

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



PETITION OF GUAM WATERWORKS  
AUTHORITY TO ISSUE GENERAL  
REVENUE BONDS AND FOR RELATED  
ACTIONS

DOCKET 05-10

ORDER

*Background*

On September 16, 2005 Guam Waterworks Authority [GWA] petitioned the Guam Public Utilities Commission [PUC] for authorization to issue general revenue bonds in an aggregate principal amount not to exceed \$110,000,000 to finance capital improvements and for other purposes. This approval is required under 12 GCA 12004 and under PUC's contract review protocol order [Protocol] dated December 16, 2003. By Order dated April 11, 2003, PUC ruled that capital projects, which are required by the Stipulated Order in District Court Civil Case 02-02, are exempt from Protocol review. PUC also has the responsibility under 12 GCA 12004 and the Protocol to review and approve all uses of bond proceeds.

By reports dated September 28, 2005 and October 17, 2005, PUC's regulatory consultant [Georgetown Consulting Group [GCG]] has reviewed the proposed use of bond proceeds and the non-stipulated order [NSO] projects, which are subject to Protocol review. GCG recommends that the Barrigada tank, the Ugum tank and the Old Agat collection improvement NSO projects be conditional approved.

GCG and GWA have also discussed the concept of amending the Protocol to establish a common contract review standard for the Consolidated Commission on Utilities [CCU] and PUC. A copy of this proposed standard is made **Attachment A** to this Order. On October 18, 2005, CCU adopted this common review standard as a protocol to guide its review of GWA procurements and to facilitate an expedited and coordinated PUC review under the Protocol. The amended Protocol, which includes the common review standard, is made **Attachment B** to this Order.

After careful consideration of the GWA petition and GCG's report, in consultation with its administrative law judge [ALJ], for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Guam Public Utilities Commission **HEREBY ORDERS THAT:**

## 1. Bond Proceeds.

GWA is authorized to utilize revenue bond proceeds for the limited purposes set forth in *Attachment C* hereto, subject to conditions established in subsections [a] through [g]. ALJ is authorized and empowered to interpret and administer the conditions and authorizations set forth in this order section.

- a. The authorization for the *Schedule C* Barrigada tank and Ugum tank projects is conditioned on ALJ's review and approval of a GWA "alternatives analysis", as described in GCG's October 17, 2005 report.
- b. The authorization for the *Schedule C* Old Agat collection improvements is conditioned on ALJ's review and approval of a GWA cost estimate, as discussed in GCG's October 17, 2005 report.
- c. The authorization for the *Schedule C* Earth Tech buyout is limited to the purpose of negotiating and consummating the mutual termination of GWA's contract with Earth Tech, Inc. dated June 16, 1998, including the transfer to GWA under contract section 11.2 of ground water production facilities and other related assets.
- d. The \$4.7 million GPA loan to GWA, as approved by PUC Order dated September 23, 2005, shall be repaid with bond proceeds, pursuant to the instructions set forth in the footnote in Attachment C.
- e. Any funds authorized in *Attachment C* which are not used for the purpose stated therein, shall revert to the Contingency Reserve and shall be subject to the restriction set forth in subsection [f] below.
- f. GWA may utilize the Contingency Reserve, without PUC approval, for expense overruns on any fund use authorized in *Schedule A* up to a limit of 20%. Any use of the Contingency Reserve for a project expense overrun in excess of 20% of the authorized limit set in *Attachment C*, including SO projects, and any other use of the Contingency Reserve shall require prior PUC review and approval under the Protocol. The authority to grant such approval is delegated to PUC's chairman.

- g. GWA shall file with PUC quarterly reports commencing for the FY06 second quarter, which summarize the use of bond proceeds pursuant to this order. These reports shall be filed within 30 days after the end of the quarter.

