



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: REQUEST FOR REVIEW) AND APPROVAL OF) IFB AWARD TO MORRICO) EQUIPMENT, LLC FOR THE) PURCHASE OF TWO (2)) LOADED CONTAINER) HANDLERS (TOP LOADERS)) BY PORT AUTHORITY) OF GUAM) <hr style="width: 100%;"/>	PAG DOCKET 19-01 ALJ REPORT
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the April 19, 2019 Petition for review and approval of the Invitation for Bid Award to Morrigo Equipment, LLC (“Morrigo”) for the purchase of two 80,000 Pounds Loaded Container Handlers (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of the bid award to Morrigo in the amount of One Million Six Hundred Thirty-Nine Thousand Nine Hundred Seventy-Six Dollars (\$1,639,976.00).

BACKGROUND

On August 20, 2018, PAG issued Invitation for Bid No. GSA/PAG-009-18 to purchase four 80,000 Pounds Loaded Container Handlers (“IFB”).¹ Two firms submitted bids in response to the IFB, which were evaluated by PAG’s procurement personnel.² Morrigo submitted a “Primary Bid” and an “Alternate Bid.”³ The other

¹ Petition, p.1.

² Bid Analysis on IFB No. GSA/PAG-009-18, p.1 (Jan. 23, 2019).

bidder, submitted a “No Bid.”⁴ PAG’s procurement personnel thereafter determined that Morrigo’s Primary Bid qualified as the lowest responsive bid and responsible bidder.⁵ On March 29, 2019, PAG’s Board of Directors approved the bid award to Morrigo and issued Resolution No. 2019-04, which also authorized PAG to petition the PUC for approval of the bid award to Morrigo.⁶

DISCUSSION

1. PAG’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Accordingly, pursuant to PAG’s current Contract Review Protocol, “[a]ll professional services contracts in excess of \$1,000,000”; “[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000, whether or not the contract extends over a period of one year or several years”; and “[a]ny contract or obligation not specifically referenced . . . which exceeds \$1,000,000, not including individual contracts within an approved capital improvement projects (‘CIP’) or contract”; “shall require prior PUC approval under 12 G.C.A. §12004.” Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

³ Petition, p. 1; Resolution No. 2019-04, PAG Board of Directors, p. 1 (Mar. 29, 2019).

⁴ Petition, p. 1; Resolution No. 2019-04, p. 1.

⁵ Petition, p. 1.

⁶ Petition, p. 2; Resolution No. 2019-04, p. 1.

2. April 19, 2019 Petition

In its Petition, PAG seeks PUC review and approval of its bid award to Morrico for the purchase of two 80,000 pounds loaded container handlers, or “top loaders.” PAG submits that after its evaluation of the bids, it determined that Morrico’s bid qualified as the lowest responsive, responsible bid.⁷ PAG further submits, however, that “[d]ue to the Buy American Act” provision indicated in the IFB, the pricing exceeded PAG’s original budgeted amount; and therefore, PAG made the determination to purchase two top loaders, instead of four. According to PAG, GSA thereafter issued Purchase Order No. 15213-OS to Morrico for the purchase of two “U.S. Made” Taylor brand top loaders.⁸

PAG has indicated that the purchase of the top loaders is “100% federally funded by [the U.S. Maritime Administration]; from the Port Modernization Project and is not supplemented with local funding.”⁹ It stated that it “took advantage of the funding opportunity as an effort to further enhance cargo handling capabilities” and to provide a “safe and sustainable working environment.”¹⁰

PAG submitted the following in support of its Petition: Invitation for Bid No. GSA/PAG-009-18IFB; Resolution No. 2019-04, issued by PAG’s Board of Directors on March 29, 2019; the January 23, 2019 Bid Analysis on Invitation for Bid No. GSA/PAG-009-18IFB; and Morrico’s October 5, 2018 “Primary Bid,” and October 5, 2018 “Alternate Bid.”

⁷ Petition, p. 1.

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Petition, p. 2.

3. **Invitation for Bid No. GSA/PAG-009-18**

a. **Bid Specifications**

Based on the Bid Specifications, the original bid sought four 80,000 Pounds Loaded Container Handlers. A few of the specifications include the following: 200 minimum horsepower; runs on Ultra Low Sulfur Diesel fuel; 80,000 pounds to 40 tons minimum lifting capacity; vertical exhaust that complies with U.S. Department of Transportation and U.S. Environmental Protection Agency standards; air-conditioned cab; provide sessions on operating procedures and maintenance; and must comply with the federal Buy American Act.

b. **Funding**

PAG submits that the purchase of the top loaders is “100% federally funded by MARAD; from the Port Modernization Project and is not supplemented with local funding.”¹¹ Therefore, this particular purchase is a part of the larger project to address PAG’s deficiencies and equipment purchases, as assisted by the U.S. Department of Transportation, Maritime Administration.

4. **Morrice Equipment’s Bid Submission**

Based on its Primary Bid, Morrice submitted a bid that complied with all of the bid specifications, indicated a unit price of \$819,998 per container handler, and specified an XLC-975 Taylor Loaded Container Handler. In its Alternate Bid, Morrice submitted a bid that complied with all the bid specifications, with the exception of the “Buy American Act” requirement, and indicated a unit price of \$643,575 per container

¹¹ Petition, p. 2.

handler, and specified an H1150HD-CH Hyster Container Handling Lift Truck. Morrico further submitted a “Letter of Deviation,” which indicated that the Hyster container top lifters did not qualify under the “Buy American Act” since its container top lifters are manufactured in the Netherlands.

5. Board Approval

The instant petition is supported by Resolution No. 2019-04, issued by PAG’s Board of Directors on March 29, 2019. In the Resolution, the board approved the purchase of two Taylor container handlers, as indicated in Morrico’s Primary Bid, and at a total cost of \$1,639,976.¹² The Resolution further authorized PAG management to petition the PUC for approval of the bid award to Morrico.¹³

RECOMMENDATION AND CONCLUSION

Based on the record before the Commission, Morrico’s primary bid appears to be the lowest responsive, responsible bid.¹⁴ Further, since the bid pricing exceeded PAG’s original budgeted amount, PAG’s determination to purchase two top loaders, instead of four, appears reasonable based on the circumstances.¹⁵

Top loaders are indisputably an integral component of PAG’s operations. And since the subject purchase of the top loaders is “100% federally funded . . . and is not supplemented with local funding,” PAG has utilized this opportunity to further improve its

¹² Resolution No. 2019-04, PAG Board of Directors, p. 1 (Mar. 29, 2019).

¹³ Resolution No. 2019-04, p. 1.

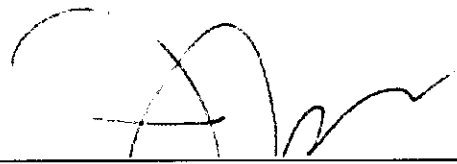
¹⁴ See Petition, p. 1.

¹⁵ See Petition, p. 2.

operations and with little to no impact on ratepayers.¹⁶ Moreover, this purchase will add to PAG's operating equipment and will certainly "enhance [its] cargo handling capabilities."¹⁷

Based on the record before this Commission, the ALJ recommends that the PUC approve the bid award to Morrico Equipment, LLC, for the two top loaders at a total cost of \$1,639,976.00. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 28th day of May, 2019.



JOEPHET R. ALCANTARA
Administrative Law Judge

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¹⁶ Petition, p. 2.

¹⁷ Petition, p. 2.