



**BEFORE THE PUBLIC UTILITIES COMMISSION**

**IN RE:      REQUEST FOR REVIEW      )                      PAG DOCKET 14-04**  
**AND APPROVAL OF            )**  
**AGREEMENT WITH            )                      ORDER**  
**MARINE TECHNICAL            )**  
**SERVICES, INC. BY PORT        )**  
**AUTHORITY OF GUAM         )**  

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**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the March 20, 2014 Petition for review and approval of the Marine Technical Services, Inc. (“MTS”) Performance Management Contractor contract related to the management, operation, and maintenance of the Port of Los Angeles cranes (“PoLA” or “POLA” cranes), as well as PAG’s other cranes (hereinafter referred to as 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 Performance Management Contract with MTS.

**DETERMINATIONS**

Pursuant to 12 G.C.A. §12004, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to PAG’s current Contract Review Protocol, “[a]ll professional services contracts in excess of \$1,000,000” and “[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” “shall require prior PUC approval under 12 G.C.A. §12004.” Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011). Further, with regard to multi-year

contracts with fixed terms and fixed annual costs, PAG’s Contract Review Protocol provides that “PAG must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold.”

Public Law 31-145 (“P.L. 31-145”), enacted on November 17, 2011, requires PAG to contract the services of a Performance Management Contractor (“PMC”) to manage the performance, operation, and maintenance of the PoLA cranes, as well as the other cranes, utilized in PAG’s operations. P.L. 31-145, pp. 6-7 (Nov. 17, 2011).

On June 29, 2012, PAG issued Request for Proposal No. PAG-012-003 for services related to the PMC contract.<sup>1</sup> Two firms submitted proposals in response to the RFP, which were evaluated and ranked by PAG’s Evaluation Committee.<sup>2</sup> Thereafter, the Evaluation Committee identified MTS as the highest ranked offeror.<sup>3</sup> MTS, therefore, was invited to negotiate the contract cost with PAG.<sup>4</sup>

After several months, PAG’s Cost Negotiations Committee and MTS arrived at mutually agreeable terms and cost with respect to the contract for services.<sup>5</sup> At the July 25, 2013 Board of Directors Meeting, the Cost Negotiations Committee presented the agreed-upon terms

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<sup>1</sup> Petition, p. 1; Executive Summary, Request for Proposal (RFP) No. PAG-012-003, Performance Management Services for Port’s Cranes, Board of Directors Regular Meeting (“Executive Summary”), p. 1 (July 25, 2013).

<sup>2</sup> Executive Summary, p. 1.

<sup>3</sup> Executive Summary, p. 1.

<sup>4</sup> Executive Summary, p. 1.

<sup>5</sup> Executive Summary, pp. 2-3.

and recommendations to PAG’s Board of Directors.<sup>6</sup> The Board of Directors then approved the PMC contract award to MTS.<sup>7</sup>

On March 20, 2014, PAG filed the instant Petition for review and approval of the PMC contract with MTS. On April 22, 2014, the Administrative Law Judge of the PUC (the “ALJ”) issued an ALJ Report detailing his review of the subject contract.

In the April 22, 2014 ALJ Report, the ALJ found that pursuant to P.L. 31-145, PAG is mandated to contract the services of a PMC to manage the performance, operation, and maintenance of the PoLA cranes, as well as the other cranes, utilized in PAG’s operations. The ALJ further found that the subject contract will “enable the PAG to effectively manage, plan the operations and the maintenance of the cranes, as well as, fully implement the Structured Maintenance Program for the Cranes . . . .”<sup>8</sup>; and that the contract provided other benefits, such as “the ability to have access to a variety of resources, parts inventory and material suppliers through MTS’ world-wide network system”; and will allow PAG’s CMS team to benefit from the “technical guidance and hands-on training” MTS will provide.<sup>9</sup> Accordingly, the ALJ agreed that the subject contract “is instrumental to PAG’s objectives to maintain an efficient cargo operation in Guam as well as to comply with [P.L. 31-145].”<sup>10</sup>

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<sup>6</sup> Executive Summary, pp. 2-4.

<sup>7</sup> PAG Resolution No. 2014-06 (“Resolution No. 2014-06”), p. 1 (Mar. 27, 2014).

<sup>8</sup> Petition, p. 2.

<sup>9</sup> Petition, p. 2.

<sup>10</sup> Petition, p. 2.

Additionally, the ALJ found that the PMC contract may potentially result in a \$1.54 million savings for PAG. Based on information provided by PAG, it appeared that PAG stands to save roughly \$1.54 million through the PMC contract with MTS. In particular, PAG has submitted that annual costs for labor, technical support, and subcontracted labor for four cranes is estimated at \$2,559,012, which includes an annual average cost of \$1,402,012 for Gantry 3, and an annual budget of \$1,157,000 for the three PoLA cranes. It also appeared that the PMC contract would cost less than what PAG has budgeted and expended on maintaining its cranes. For instance, the FY2013 budget for crane maintenance and services was set at \$2,645,500, and that the operating expense for the cranes for FY2013 were estimated at \$2,301,675.<sup>11</sup> Matson's estimated annual budget for maintenance of the three PoLA cranes total \$2,089,000.<sup>12</sup> Repairs and maintenance for Gantry 3 in FY2012 totaled \$2,106,646, and \$946,785 for three quarters in FY2013.<sup>13</sup> PAG also spent \$722,336 for maintenance on the PoLA cranes for two quarters in FY2013.

