

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



)	GWA DOCKET 13-01
)	
PETITION OF)	ALJ REPORT
GUAM WATERWORKS AUTHORITY)	RE: COMPLIANCE WITH
FOR RATE RELIEF)	APRIL 30, 2013 ORDER
)	FILED IN GPA DOCKET 11-02
_____)	

INTRODUCTION

On April 30, 2013, the Guam Public Utilities Commission (the “PUC”) issued an Order approving the Petition filed by Guam Waterworks Authority (“GWA”) to increase by \$1.2 million GWA’s Program Management Office Contract (“PMO” with Brown & Caldwell (“B&C”)), but requested that GWA provide certain information within 60 days thereafter.¹ Commendably, GWA responded on May 17, 2013—in less than 30 days—rather than taking the full 60 days to respond.

Inasmuch as the PMO with B&C is related to GWA’s upcoming five-year rate plan, the Administrative Law Judge of the PUC, David A. Mair (the “ALJ”), who acts as the ALJ on GWA related matters, has been tasked with providing the PUC with a report on GWA’s response to the April 30, 2013 Order. The ALJ’s report, therefore, will be submitted to the PUC using a GWA docket number, not a GPA docket number.

As shall be discussed herein, the ALJ is of the opinion that GWA has substantially complied with the PUC Order of April 30, 2013, and provided the bulk of the information requested. However, with regard to certain matters, the PUC should require that GWA provide some supplemental information.

¹ PUC Order, GPA Docket 11-02, p. 2 (Apr. 30, 2013).

ORIGINAL

DISCUSSION

I. **BACKGROUND INFORMATION**

A. **Brown & Caldwell Is A Nationally Recognized Consulting Firm.**

B&C was founded in 1947, and thereafter “pioneered wastewater reuse.”² It is a private, employee-owned firm, which has been ranked by the Engineering News—Record (an industry publication) as a Top 20 consulting firm in water supply, and a Top 10 consulting firm in sewer/wastewater.³

B&C has received several awards in its industry. The American Council of Engineering Companies awarded B&C the 2010 Engineering Excellence Grand Award for its phased upgrade of the Littleton/Englewood Wastewater Treatment Plant.⁴ The National Safety Council awarded B&C the 2010 Industry Leader Award for “achieving the best safety performance within its industry.”⁵ That same year, the Design-Build Institute of America awarded B&C the National Design-Build Award for a water or wastewater project of more than \$25 million.⁶ Successful B&C projects in the United States have also been the subject of media reports during 2013.⁷

B. **Purpose of the PMO.**

According to GWA, there are numerous capital improvement program (“CIP”) projects that it *must* complete in a timely manner in order to comply with the federal Stipulated Order. In this regard, GWA is distinct from GPA, which also has a PMO,

² <http://www.browncaldwell.com/Heritage.asp>

³ <http://www.browncaldwell.com/Heritage.asp?id=2>

⁴ <http://www.browncaldwell.com/awards.asp>

⁵ <http://www.browncaldwell.com/awards.asp?id=9>

⁶ <http://www.browncaldwell.com/awards.asp?id=8>

⁷ <http://www.browncaldwell.com/News.asp>

because GWA, unlike GPA, is required to take certain actions by specific deadlines pursuant to a federal court order.

Failure to timely complete these projects required by the federal Stipulated Order could result in the appointment of a receiver by the federal court. Although no cost estimates for the appointment of a receiver have been submitted to the ALJ, those costs would undoubtedly be substantial, and would have to be passed onto Guam ratepayers.

GWA notes that the CIP projects have “created an overload” of work for its in-house staff.⁸ Whereas GWA would prefer to hire only on-island consultants, GWA has concluded that Guam lacks the population base to provide all the required “technically experienced staff” for treatment plant design; hydraulic modeling; groundwater well-trouble shooting; I/I & SSES collection system analysis; aged infrastructure restoration and/or replacement; and LNG systems.⁹

