

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 obtained before the procurement process is begun”¹ With respect to “multi-year contracts,” “[t]he test to determine whether a procurement exceeds the \$1,000,000 threshold for PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”² In this instance, GWA submits that the anticipated cost of the PMC is \$1.1 million annually.³

B. GWA’s Petition to Issue IFB for the Wastewater Collection System

In its petition, GWA requests that the PUC authorize GWA to issue a bid “designed to have a PMC manage and operate GWA’s wastewater collection system.”⁴ GWA indicates that its General Manager “has reviewed the operations and performance of GWA and provided a recommendation for a PMC for the wastewater collection system only as an alternative for a PMC for the entire wastewater system.”⁵ Accordingly, GWA submits that “[t]he new Performance Management Contract (PMC) for the GWA Wastewater Collection System has the same purposes and functions as the current PMC

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

² GWA CRP, p. 4.

³ GWA’s Petition for Approval of GWA’s Proposed Wastewater Collection System Performance Management Contract Bid (“Petition”), Exhibit A (“New Performance Management Contract for the Guam Waterworks Authority Wastewater Collection System”), GWA Docket 13-02, p. 3 (June 6, 2013).

⁴ Petition, p. 2 (June 6, 2013).

⁵ Petition, Exhibit A, p. 2.

but with the following differences: Only the collection system (pipelines and pump stations) will be managed and operated and the treatment plant system is excluded”⁶

1. Scope of Services

GWA submits that while GWA’s wastewater operations has improved over the past six (6) years, “the internal technical and administrative skill levels have not reached a sufficiently high level to operate totally independent of the additional skills provided by a PMC, especially during the current period of Court Order mandates.”⁷

Based on the proposed contract submitted by GWA with its petition, the services contemplated under this procurement include the following: full management, operation, and maintenance and repair of GWA’s wastewater collection System by qualified professional engineers and other personnel; supervision and training of GWA wastewater collection staff; inventory control and management; management of the O&M budget; and supervising, conducting, and overseeing construction of wastewater projects.⁸

The contract will also provide “GWA an opportunity to seek additional management expertise in the area of wastewater to address issues and concerns of the GWA Wastewater Division,” which include: development of training programs for required certification; continued development of standard operating procedures and maintenance programs; development and tracking of performance benchmarks; inventory

⁶ Petition, Exhibit A, p. 1.

⁷ Petition, Exhibit A, p. 2.

⁸ Petition, [draft] Performance Management Contract, pp. 4-15.

development and stocking requirements; and maintaining compliance with environmental and other regulatory agencies.⁹

In addition, the contract will require the PMC to perform the following: clean at least fifty-five (55) miles of sewers annually; perform CCTV inspection of fifty-five (55) miles of sewers annually; and maintain a program of regular inspection and cleaning of known areas of sewer overflows and for monitoring and cleaning “hotspots.”¹⁰

2. Term and Cost

The contract is for a term of three (3) years, with an option to renew for one additional three (3) year term. GWA anticipates a \$1.1 million annual cost for the PMC.¹¹ GWA submits that “GWA Management is now seeking to have a PMC manage the collection system” “because GWA has advanced significantly over the past few years and the PMC for a collection system only is estimated to result in significant savings to GWA while providing comparable services aside from the operation of GWA’s wastewater treatment plants.”¹² Specifically, GWA maintains that by “reducing the PMC’s focus to only the collection system, GWA will save \$500,000 to \$600,000 dollars in management fees annually versus a PMC which manages the entire wastewater system.”¹³

GWA further submits that the cost of this contract will likely be funded internally under its O&M funds, as well as with Bond funds. GWA has expressed that “although a fixed management fee would be an additional cost on top of the annual O&M

⁹ Petition, Exhibit A, p. 1.

¹⁰ Petition, Invitation for Multi-Step Bid, Volume III, p. 4.

¹¹ Petition, Exhibit A, p. 3.

¹² Petition, p. 2.

