Eurofin from August 3, 2018 to December 21, 2018 is estimated to cost GWA thirty-five-thousand-seven-hundred-dollars (\$35,700) per month for a total of one-hundred-seventy-eight-thousand-five-hundred-dollars (\$178,500) for that five (5) month period. This would increase the total estimated cost of the contract from two-million-eight-hundred-forty-thousand-nine-hundred-twenty-five-dollars (\$2,840,925) to three-million, nineteen-thousand-four-hundred-twenty-five-dollars (\$3,019,425).
13. The contract amendment's extension of the contract term for an additional five (5) months and the resulting cost increase to the original contract results in a loss to GWA of eleven-thousand-eight-hundred-thirty-five-dollars (\$11,835). This is the difference between GWA's estimated thirty-five-thousand-seven-hundred-dollar (\$35,700) monthly cost of the contract extension and the thirty-three-thousand-three-hundred-thirty-three-dollar (\$33,333) monthly cost of the new contract awarded to Eurofin on October 19, 2018.<sup>10</sup>
14. This loss, albeit a relatively small loss, is the result of GWA's late issuance of its solicitation for a new contract for laboratory services. Specifically, GWA knew or should have known that its contract for laboratory services with Eurofin would be expiring on August 2, 2018. Yet, GWA did not issue its solicitation for a new contract until May 27, 2018, which is only sixty-seven (67) days prior to the expiration of the Eurofin contract. Although GWA could have awarded the

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<sup>10</sup> GWA Petition, GWA Docket No. 19-05, line 5, page 2. This section states that the new contract is estimated to cost four-hundred-thousand-dollars (\$400,000) per year and when this amount is divided by twelve (12) it results in an estimated monthly cost of thirty-three-thousand-three-hundred-thirty-three-dollars (\$33,333) per month.

contract within this period, it left no time for delays or other procurement contingencies. Hence, when GWA had to reject the non-conforming bids on July 16, 2018, there were only seventeen (17) more days remaining until the Eurofin contract expired on August 2, 2018 which was not enough time to re-issue a new solicitation and award a new contract.

15. Despite the minor monetary loss, the amendment extending GWA's Laboratory Services contract with Eurofin from August 3, 2018 to December 31, 2018, is reasonable, prudent, and necessary. The PUC approves the amendment to GWA's Laboratory Services Contract with Eurofin Eaton Analytical, LLC, extending its term from August 3, 2018 to December 31, 2018.

### **ORDERING PROVISIONS**

After review of the record herein, GWA's Petition for Approval of the amendment to its Laboratory Services Contract with Eurofin Eaton Analytical, LLC, extending its term from August 3, 2018 to December 31, 2018, and the PUC Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GWA's Petition for Approval of the amendment to its Laboratory Services Contract with Eurofin Eaton Analytical, LLC, extending its term from August 3, 2018 to December 31, 2018 is hereby approved.
2. GWA shall file a copy of its amendment to the laboratory insurance contract with the PUC.
3. GWA shall finalize, obtain necessary approvals, and enter into its new contract for Laboratory Services with Eurofin Eaton Analytical, LLC, which GWA awarded on October 19, 2018, no later than January 31, 2018 to avoid any further monetary losses that would be caused by another amendment of GWA's existing contract for Laboratory Services at its higher rates.
4. GWA 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 the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Order  
Petition for Approval to Extend Term  
Of Laboratory Services Contract  
With Eurofin Eaton Analytical, LLC  
GWA Docket 19-05  
December 27, 2018

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Dated this 27th day of December, 2018.

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Jeffrey C. Johnson  
Chairman

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Joseph M. McDonald  
Commissioner

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Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Michael A. Pangelinan  
Commissioner

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Peter Montinola  
Commissioner

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Mark G. Miller  
Commissioner