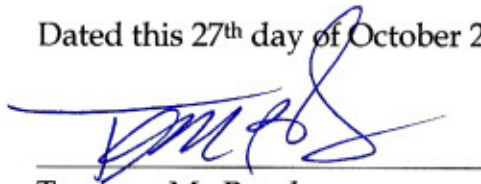
## **2. Common Review Standard.**

PUC finds that the concept of establishing a common contract review standard with CCU is entirely consistent with the Regulatory Protocol, which PUC adopted on April 11, 2003. A common review standard will both enhance and expedite regulatory review of GWA contracts and obligations. Accordingly, the Protocol is amended in form made *Attachment B*, which in section 6 establishes a common review standard, which has been adopted by CCU.

## **3. Stipulated Order Procurement Review.**

In its October 17, 2005 report, GCG recommends that for subsequent bond issues, PUC rescind its April 11, 2003 Order, which exempted Stipulated Order projects from review under the Protocol. PUC defers consideration of this matter for subsequent proceedings.

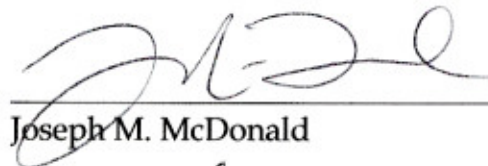
Dated this 27<sup>th</sup> day of October 2005.




Terrence M. Brooks



Edward C. Crisostomo



Joseph M. McDonald



Rowena E. Perez



### *Attachment A*

6. With regard to any contract or obligation [*procurement*], which requires PUC approval under this Order, GWA shall initiate the regulatory review process through a petition, which shall be supported with the following:

- a. A resolution from the Consolidated Commission on Utilities [CCU], which confirms that after careful review of the documentation described in subparagraph (b) below and upon a finding that the proposed procurement is reasonable, prudent and necessary, CCU has authorized GWA to proceed with the procurement, subject to regulatory review and approval.
- b. The documentation on which CCU based its approval under subparagraph (a) above, which shall include, at a minimum, a report from management or an independent third party, which contains the following:
  - i. A description of the project, including timeframes, time constraints and deadlines, and a justification of its need.
  - ii. An analysis from a technical and cost benefit perspective, of all reasonable alternatives for the procurement.
  - iii. A detailed review of the selected alternative, which establishes the basis of selection and that it is economically cost effective over its life.
  - iv. Cost estimates and supported milestones for the selected alternative.
  - v. The projected source of funding for the project with appropriate justification and documentation.
  - vi. A supporting finding that the procurement is necessary within the context of other utility priorities.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

ADMINISTRATIVE DOCKET  
CONTRACT REVIEW PORTOCOL FOR  
GUAM WATERWORKS AUTHORITY

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DOCKET 00-04



ORDER

Pursuant to its authority under 12 GCA Section 12004, the Guam Public Utilities Commission [PUC] establishes the following protocol to identify and review regulated contracts and obligations of Guam Waterworks Authority [GWA]:

1. The following GWA contracts and obligations shall require prior PUC approval under 12 GCA 12004, which shall be obtained before the procurement process is begun:
  - a) All capital improvement projects (CIP) in excess of \$1,000,000 whether or not a project extends over a period of one year or several years;
  - b) All capital items by account group, which in any year exceed \$1,000,000;
  - c) All professional service procurements in excess of \$1,000,000;
  - d) All externally funded loan obligations and other financial obligations such as lines of credit, bonds, etc. in the excess of \$1,000,000 and any use of said funds;
  - e) Any contract or obligation not specifically referenced above which exceeds \$1,000,000, not including individual contracts within an approved CIP or contract;
  - f) Any internally funded procurement in excess of a CIP expenditure ceiling, which PUC shall establish on or before November 15 of each fiscal year.
  - g) Any agreement to compromise or settle disputed charges for services by GW A, when the amount of the waived charges would exceed \$1,000,000.