Further, with respect to MTS, the ALJ found the following. MTS is familiar with, and has the technical and structural knowledge of the PoLA cranes since MTS was a subcontractor for the former owners of the PoLA cranes<sup>14</sup>; and MTS presently maintains "a local presence in Guam which will allow smooth transition with current maintenance provider thus

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<sup>11</sup> Executive Summary, p. 3.

<sup>12</sup> Executive Summary, p. 3.

<sup>13</sup> Executive Summary, p. 3.

<sup>14</sup> Executive Summary, p. 4.

will minimize disruption of service to Port's cranes or its operations."<sup>15</sup> Indeed, since 1992, MTS "has provided crane maintenance technical support personnel as requested in support of various shipping lines that have called upon the Port of Guam to provide improved crane reliability and Vessel turnaround times" and "is currently being contracted by Matson to provide one Crane Service Engineer to perform technical assistance and training as directed by Matson."<sup>16</sup> Interestingly also, the President of MTS has extensive experience as a Crane Mechanic, Foreman, Superintendant, and Manager, over the same Hitachi PoLA cranes while the cranes were owned and operated by APL in the Port of Los Angeles.<sup>17</sup>

MTS has a clear history "in container handling crane maintenance and project contracting worldwide" and "serving customers by providing full service maintenance and repair contracting and maintenance management for cargo handling equipment."<sup>18</sup> Its "[f]ield and maintenance teams are backed by a full service repair facility providing structural repairs, machined parts fabrication, electrical and general engineering contracting services" and, therefore, is able to "perform services worldwide including crane maintenance contracting, retrofitting, relocations, drive upgrades, off-loading and commissioning of new cranes arriving from overseas manufacturers, and the demolition of surplus container handling ship to shore cranes."<sup>19</sup>

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<sup>15</sup> Executive Summary, p. 4.

<sup>16</sup> MTS Proposal, p. 13.

<sup>17</sup> MTS Proposal, p. 14.

<sup>18</sup> MTS Proposal, p. 10.

<sup>19</sup> MTS Proposal, p. 10.

MTS has experience providing “full service day to day maintenance of 41 container handling cranes at the Ports of Los Angeles, Oakland, Seattle and Dutch Harbor.”<sup>20</sup> MTS also has provided “full service day to day” maintenance and repair services for cranes for the following clients: Stevedoring Services of America, at the Port of Long Beach, California; Pacific Coast Recycling, at the Port of Long Beach, California; Tang Ming Lines, at the Port of Los Angeles, California, to name a few.<sup>21</sup> Accordingly, the ALJ concluded that MTS is qualified to provide the services required under the PMC contract.

Therefore, based on the documentation and information reviewed by the ALJ, the ALJ found that the subject contract is reasonable and necessary. Accordingly, the ALJ recommended that the PUC approve the proposed PMC contract related to the operations and maintenance of PAG’s cranes at an annual cost of \$1,020,000.00.

The Commission hereby adopts the findings contained in the April 22, 2014 ALJ Report and, therefore, issues the following:

#### **ORDERING PROVISIONS**

Upon consideration of the record herein, the April 22, 2014 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. PAG is authorized to enter into the PMC contract with Marine Technical Services, Inc. for an estimated cost of \$1,020,000.00.

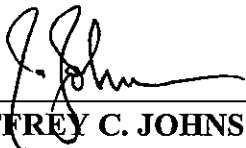
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<sup>20</sup> MTS Proposal, p. 15.

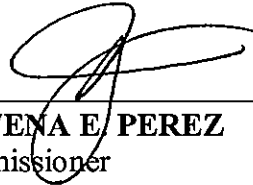
<sup>21</sup> MTS Proposal, pp. 15-16.

2. PAG is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with the instant contract review process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

**SO ORDERED** this 24<sup>th</sup> day of April, 2014.



**JEFFREY C. JOHNSON**  
Chairman



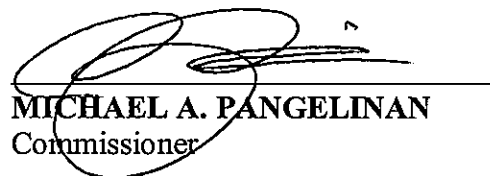
**ROWENA E. PEREZ**  
Commissioner



**JOSEPH M. MCDONALD**  
Commissioner



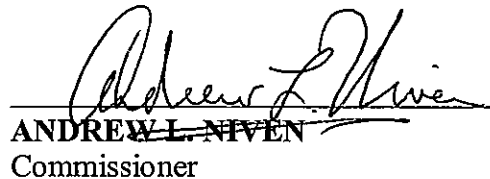
**FILOMENA M. CANTORIA**  
Commissioner



**MICHAEL A. PANGELINAN**  
Commissioner



**PETER MONTINOLA**  
Commissioner



**ANDREW L. NIVEN**  
Commissioner