

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION FOR APPROVAL OF)	GWA DOCKET 17-02
REMAINING FUNDS TO BE EXPENDED)	
UNDER AMENDMENT NO. 6 TO PMO)	
CONTRACT WITH BROWN &)	ALJ REPORT
CALDWELL BY GUAM)	
WATERWORKS AUTHORITY)	
_____)	

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition for approval of the remaining half of a \$4,059,877.00 increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, specifically Amendment No. 6, filed by the Guam Waterworks Authority (“GWA”) on January 5, 2017.

BACKGROUND

A. Review of GWA’s PMO Contract

On August 31, 2016, GWA petitioned the PUC for approval of a \$4,059,877 increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, specifically Amendment No. 6. In its Petition, GWA maintained that it “continues to need significant assistance relative to compliance with the November 2011 Court Order (“Court Order”), for matters contained in the Stipulation attached to PUC’s Order approving GWA’s 5-year rate plan covering FY2013-FY2018, SRF project management, Project Management Services for the Umatac-Merizo WWTP Upgrade, analysis and planning to improve Ground Water Production Well meter replacement among others”¹ Based on this need, GWA sought PUC approval to increase the

¹ Petition for Approval of Amendment Number Six to Brown and Caldwell PMO Contract (“Petition”), p. 3 (Aug. 31, 2016).

existing contract value with the PMO by \$4,059,877.00 for services described in the Petition.² In addition, GWA expressed that it was developing a transition plan to reduce GWA's reliance on PMO management assistance that would detail the manner and timing of certain PMO services and activities that will be assumed by GWA staff.³

On September 29, 2016, the PUC approved GWA's August 31, 2016 petition for approval of Amendment Number Six to the PMO contract with Brown & Caldwell. However, the PUC only authorized an increase of an amount not to exceed half of \$4,059,877.00 (or \$2,029,938.50), and that approval of the remaining half would be considered upon GWA's submission of a transition plan by December 31, 2016, which plan would address GWA's current and future efforts to reduce its reliance on PMO services. On December 29, 2016, GWA filed its PMO Transition Plan ("Transition Plan" or "Report").

B. Review of GWA's PMO Contract

Pursuant to 12 G.C.A. §12105,⁴ 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

² Petition, p. 6 (Aug. 31, 2016).

³ Petition, p. 6 (Aug. 31, 2016).

⁴ Formerly 12 G.C.A. § 12004.

obtained before the procurement process is begun”⁵ GWA must also seek PUC’s approval for any uses of bond funds.⁶

ANALYSIS

According to the Transition Plan, the PMO presently assists GWA primarily with capital improvement projects (“CIP”) planning, execution of these projects, support with compliance efforts, operations support, and certain special projects.⁷ GWA has consistently maintained that “[t]he time element for both the court order projects, and the expiration of grant funding that would otherwise require ratepayer revenue, have created a CIP workload which cannot be described as ‘ordinary’ nor managed using normal staffing.”⁸ In addition, GWA further maintains that the agency struggles with “attracting and maintaining qualified personnel in key operational and technical positions.”⁹

GWA submits that with the PMO’s assistance, GWA has completed eighty-two percent (82%) of its court-ordered projects. However, GWA maintains that the outstanding eighteen percent, which is composed of sixteen (16) outstanding items, requires “significant effort and resources to complete.”¹⁰

A. Notable Progress

With the PMO’s assistance, GWA assures the Commission that it has improved its financial performance; that it has streamlined its project implementation

⁵ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁶ *Id.*

⁷ GWA’s Transition Plan (“Report”), p. 1 (Dec. 29, 2016).

⁸ Report, p. 1 (Dec. 29, 2016).

⁹ Report, p. 1 (Dec. 29, 2016).

