

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



ADMINISTRATIVE DOCKET
CONTRACT REVIEW PORTOCOL FOR
GUAM WATERWORKS AUTHORITY

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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 GWA 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 GWA 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 27th day of October, 2005.

Terrence M. Brooks

Joseph M. McDonald

Edward C. Crisostomo

Rowena E. Perez