



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

) GWA DOCKET 13-01
)
)
) PETITION OF GUAM WATERWORKS)
) AUTHORITY FOR APPROVAL OF)
) ADDITIONAL \$2.458M IN PROGRAM)
) MANAGEMENT OFFICE CONTRACT)
)

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition for approval of a \$2.458 million increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, filed by the Guam Waterworks Authority (“GWA”) on October 10, 2014.

DISCUSSION

A. **Review of GWA’s PMO Contract**

Pursuant to 12 G.C.A. §12004, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s Contract Review Protocol issued in 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 GWA must also seek PUC’s approval for any uses of bond funds.²

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

² *Id.*

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B. GWA's Petition for \$2.458 Million Increase

In the instant Petition, GWA maintains that it continues to be faced with insufficient staff in the Engineering and Planning Divisions, and therefore needs assistance relative to compliance with Court Ordered requirements, PUC Stipulated orders, and Findings of Significant Deficiencies in the Water System, as well as Administrative Orders on Umatac-Merizo WWTP issued by the U.S. E.P.A.³ Accordingly, GWA submits that it needs the continued support of the PMO in order for it to be successful in its compliance efforts.

C. List of PMO Projects

The Petition is also supported by certain Brown & Caldwell work authorizations submitted by GWA, which pertain to the following projects: (1) Formal Training Program Assistance; (2) Management of Design for Agat-Santa Rita WWTP; (3) State Revolving Fund (SRF) Grant Project Support; (4) Umatac-Merizo WWTP Disinfection and Water Quality Standards (WQS) Monitoring Support; and (5) Baza Gardens Wastewater Cross-Island Pumping and Conveyance System – 10% Concept Design.

D. Report by Lummus Consultants International

To aid in the instant regulatory review, the ALJ assigned Lummus to examine GWA's request. On November 10, 2014, Lummus transmitted to GWA forty-three (43) requests for information relating to the PMO contract and projects; and on

³ Petition, p. 2.

November 21, 2014, GWA submitted its responses to the requests for information.⁴ On December 20, 2014, Lummus submitted its report to the ALJ (the “Lummus Report”).

According to the Lummus Report, Lummus found that “the efforts being managed through the PMO are critical to GWA’s operations and management”; and that “equally critical is the need to build internal capabilities to provide the type of expertise offered by the PMO.”⁵ Based on its examination, Lummus offered the following recommendations to the Commission relative to GWA’s request for an increase in its PMO contract.

1. Review of Work Authorizations

a. Formal Training Program Assistance (WA No. 2014-09)

With respect to this project, Lummus recommended approval of the project, but recommended that the PUC monitor the progress and effectiveness of the subtasks contained in the work authorization throughout the duration of the project. In addition, Lummus further recommended that GWA amend this work authorization to reflect the following:

1.f. – Specify the number or percentage of skills assessment tests that will be developed by the PMO;

1.h. – Specify the number of courses (and/or the names of courses) for which the PMO will have primary responsibility to develop their content. (For example, those listed in section 1.c.);

1.i. – Specify the percentage of training curriculum and content that will be delivered/taught by the PMO, or the number of courses that the PMO will deliver/teach. (For example, those listed in section 1.c.);

⁴ Lummus Report, p. 5.

⁵ Lummus Report, p. 2.

Task 3 – Specify the number or percentage of performance measures that the PMO will have primary responsibility for establishing/developing.⁶

b. **Management of Design for Agat-Santa Rita WWTP (WA No. 2014-10)**

Lummus recommended approval of this project, but recommended the following: that “Task 4” be amended to indicate that the PMO will prepare any documents required for construction bidding and any RFPs or RFQs that may arise during the execution of the Agat WWTP project; and that “Task 6” should be amended to indicate that the PMO will provide assistance to GWA’s Communications and Customer Service, assuring that technical engineering documents presented for public viewing are organized, presentable, meaningful, public-friendly, and convey appropriate messages approved by GWA.⁷ In addition, Lummus further recommended that any references to construction management services should be removed.⁸

c. **State Revolving Fund (SRF) Grant Project Support (WA No. 2014-11)**

With respect to this particular project, Lummus recommended that the PUC approve funding for the first year of this project, and then revisit approval of the second half of the project after an evaluation of eleven (11) months of progress and results.⁹ In particular, Lummus recommended a two-phase approach, which is detailed as follows.

⁶ Lummus Report, p. 3.

⁷ Lummus Report, p. 3.

⁸ Lummus Report, p. 3.

⁹ Lummus Report, p. 4.