¹⁰ Report, p. 2 (Dec. 29, 2016).

process, thereby reducing project backlog; and has standardized its contract documents and procurement process.¹¹

In addition, GWA further “continues to develop staff and capabilities to address compliance issues with less reliance on the PMO.”¹² For instance, GWA has been directly engaging the U.S. EPA with respect to GWA’s progress with court ordered projects.¹³ In addition, GWA is working with the PMO to establish compliance programs, such as FOG prevention.¹⁴

GWA has also enhanced its operations by implementing its Computerized Maintenance Management System, a Water Systems Control Center, and comprehensive standard operating procedures.¹⁵ It also continues to improve its data acquisition and management; its Geographic Information Systems; and hydraulic modeling capabilities.¹⁶

B. Transition Schedule

With regard to transition, GWA submits that “transitional activities” began in 2015 and will continue until 2017.¹⁷ GWA submits that the PMO’s activities during this period will involve completion of existing work authorizations.¹⁸

In particular, GWA indicates that the remaining activities for the PMO include the following projects that have carried over from 2015: the facility planning for

¹¹ Report, p. 3 (Dec. 29, 2016).

¹² Report, p. 4 (Dec. 29, 2016).

¹³ Report, p. 4 (Dec. 29, 2016).

¹⁴ Report, p. 4 (Dec. 29, 2016).

¹⁵ Report, p. 4 (Dec. 29, 2016).

¹⁶ Report, p. 5 (Dec. 29, 2016).

¹⁷ Report, p. 8 (Dec. 29, 2016).

¹⁸ Report, p. 9 (Dec. 29, 2016).

the Hagatna Wastewater Treatment Plant and the Northern District Wastewater Treatment Plant; and technical support for GWA's Source Control Program.¹⁹ The other remaining projects involve projects that the Commission has already reviewed and authorized in 2016, which include: the Agat-Umatac Potable Waterline Analysis; Phase 1 of the Tumon Sewer Basin Study; the Mixing Zone Study for Agat-Santa Rita Wastewater Treatment Plant; Phase 3 of Hydraulic Modeling; Engineering for Groundwater Well Production Meters; Project Management for the Umatac-Merizo Wastewater Treatment Plant Upgrade Design; Backflow Prevention Program; and continued program management support. In addition, the PMO will continue to provide SRF project support.²⁰

According to GWA, this stage will end “with the eventual PMO elimination as GWA overtakes its previous limitations and powers through sustained operations under its own efforts.”²¹ Accordingly, GWA maintains that PMO funding will decline during this transition period, and with the intent that the contract will expire in 2019.²² GWA projects that the PMO contract will require an additional \$3 million in funding for 2017, and what appears to be another \$1.5 million for 2018.²³ GWA submits that the additional funding will support continued program management services and the development of wastewater standards.²⁴

GWA will further transition to more demand-type of contracts, which it will utilize for engineering services for project design or construction management;

¹⁹ Report, p. 9 (Dec. 29, 2016).

²⁰ Report, p. 9 (Dec. 29, 2016).

²¹ Report, p. 8 (Dec. 29, 2016).

²² Report, p. 9 (Dec. 29, 2016).

²³ Report, p. 9 (Dec. 29, 2016).

²⁴ Report, p. 9 (Dec. 29, 2016).

construction services; and specialty consulting services for “technically advanced, complex or critical compliance projects.”²⁵

RECOMMENDATION

Based on the submission of the Transition Plan, the ALJ recommends that the PUC approve GWA’s request for the remaining funding for its contract with Brown & Caldwell, not to exceed \$2,029,938.50. Again, the ALJ finds that the additional funds for the projects described in the instant Petition are critical and necessary in order for GWA to meet the deadlines imposed by the federal Stipulated Order, as well as to improve GWA’s water and wastewater systems. GWA should continue to file its Program Management Office Quarterly Report, which shall be due at the end of March, so that the PUC can be updated on the progress of projects and programs under the PMO contract.

Respectfully submitted this 24th day of January, 2017.



JOEPHET R. ALCANTARA
Administrative Law Judge

P173002.JRA

²⁵ Report, p. 10 (Dec. 29, 2016).

