



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REQUEST FOR REVIEW) AND APPROVAL OF) AGREEMENT WITH AIC) INTERNATIONAL, INC.) BY PORT AUTHORITY) OF GUAM) _____)	PAG DOCKET 14-05 ORDER
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This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 13, 2014 Petition for review and approval of the AIC International, Inc. (“AIC”) contract related to the Agat Small Boat Marina Docks C, D, and Floating Docket improvement project (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 design and build contract with AIC.

DETERMINATIONS

On March 27, 2014, PAG issued an Invitation for Bid (“IFB”) to solicit construction work for the Agat Small Boat Marina Dock C&D and Floating Dock Improvement project. Three firms submitted bids in response to the IFB, which were evaluated by PAG’s procurement personnel.¹ PAG’s procurement personnel thereafter determined AIC to be the lowest responsive and responsible bidder.² On May 28, 2014, PAG’s Board of Directors ratified the bid award to AIC.³

¹ Petition, p. 1.

² Petition, p. 1.

³ Petition, p. 1.

On June 25, 2014, the Board of Directors issued Resolution No. 2014-08, which authorized PAG to petition the PUC for approval of the contract with AIC. On June 26, 2014, PAG transmitted a copy of the Board Resolution to the Administrative Law Judge of the PUC (the "ALJ"). On July 10, 2014, PAG contacted the ALJ to request permission to issue a Notice to Proceed ("NTP") as time was of the essence with respect to the subject project and that fourteen (14) days had elapsed since the filing of the Petition. The ALJ explained that the Board Resolution, which is required under the Contract Review Protocol, had not been provided to the PUC until June 26, 2014, and was therefore untimely for the Commission's review. In addition, the ALJ further explained that supplemental information was requested by the ALJ, which extends the fourteen (14) day period. However, since PAG provided the documents requested by the ALJ with respect to the subject contract, the ALJ indicated that it appeared that PAG may proceed with the NTP, subject to PUC ratification.

On July 18, 2014, the ALJ issued an ALJ Report detailing his review of the subject contract. In the July 18, 2014 ALJ Report, the ALJ found the following. 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).

According to PAG, the “Agat Small Boat Marina Dock C&D and Floating Dock Improvement project is a construction project that includes the replacement of the C&D Docks and the Floating Dock of the marina facility.”⁴ “The replacement of the docks will provide for a low-level maintenance facility which will include a power facility equipped with water fittings, multi-conductor marine cables and utility power pedestals.”⁵ In addition, “[t]he improvements and upgrade to the Agat Small Boat Marina Dock C&D and the Floating Dock Improvement will provide for the mooring of small crafts in a safe harbor refuge.”⁶ This “dock system” is intended to “withstand the combination of loads without damage to the structure throughout a minimum of twenty (20) years.”⁷

The scope of work for the subject project requires AIC to obtain the services of an A/E engineering consultant to develop plans, provide load computations and specifications with respect to the design necessary for the fabrication and installation of Dock “C,” “D,” and Floating Dock main gangways, finger slips, gussets, floatation units, steel pile rollers, and utilities, among others. The designs will include electrical designs for feeder circuits, circuit breakers, watertight fittings/connectors, power pedestals and other electrical appurtenances; water lines, PVC conduits, shut-off valves, connectors, fittings, clamps, hose bibs, steel brackets and other water appurtenances. The designs would also indicate plans for the removal and welding preparations for the steel piles.

⁴ Petition, p. 1.

⁵ Petition, p. 1.

⁶ Petition, p. 2.

⁷ Petition, p. 1.

The scope of work further provides that during the renovation phase, the contractor will provide labor, materials, and equipment on Dock "C" and "D" facilities for the fabrication of main walkways, finger slips, as well as work related to electrical, plumbing, carpentry, fabrication, and installation. The contractor will also provide labor, materials, and equipment on the Floating Dock for the fabrication of main walkway, as well as the refurbishing of steel piles.

The contractor will also need to replace new circuit breakers in Dock "C" and "D," install new power pedestals, marine cables, cable clamps, stainless junction boxes, water proof cable fittings and other electrical accessories. The contractor will further need to install new water lines, as well as install one (1) unit power pedestal. The contractor will also need to refurbish the existing entrance gangways and steel piles in Dock "C" and "D" and replace these gangways with new composite decking, housing and accessories, and a new chain link fabric. The contractor must also shall cut and remove steel piles corroded plate areas; as well as replace all corroded anchors or provide new holes for anchors on the concrete pad landing steel plate.

Pursuant to the Scope of Work, the duration for the projection is nine (9) months from the issuance of the NTP, beginning with the A/E Design and ending with the construction.

PAG submits that "[t]he project is funded partially through a grant award from the U.S. Department of Interior Office of Insular Affairs grant programs and is

supplemented by local funding.”⁸ Accordingly, it appears that the project will be mostly funded by the U.S. Department of Interior, Office of Insular Affairs.

According to PAG, the Office of Insular Affairs has awarded PAG \$939,484.00 for the project under Grant No. D14AP00020/Guam-CIP-2014-1.⁹ PAG submits that the remainder of the contract cost of \$653,724.00 will be funded by PAG under its “Other Small Projects” account.

Based on its bid, AIC has experience with construction design-build projects. For instance, AIC was involved in designing and constructing a Fire Station and Police Precinct building for the Government of Guam. The work included site development, utilities, architectural finishes, mechanical and electrical work, at a cost of \$2.3 million. AIC was also involved with another design-build contract to restore Apra Harbor’s wastewater treatment plant, at a cost of \$8.3 million.

Other design-build contracts include architectural and structural repairs to the Navy Exchange (“NEX”) Home and Garden Center in Apra Harbor, which involved projects related to renovations to storage areas, bathrooms, office spaces, and loading docks, among others. AIC has further experience with replacing water lines on Sumay Road, as well as design-build contracts for repairs and upgrades to several buildings and facilities on Naval Base and Anderson Air Force Base, which included architectural, civil, mechanical, and electrical projects.

⁸ Petition, p. 1.

⁹ PAG Executive Summary, Agat Small Boat Marina Dock C&D and Floating Dock Improvements, p. 1. (May 28, 2014).

Resolution No. 2014-08 indicates that PAG's Board of Directors approved the contract award to AIC during its May 28, 2014 meeting. In addition, the Resolution authorizes PAG management to petition the PUC for approval of its contract award to AIC.

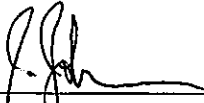
Accordingly, the ALJ recommended that the PUC approve the proposed contract with AIC, and ratify such contract, at a cost of \$1,593,208.00; \$939,484.00 for the project to be funded by the award under Grant No. D14AP00020/Guam-CIP-2014-1, and \$653,724.00 by PAG's "Other Small Projects" account. The Commission hereby adopts the findings contained in the July 18, 2014 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS


Upon careful consideration of the record herein, the ALJ's July 18, 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. The proposed contract with AIC is hereby APPROVED and RATIFIED at a cost of \$1,593,208.00.
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 31st day of July, 2014.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner



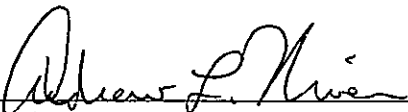
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PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

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