Phase 1 – First year – Fully fund the WA for approximately half of the proposed hours (about \$545,000) assuming that the PMO will expend approximately half of its projected labor hours in the first year. The GPUC should also authorize GWA to hire two Engineers/Technicians (to be funded from savings in phase 2 below and by avoiding the need for similar services by the PMO going forward) whose primary duty will be to shadow appropriate PMO personnel (for example – Smith, Cheng, Watson and the Inspector) during the first year to become fully familiar with and knowledgeable about the tasks performed by those consultants (one-on-one training) for this WA. GWA should take other similar steps to increase the training of GWA’s Grants Manager and the Assistant Grants Manager. This enhanced Grants Management Team should also receive specific training as a result of implementation of WA-09.

Phase 2 – Second year – Near the end of year 1 or the beginning of year 2 GWA should assess the capabilities of GWA’s Grants Managers and the 2 new Engineers/technicians to handle many if not most of the tasks performed by the PMO in phase 1. Based on this assessment adjust the needed continuation of PMO Fees to reflect activities that can be undertaken by the new GWA staff and Grants Personnel.¹⁰

Accordingly, Lummus recommended approval for full funding of the first half of the project, with the remaining balance subject to the PUC’s review of the project after eleven (11) months.

Moreover, Lummus additionally recommended the following: that “Task 2” be amended to indicate that the PMO team has primary responsibility for the initial drafting of each Project Implementation Plan (“PIP”).

¹⁰ Lummus Report, p. 4.

d. **Umatac-Merizo WWTP Disinfection and Water Quality Standards (WQS) Monitoring Support (WA No. 2014-12)**

Lummus recommended approval of this project with the added recommendation that GWA amend this work authorization by indicating under “Task 6” that the PMO is responsible for preparing the documents required for construction bidding and any RFPs or RFQs that may arise during the design engineering phase of the project.¹¹

e. **Baza Gardens Wastewater Cross-Island Pumping and Conveyance System – 10% Concept Design (WA No. 2014-13)**

Lummus recommended approval of this project with no added recommendations.¹²

2. **Proposed Ordering Provisions**

In its report, Lummus found that “[a]lthough some advances have been made, GWA has not fully complied” with the ordering provisions contained in the PUC’s July 31, 2014 Order.¹³ Based on its review, Lummus recommended that the PUC continue to require that GWA “comply fully with all the Ordering Provisions listed in the Order”¹⁴ With respect to certain provisions, Lummus further recommended some minor modifications.

For instance, with respect to Ordering Provision No. 2, Lummus recommended that the quarterly reports include staff training planned for the following

¹¹ Lummus Report, p. 5.

¹² Lummus Report, p. 5.

¹³ Lummus Report, p. 5.

¹⁴ Lummus Report, p. 6.

quarter; number of local hires; budgeting information; and new professional employee information. A detailed discussion of these additional requirements is contained on pages 6 through 7 of the Lummus Report.

With respect to Ordering Provision No. 3, Lummus determined that it was unclear whether GWA satisfied this reporting requirement, and therefore it recommended that GWA file its plans and procedures with the PUC.¹⁵ With respect to Ordering Provision No. 4, Lummus recommended that GWA file a report on staffing and project bidding by February 28, 2015.¹⁶

With respect to Ordering Provision No. 6, Lummus determined that it was unclear whether GWA satisfied this reporting requirement, and therefore it recommended that GWA file its staffing plans with the PUC.¹⁷

With respect to Ordering Provision No. 7, Lummus again determined that it was unclear whether GWA satisfied this reporting requirement, and therefore it recommended that GWA file its project bidding plans with the PUC.¹⁸

RECOMMENDATION

Based on the administrative record before the Commission, the ALJ herein finds the request reasonable, insofar as GWA requires the additional funding in order to meet the deadlines and complete the projects imposed under the federal Stipulated Order, but subject to the following conditions.

¹⁵ Lummus Report, p. 7.

¹⁶ Lummus Report, p. 7.

¹⁷ Lummus Report, p. 8.

¹⁸ Lummus Report, p. 8.

The ALJ recommends that the PUC approve the instant petition, but only for the amount of \$1,913,390, as recommended by Lummus. Accordingly, at this time, GWA may increase its contract price with Brown & Caldwell, not to exceed \$1,913,390. Approval of the remaining amount should be subject to project re-evaluation, with respect to Work Authorization No. 2014-11, after eleven (11) months of progress and results.

As further recommended by Lummus, GWA should continue to be ordered to provide the PUC with quarterly reports comprised of a narrative, numerical, and graphical format detailed in both the June 20, 2014 Lummus Report, as well as the December 20, 2014 Lummus Report. These reports should be due two weeks after the end of each quarter. Further, the other provisions contained in the PUC's July 31, 2014 Order should be amended based on Lummus' recommendations detailed herein and in the Lummus Report. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 24th day of December, 2014.



JOEPHET R. ALCANTARA
Administrative Law Judge

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