¹³ Petition, Exhibit A, p. 1.

budget for the wastewater division, the additional expertise would assist GWA in the development of personnel to required certification levels as well as develop succession plans for critical position replacement; development of a maintenance program to ensure continued uninterrupted operations of wastewater facilities; completion, updating, and training of operation and maintenance manuals and SOP's; and recommendation, procurement, and implementation of system improvements”¹⁴

C. CCU Resolution No. 29-FY2013

The instant petition is supported by Resolution No. 29-FY2013 (the “Resolution”) issued by the Consolidated Commission on Utilities (“CCU”). In the Resolution, the CCU expressed that “considering the increased work that GWA is facing with the Order for Preliminary Relief (‘Order’) dated November 10, 2011, GWA clearly continues to need a partner in the form of a PMC in order for GWA to adequately manage the large scope of work that is required to implement requirements of the Order”¹⁵

The CCU found that GWA management determined “that a PMC for the entire wastewater system is no longer necessary due to improvements in GWA’s capabilities to operate and manage its wastewater treatment plants and also because reducing the scope of the existing PMC functions will most likely save GWA between \$500,000 and \$600,000 annually”¹⁶ The CCU further determined that “a PMC for GWA’s wastewater collection system is an effective resource that will continue to provide

¹⁴ Petition, Exhibit A, pp. 2-3.

¹⁵ Resolution, p. 1.

¹⁶ Resolution, p. 2.

additional training, management expertise and engineering support among other things to GWA that will ultimately benefit GWA ratepayers”¹⁷

Accordingly, the CCU authorized GWA to issue the bid, in the form attached to the Resolution, requesting a PMC to operate and manage GWA’s wastewater collection system.¹⁸ The CCU further authorized GWA to petition the PUC for approval of the bid.¹⁹

D. Amended Stipulated Order

According to GWA, GWA is required to complete the following pursuant to the November 10, 2011 Amended Stipulated Order: perform inflow/infiltration analysis and sanitary sewer evaluation surveys of the Southern and Central collection systems; clean at least fifty-five (55) miles of sewers annually; perform CCTV inspection of fifty-five (55) miles of sewers annually; and maintain a program of regular inspection and cleaning of known areas of sewer overflows and for monitoring and cleaning “hotspots.”²⁰ GWA submits that the PMC will be responsible for the sewer cleaning, the CCTV inspections, and the maintenance program related to the areas of overflows and “hotspots.”²¹

¹⁷ Resolution, p. 2.

¹⁸ Resolution, p. 2.

¹⁹ Resolution, p. 2.

²⁰ Petition, Invitation for Multi-Step Bid, Volume III, p. 4.

²¹ Petition, Invitation for Multi-Step Bid, Volume III, p. 4.

CONCLUSION

Based on GWA's representations, the ALJ finds that a PMC for the entire wastewater system is no longer necessary due to GWA's improved ability to operate and manage its wastewater treatment plants.²² Based on GWA's concession, the ALJ further finds that while GWA's operations have improved, its "technical and administrative skill levels have not reached a sufficiently high level to operate totally independent of the additional skills provided by a PMC"²³; and that assistance is still necessary for GWA to implement the requirements of the Amended Stipulated Order.²⁴

Accordingly, based on the draft IFB documents submitted by GWA, the ALJ finds the proposed scope of work indicated in the draft IFB documents to be reasonable under the circumstances, chiefly that the PMC will provide full management, operation, and maintenance and repair of GWA's wastewater collection system.²⁵ The PMC will also assist GWA with the development of training programs; development of standard operating procedures and maintenance programs; development and tracking of performance benchmarks; inventory development and stocking requirements; as well as maintaining compliance with environmental and other regulatory agencies.²⁶

The ALJ additionally finds that the Amended Stipulated Order requires GWA to perform the following: clean at least fifty-five (55) miles of sewers annually;

²² Resolution, p. 2.

²³ Petition, Exhibit A, p. 2.

²⁴ Resolution, p. 1.

²⁵ Petition, [Draft] Performance Management Contract, pp. 4-15.

²⁶ Petition, Exhibit A, p. 1.

perform CCTV inspection of fifty-five (55) miles of sewers annually; and maintain a program of regular inspection and cleaning of known areas of sewer overflows and for monitoring and cleaning “hotspots.”²⁷

At this time, the ALJ finds that the use of a PMC to assist GWA in achieving these objectives is a reasonable use of funding. The ALJ, however, advises GWA to continue to reduce its reliance on PMCs to complete its compliance mandates, and to proactively utilize the expertise of the PMC to educate and train its workforce.