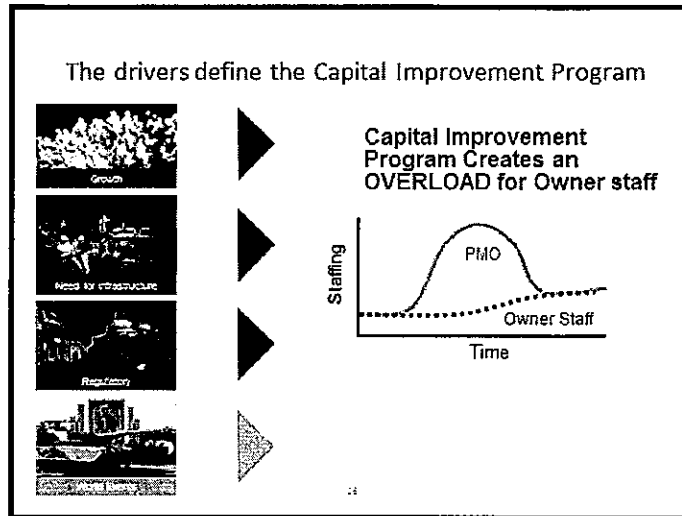
The fact that GWA and GPA have sought the assistance of expert consultants via a PMO is not unusual. Utilities in various states (Tennessee, Nevada, Kansas, Texas, California, Colorado, Maryland, Virginia, Washington, Hawaii, Oklahoma, Illinois, etc.) have entered into PMOs with national consulting firms such as B&C in order to complete CIP projects, especially when the CIP requires an unusual increase in the number and extent of projects at one time; most utilities address these peak loads with expert external support (see graphic below).¹⁰

⁸ GWA PowerPoint related to GWA’s Program Management Office (“GWA PowerPoint”), p. 16 (May 14, 2012).

⁹ GWA PowerPoint, p. 19.

¹⁰ GWA PowerPoint, pp. 16-18.

GWA CIP Work Plan Implications



The governments and regulatory agencies in most jurisdictions require regular progress reports to stay abreast of infrastructure improvements and investments on behalf of the customer interest and to ensure that management of the utility are adopting a more proactive and technical organizational culture and approach to asset management. In light of this, the ALJ recommends that GWA provide the PUC with the monthly reports generated by the PMO to track their progress. These reports should be provided to the PUC and its consultant so that the consultant can monitor the effectiveness of GWA's PMO and update the commissioners regularly on key findings relative to the initiative. In this way the PUC will stay abreast of GWA's progress throughout the period of CIP peak load efforts.

C. Cost of the PMO.

According to GWA, the cost of its PMO with B&C will steadily decrease between 2012 and 2016 as the CIP projects are completed. GWA estimates its costs during that time frame to be as follows: 2012 - \$4.4 million; 2013 - \$3.8 million;

2014—\$3.4 million; 2015 - \$2.4 million; and, 2016 - \$1.6 million. The total estimated cost of the PMO during this five-year time frame is \$15.6 million.¹¹

Moreover, the PMO expenditures are not all paid to B&C. GWA maintains that during calendar year 2012, approximately 25% of the payments to B&C were paid to local Guam firms and companies that were retained by B&C.¹² GWA insists that the percentage of payments that will be paid to local firms should increase each year.

D. Source of Funds for PMO.

GWA has consistently maintained that the source of funding for the PMO contract, along with the \$1.2 million increase, is the 2010 Series Bond proceeds. The Guam Consolidated Commission on Utilities (“CCU”) Resolution No. 53-FY2012 indicates that the source of funding for the PMO “will be from the 2010 bond series proceeds which is tied directly to the 2012-2016 CIP”¹³ This contention assumes that sufficient funds remain in the 2010 Series Bond. In order to confirm this fact, the PUC should require that GWA provide it with the current balance available from the 2010 Series Bond proceeds net of any future project commitments.

II. GWA’S RESPONSE TO THE PUC ORDER

In the April 30, 2013 Order, the PUC requested that GWA within 60 days submit a detailed report on: (a) immediate and long range plans for use of the PMO, including the remainder of this fiscal year and over the next five years and beyond, which explains general tasks proposed and general scope of work; (b) justification for use of the PMO, including whether the PMO remains necessary in light of the delay in the military buildup; (c) discussion of how the PMO plans to utilize and pass on its

¹¹ GWA PowerPoint, pp. 22-23.

¹² GWA PowerPoint, p. 28.

¹³ See “Exhibit A,” CCU Resolution No. 53-FY2012, p. 2 (Aug. 28, 2012).

skills to the employees, what has been done to date, and what specific staff development and process improvement plans are in effect; (d) GWA to provide the PUC with copies of staff development and process improvement plans proposed and executed by B&C, and portions of B&C's contract which specifies in detail precisely how the PMO will optimize the skills of GWA employees; (e) a brief outline of the major accomplishments of the PMO; and, (f) a description of the steps to date that the PMO has taken to develop the skills of GWA employees.

On May 17, 2013, GWA submitted its reports responsive to the PUC's requests. The following is a discussion of GWA's submission. As noted above, the ALJ is of the opinion that GWA has substantially complied and provided the bulk of the information requested. However, with regard to certain matters, GWA should be required to supplement its responses with some additional information.