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DETERMINATIONS

A. Review of GWA’s PMO Contract

On August 31, 2016, GWA petitioned the PUC for approval of a \$4,059,877 increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, specifically Amendment No. 6. In its Petition, GWA maintained that it “continues to need significant assistance relative to compliance with the November 2011 Court Order (“Court Order”), for matters contained in the Stipulation attached to PUC’s Order approving GWA’s 5-year rate plan covering FY2013-FY2018, SRF project management, Project Management Services for the Umatac-Merizo WWTP Upgrade, analysis and planning to improve Ground Water Production Well meter replacement among others”¹ Based on this need, GWA sought PUC approval to increase the

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On September 29, 2016, the PUC approved GWA's August 31, 2016 petition for approval of Amendment Number Six to the PMO contract with Brown & Caldwell. However, the PUC only authorized an increase of an amount not to exceed half of \$4,059,877.00 (or \$2,029,938.50), and that approval of the remaining half would be considered upon GWA's submission of a transition plan by December 31, 2016, which plan would address GWA's current and future efforts to reduce its reliance on PMO services. On December 29, 2016, GWA filed its PMO Transition Plan ("Transition Plan" or "Report"). On January 24, 2017 the Administrative Law Judge of the PUC, Joephet R. Alcantara, (the "ALJ") filed an ALJ Report regarding the instant Petition, which included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

B. Review of GWA's PMO Contract

Pursuant to 12 G.C.A. §12105,⁴ 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

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GWA submitted that with the PMO’s assistance, GWA has completed eighty-two percent (82%) of its court-ordered projects. However, GWA maintained that the outstanding eighteen percent, which is composed of sixteen (16) outstanding items, requires “significant effort and resources to complete.”¹⁰

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¹⁵ Report, p. 4 (Dec. 29, 2016).

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the Hagatna Wastewater Treatment Plant and the Northern District Wastewater Treatment Plant; and technical support for GWA's Source Control Program.¹⁹ The other remaining projects involve projects that the Commission has already reviewed and authorized in 2016, which include: the Agat-Umatac Potable Waterline Analysis; Phase 1 of the Tumon Sewer Basin Study; the Mixing Zone Study for Agat-Santa Rita Wastewater Treatment Plant; Phase 3 of Hydraulic Modeling; Engineering for Groundwater Well Production Meters; Project Management for the Umatac-Merizo Wastewater Treatment Plant Upgrade Design; Backflow Prevention Program; and continued program management support. In addition, the PMO will continue to provide SRF project support.²⁰

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²⁰ Report, p. 9 (Dec. 29, 2016).

²¹ Report, p. 8 (Dec. 29, 2016).

²² Report, p. 9 (Dec. 29, 2016).

²³ Report, p. 9 (Dec. 29, 2016).

²⁴ Report, p. 9 (Dec. 29, 2016).

construction services; and specialty consulting services for “technically advanced, complex or critical compliance projects.”²⁵

Based on the submission of the Transition Plan, the ALJ recommended that the PUC approve GWA’s request for the remaining funding for its contract with Brown & Caldwell, not to exceed \$2,029,938.50. Again, the ALJ found that the additional funds for the projects described in the instant Petition are critical and necessary in order for GWA to meet the deadlines imposed by the federal Stipulated Order, as well as to improve GWA’s water and wastewater systems. GWA shall continue to file its Program Management Office Quarterly Report, which shall be due at the end of March, so that the PUC can be updated on the progress of projects and programs under the PMO contract.

The Commission hereby adopts the findings contained in the January 24, 2017 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the January 24, 2017 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. That GWA’s January 5, 2017 Petition for approval of the remaining half of the \$4,059,877.00 (or \$2,029,938.50) increase in GWA’s PMO contract with Brown & Caldwell is GRANTED; GWA is therefore authorized to increase its contract with Brown & Caldwell for an amount not to exceed half of \$4,059,877.00 (or \$2,029,938.50).

²⁵ Report, p. 10 (Dec. 29, 2016).

2. GWA shall continue to file its Program Management Office Quarterly Report, the first of which in 2017 shall be due at the end of March.

3. 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 proceeding. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b), 12024(b) (renumbered as 12 G.C.A. §§ 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]

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SO ORDERED this 26th day of January, 2017.

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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