2. For contract that involve the receipt by GWA of revenues or reimbursement of costs in excess \$1,000,000, the following procedure will apply:

- a) GWA is permitted to evaluate the contract without PUC approval;
- b) Prior to entering into the contract, GWA will provide the following to PUC:
  - i) GWA's governing body resolution authorizing the contract.
  - ii) An affidavit from GWA management stating that the contract does not produce an increased revenue requirement with supporting documentation.
  - iii) A narrative description of the contract.
- c) The contract will be deemed approved unless rejected by PUC within 30 days after an adequate filing [as determined by the ALJ] has been made by GWA pursuant to subparagraph (b).

3. Emergency procurements, which are made by GW A under 5 GCA section 5215, shall not require PUC approval; provided, however that GWA shall file its section 5215 declaration, the governor's written approval of same, and the procurement details, as set forth in paragraph 5(b) below, within 20 days of the declaration. Any emergency procurement funded by other than bond revenues shall be included in the CIP ceiling established under paragraph 1(f).

4. With regard to multi-year contracts:

- a) The term of a contract or obligation [*procurement*] will be the term stated therein, including all options for extension or renewal.
- b) The 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.
- c) For a multi-year procurement with fixed terms and fixed annual costs, GW A must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold. No additional PUC review shall be required after the initial review process.



d) For multi-year procurements with fixed terms and variable annual costs, GWA shall seek PUC approval of the procurement if the aggregate cost estimate for the entire term of the procurement exceeds its review threshold. On each anniversary date during the term of the procurement, GWA will file a cost estimate for the coming year of the procurement. GWA shall seek PUC approval in the event a procurement subject to this paragraph should exceed 120% of the aggregate cost initially approved by PUC.

e) Unless for good cause shown, any petition for PUC approval of a multi-year procurement must be made sufficiently in advance of the commencement of the procurement process to provide PUC with reasonable time to conduct its review.

5. On or before September 15 of each year, GWA will use best efforts to file with PUC its construction budget for the coming fiscal year plus estimates for the subsequent two fiscal years. The filing shall contain a description of each CIP contained with the budget and estimates. Project descriptions should be sufficiently detailed to identify the specific location and type of equipment to be purchased, leased or installed. For capital items that are subject to review by account group, GWA shall file information equivalent to that submitted to its governing body for these items.

6. With regard to any contract or obligation [*procurement*], which requires PUC approval under this Order, GWA shall initiate the regulatory review process through a petition, which shall be supported with the following:

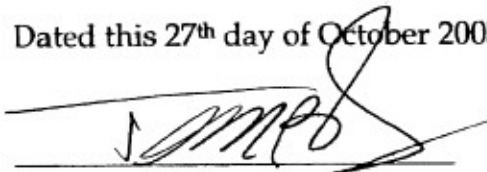
- a) A resolution from the Consolidated Commission on Utilities [CCU], which confirms that after careful review of the documentation described in subparagraph (b) below and upon finding that the proposed procurement is reasonable, prudent and necessary, CCU has authorized GWA to proceed with the procurement, subject to regulatory review and approval.
- b) The documentation on which CCU based its approval under subparagraph (a) above, which shall include, at a minimum, a report from management or an independent third party, which contains the following:
  - i. A description of the project, including timeframes, time constraints and deadlines, and a justification of its need.


- ii. An analysis from a technical and cost benefit perspective, of all reasonable alternatives for the procurement.
  - iii. A detailed review of the selected alternative, which establishes the basis of selection and that it is economically cost effective over its life.
  - iv. Cost estimates and supported milestones for the selected alternative.
  - v. The projected source of funding for the project with appropriate justification and documentation.
  - vi. A supporting finding that the procurement is necessary within the context of other utility priorities.
7. If during any fiscal year, GWA desires to undertake a contract or obligation covered by paragraph 1, for which approval has not otherwise been received, it may file an application with the PUC for approval of such contract or obligation, which shall contain the information required in paragraph 6 above. GWA shall obtain PUC approval thereof before the procurement process is begun.
8. GWA shall, on or before December 1 of each year, file a report on the contracts and obligations approved by PUC for the prior fiscal year pursuant to this Protocol. This report shall show the amount approved by PUC and the actual expenditures incurred during the preceding fiscal year for each such contract and obligation and other changes from the prior filing in cost estimates, start dates and inservice or completion dates.
9. GWA shall not incur expenses for PUC approved contracts and obligations in excess of 20% over the amount authorized by the Commission without prior PUC approval. In the event that GWA estimates that it will exceed the PUC approved level of expenditures by more than 20%, it shall submit to PUC the revised estimate and full explanation of all additional cost.
10. GWA shall file with PUC monthly financial reports within five working days of presentation of monthly financial reports to its governing body.