A. Immediate and Long-Range Plan for Use of the PMO.

In response to the PUC's inquiry related to GWA's immediate and long-term plans with the PMO, GWA has submitted substantial evidence on this subject, among other documents, its "5-Year Plan" for the PMO from the present through 2016; "Work Authorizations" from 2012 through December 2013; and another "5-Year Plan" from 2014 through 2018.¹⁴

B. Need for PMO.

In response to the PUC's inquiry regarding the necessity of a PMO, especially in light of the delay in the military buildup, GWA has explained that the PMO was not engaged merely to manage military build-up projects, but was "intended to address planned capital improvement projects, ongoing operational requirements, as well as

¹⁴ GWA's Responses to April 30, 2013 Ordering Provisions ("Response"), Attachment B, C, and D (May 17, 2013).

military build-up requirements.”¹⁵ GWA further maintains that prior to the use of a PMO, GWA failed to meet deadlines under the Stipulated Order, resulting in fines of up to \$389,750, between 2004 and 2010.¹⁶

With the PMO in place, GWA has timely met 53 of 54 of the Stipulated Order projects required between November 11, 2011 and November 11, 2012.¹⁷ Moreover, as discussed above, PMOs for capital improvement projects are a common practice in the various states, and especially common during peak investment situations such as GWA is working within today. Accordingly, GWA has demonstrated its need to have a PMO in place to assist in achieving the objectives sought in the Stipulated Order.

C. Institutionalization Plan.

GWA has explained that the PMO assists GWA’s staff development through direct training and one-on-one mentoring and coaching. In addition, as a consequence of the PMO, GWA has developed and implemented strategies to train GWA staff and institutionalize this process through enhancing standard operating procedures.¹⁸

GWA has also outlined plans for several upcoming training sessions with GWA staff, which include: water and wastewater treatment process engineering, groundwater well operations, project management, water and wastewater hydraulic monitoring, construction management and inspection, and quality control, just to name a few.¹⁹ Moreover, GWA further clarified that the PMO will help develop institutional improvements to GWA’s systems by developing a Project Management Information

¹⁵ Response, p. 3.

¹⁶ Response, Attachment E.

¹⁷ Response, Attachment F.

¹⁸ Response, Attachment G (Program Management Office Training Plan).

¹⁹ Response, Attachment G (Program Management Office Training Plan).

System, establishing design standards, construction standards, and preparing Standard Operating Procedures that correspond to any training the PMO provides.²⁰

D. Staff Development and Process Improvement Plans.

As part of its submission, GWA has furnished its “Program Management Office Training Plan,” which indicates that GWA shall provide “staff development and process improvement plan to ensure that the engineering and other competency skills of the PMO are institutionalized within GWA and passed on to its employees.”²¹ According to the plan, “[t]raining will be an on-going process,” that GWA will provide training in areas such as: asset management, condition assessment, construction management, hydraulic modeling, project management, and water and wastewater treatment process engineering.²² The other method of staff development and process improvement is through “[k]nowledge transfer and ‘on the job’ training for GWA employees . . . incorporated into each work authorization performed by the PMO.”²³ According to the plan, “[k]nowledge transfer occurs when PMO staff work together with GWA staff in developing and implementing engineering solutions” and “[i]n cases where technical experts are brought in, training seminars or one-on-one sessions with individual GWA employees are offered”²⁴

However, GWA has not submitted the portions of the B&C contract that contains provisions specifying precisely how the PMO will optimize the skills of GWA employees. Rather than the PUC requesting that GWA supplement its responses by

²⁰ Response, Attachment H.

²¹ Response, Attachment G (Program Management Office Training Plan).

²² Response, Attachment G (Program Management Office Training Plan).

²³ Response, Attachment G (Program Management Office Training Plan).

²⁴ Response, Attachment G (Program Management Office Training Plan).

providing these “portions” of its contract with B&C, the ALJ recommends that GWA simply require GWA to provide the PUC and its consultants with a complete copy of that B&C contract along with any amendments. The PUC, its ALJ and consultants can then review the contract to determine whether it contains sufficient clauses on how the PMO will optimize the skills of GWA employees. After receipt of the contract, the ALJ will submit a report on whether it contains sufficient clauses on how the PMO will optimize the skills of GWA employees, and, if not, what amendments to the contract are necessary. The ALJ and PUC consultants may make other recommendations as well once the B&C contract has been reviewed.

E. Major Accomplishments.

In its submission, GWA maintains that the major accomplishments of the PMO include assisting GWA with meeting the Stipulated Order deadlines. In particular, GWA maintains that B&C has helped GWA meet court-ordered deadlines, and that it has provided GWA with plans, reports, technical documents, responses to EPA comments, as well as additional staff to assist with project planning and construction management.²⁵

In particular, GWA submits that B&C has provided GWA with National Pollutant Discharge Elimination System (“NPDES”) permit program support, by engaging with the U.S. E.P.A., and which GWA maintains will result in a reduction of its operating expenses.²⁶ GWA also maintains that the PMO has assisted GWA with its water system rehabilitation and replacement programs.²⁷

²⁵ Response, Attachment A, p. 32.