Furthermore, the cost-benefit analysis provided by GWA indicates that a PMC for its collection system only will result in “significant savings to GWA while providing comparable services aside from the operation of GWA’s wastewater treatment plants”²⁸; and that by reducing the PMC’s focus to the collection system only, “GWA will save \$500,000 to \$600,000 dollars in management fees annually versus a PMC which manages the entire wastewater system.”²⁹

GWA has also maintained that while a fixed management fee would result in an additional cost added to its annual O&M budget, the added value the PMC would provide includes: assistance in developing certified personnel, as well as developing succession plans for critical positions; development of maintenance programs for its wastewater facilities; development of operation and maintenance manuals and SOPs; and assistance in procurement and implementation of system improvements, among others.³⁰

²⁷ Petition, Invitation for Multi-Step Bid, Volume III, p. 4.

²⁸ Petition, p. 2.

²⁹ Petition, Exhibit A, p. 1.

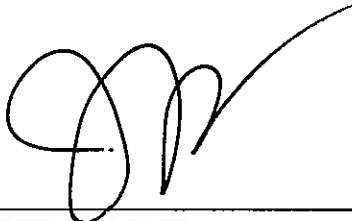
³⁰ Petition, Exhibit A, pp. 2-3.

Thus, it appears that the PMC will ultimately result in a savings for GWA. Accordingly, the ALJ finds that the cost estimate for the PMC is reasonable under these circumstances.

RECOMMENDATION

Based on the foregoing, the ALJ recommends that the PUC approve GWA's petition. Accordingly, GWA should be authorized to proceed with issuance of an IFB related to a performance management contract for the management and operation of GWA's wastewater collection system. A proposed Order is submitted herewith for the Commissioners' consideration.

Dated this 21st day of June, 2013.

for 

DAVID A. MAIR
Administrative Law Judge

P134065.JRA

On June 21, 2013, the Administrative Law Judge of the PUC (the “ALJ”) filed an ALJ Report detailing his review of GWA’s request to issue an IFB for PMC services related to GWA’s wastewater collection system. In the Report, the ALJ found that a PMC for the entire wastewater system was no longer necessary due to GWA’s representations that GWA has improved its ability to operate and manage its wastewater treatment plants. In addition, the ALJ further found, based on GWA’s admission, that while GWA’s operations have improved, its “technical and administrative skill levels have not reached a sufficiently high level to operate totally independent of the additional skills provided by a PMC”³; and that GWA still needed assistance to implement the requirements of the Amended Stipulated Order.⁴

Based on the draft IFB documents submitted by GWA, the ALJ found that the proposed scope of work indicated in the IFB documents were reasonable under the circumstances. The ALJ, therefore, concluded that GWA’s use of a PMC to assist with completing deadlines under the Amended Stipulated Order was a reasonable use of funding. However, the ALJ advised GWA to continue reducing its reliance on PMCs, and to proactively utilize the expertise of the PMC to educate and train its workforce.

With respect to GWA’s cost-benefit analysis, the ALJ found that the PMC would likely result in a savings for GWA based on GWA’s representations: that by reducing the PMC’s focus to the collection system only, GWA would “save

³ GWA’s Petition for Approval of GWA’s Proposed Wastewater Collection System Performance Management Contract Bid (“Petition”), Exhibit A (“New Performance Management Contract for the Guam Waterworks Authority Wastewater Collection System”), GWA Docket 13-02, p. 2 (June 6, 2013).

⁴ Consolidated Commission on Utilities’ Resolution No. 29-FY2013, p. 1 (May 28, 2013).

\$500,000 to \$600,000 dollars in management fees annually versus a PMC which manages the entire wastewater system,”⁵ in addition to other added values a PMC would provide, such as: assistance in developing certified personnel; developing succession plans for critical positions; development of maintenance programs for its wastewater facilities; development of operation and maintenance manuals and SOPs; and assistance in procurement and implementation of system improvements, among others.⁶ Accordingly, the ALJ found that the cost estimate for the PMC was reasonable under the circumstances.

The Commission hereby adopts the findings contained in the June 21, 2013 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, the June 21, 2013 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. GWA’s June 6, 2013 Petition for Approval of GWA’s Proposed Wastewater Collection System Performance Management Contract Bid is hereby approved. GWA is therefore authorized to proceed with issuance of an IFB related to a performance management contract for the management and operation of GWA’s wastewater collection system.

2. GWA is ordered to pay the Commission’s regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and

⁵ Petition, Exhibit A, p. 1.

⁶ Petition, Exhibit A, pp. 2-3.

expenses associated with the instant contract review. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§12002(b), 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

SO ORDERED this 25th day of June, 2013.

JEFFREY C. JOHNSON
Chairman

JOSEPH M. MCDONALD
Commissioner

ROWENA E. PEREZ
Commissioner

FILOMENA CANTORIA
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

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