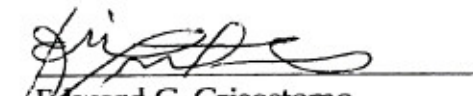



11. To the extent GW A submits a filing to PUC under this order which PUC staff believes is incomplete or deficient, it shall notify GWA and the PUC within 15 calendar days thereof with specific indication of the alleged incompleteness or deficiency.
12. PUC staff will use best efforts to be prepared for hearing within 45 days of a complete GW A filing under the terms of paragraph 6 above. PUC's administrative law judge, is authorized, in his judgment, to shorten the above 45 day period, for good cause shown by GWA.
13. Within the context of a rate or management audit proceeding, PUC staff may review the prudence of all procurement or obligations whether or not subject to review herein.
14. PUC's administrative law judge is authorized to interpret the meaning of any provision of this order, in furtherance of the contract review process.

Dated this 27<sup>th</sup> day of October 2005.

  
Terrence M. Brooks

  
Joseph M. McDonald

  
Edward C. Crisostomo

  
Rowena E. Perez

*Attachment C*  
*FY06 GWA Bond Issuance*  
*Authorized Use of Funds*

*Schedule A*  
*Summary*

<i>Fund Use</i>	<i>Authorized limit [in millions]</i>
Stipulated Order [SO] projects	40.5
Non-stipulated Order [NSO] projects	17.9
MSG defeasance	19.5
Contingency Reserve	14.04
Capitalized interest	8.7
Debt service reserve fund	7.23
Underwriter's discount	1.26
Costs of issuance	.87
<b>Total</b>	<b>110.0</b>

*Schedule B*  
*SO projects*

<i>Project</i>	<i>Authorized limit</i>
Agana	10.5
Agana outfall	5.1
Northern district outfall	4.7
Baza Gardens wastewater plant upgrade	.5
Interim disinfection facilities	.6
Electrical protection	1.0
Well vulnerability reduction	.6
Chaot pump station/collection system	.4
Leak detection/line replacement	8.2
"A" well transmission line	2.4
Santa Rita Springs - booster pump rehab	.7
Master plan*	4.9
Generators*	.9
<b>Total</b>	<b>40.5</b>

\* By PUC Order dated 9/23/05 in Docket 98-01, GWA was authorized to borrow \$4.7 million from GPA for the following purposes: \$2.5 million for master plan [SO project]; \$900,000 for generators [SO project]; \$900,000 for equipment [NSO project]; and \$400,000 for general capital expenses. The Order required GWA to repay the loan with bond proceeds. Accordingly, \$2.5 million of the \$4.9 million authorized in Schedule B for master plan shall be used toward repayment of the GPA loan. In addition, the \$900,000 authorized in Schedule B for generators and the \$900,000 authorized in Schedule C for equipment shall also be used toward repayment of the GPA loan. GWA is authorized and directed to utilize \$400,000 from the Contingency Reserve to pay the remaining GPA loan balance.

*Attachment C*

*Schedule C*  
*NSO projects*

<i>Project</i>	<i>Authorized limit</i>
Old Agat wastewater collection	2.2
Lift station upgrades	.3
Collection line upgrades	.2
Storage additions	1.0
Booster pump upgrades	.4
Mangilao tank repair	.8
Ugum tank replacement	2.5
Barrigada tank repair/replacement	3.0
Earth Tech buyout	5.0
Laboratory modernization	.8
Land survey	.8
Equipment*	.9
<b>Total</b>	<b>17.9</b>