²⁶ Response, Attachment A, p. 36.

²⁷ Response, Attachment A, p. 37.

With the assistance of the PMO, GWA maintains that its water production has improved with reduced operations costs, and improved the health of the water.²⁸ The PMO has also assisted GWA with improving the “quality control” of its “work products” through exposing quality control issues in construction and engineering, and holding vendors accountable for meeting quality standards.²⁹

GWA further submits that the PMO has provided subject matter expertise on a variety of services, such as: construction scheduling, compliance monitoring, evaluation of vendor concepts, treatment plan and pump station facility planning, funding, and construction and engineering.³⁰

GWA adds that the PMO also promotes GWA staff development through the following: one-on-one mentoring, formal training, project management oversight, subject matter expertise, among others.³¹ GWA also maintains that the PMO has assisted with PUC’s projects, such as the ARRA Improvement Project Energy Report, GWA’s Apparent Water Loss Report, and the Water Distribution Pipeline Prioritization Model Report.³² According to GWA, the PMO has resulted in savings of “more than \$1.5 million through contract negotiations” with B&C’s “professional engineering assistance.”³³

²⁸ Response, Attachment A, p. 38.

²⁹ Response, Attachment A, p. 39.

³⁰ Response, Attachment A, p. 40.

³¹ Response, Attachment A, p. 41.

³² Response, Attachment A, p. 42.

³³ Response, Attachment A, p. 31.

F. Development of GWA Employee Skills.

With respect to the steps the PMO has taken to develop the skills of GWA employees, GWA has explained that the PMO has provided one-on-one mentoring and “knowledge transfer” with key GWA staff for the following projects: Ugum Wastewater Treatment Plant operations assessment; Northern District Wastewater Treatment Plan operations advice; Groundwater wells operations and maintenance and root cause failure analyses; NPDES WWTP secondary permit negotiation with U.S. E.P.A.; Sinajana Water System Hydraulic analysis; and GWA CIP preparation and project management capacity analysis.³⁴

In addition, the PMO has conducted lectures and demonstrations to train GWA staff. GWA refers to the following trainings: arc flash hazards; groundwater well rehabilitation; field training for flow monitoring installation; international methods for evaluating apparent water loss; Ugum WTP operations; and water pipe rehabilitation and replacement pipe prioritization model.³⁵ The ALJ, therefore, concludes that GWA has used the PMO to develop employee skills.

RECOMMENDATION

The ALJ recommends that the PUC issue an order as follows:

1. Finding that GWA has substantially complied with the PUC Order of April 30, 2013, and provided the bulk of the information requested; and,
2. Require that GWA provide the following supplemental information:
 - A. GWA should provide within sixty (60) days the PUC, the ALJ and the PUC’s consultants the current balance available from the 2010 Series Bond proceeds net of any future project commitments.

³⁴ Response, Attachment H.

³⁵ Response, Attachment H.

B. GWA should provide within sixty (60) days the PUC, the ALJ and the PUC's consultants with a complete copy of the B&C contract with GWA, along with any amendments.

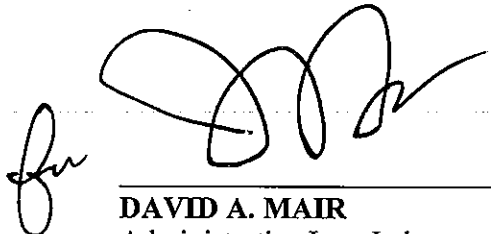
C. GWA should commence providing the PUC, the ALJ and the PUC's consultants with the monthly reports generated by the PMO to track their progress. These reports shall be provided to the PUC and its consultant so that the consultant can monitor the effectiveness of GWA's PMO and update the Commissioners regularly on key findings relative to the initiative.

D. GWA should provide within sixty (60) days the PUC, the ALJ and the PUC's consultants with information that would confirm the percentage of B&C payments in 2012 that were used to pay local firms for their subcontracted services. Additionally, GWA and B&C should establish realistic goals for increasing that percentage for each successive year and include realized results in their progress reporting.

CONCLUSION

Based on the foregoing, GWA has substantially complied with the April 30, 2013 Order. However, GWA should be required to provide the PUC with the supplemental information as discussed above. A proposed Order is attached for the PUC's consideration.

Respectfully submitted this 24th day of May, 2013.



DAVID A. MAIR
Administrative Law Judge