



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE:) **PAG DOCKET 15-01**
)
 REVIEW OF CONTRACT)
 FOR LEGAL SERVICES) **ORDER**
)
 _____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”) on May 5, 2015, whereby PAG requested review and approval of its contract for legal services with the Law Offices of Phillips & Bordallo, P.C. (hereinafter referred to as either “Phillips & Bordallo”).

DETERMINATIONS

On April 8, 2015, PAG began the solicitation process for professional legal services through publication of RFP No. PAG-015-004 Legal Services.¹ The RFP sought professional legal services for representation in litigation matters, legal opinions, legal research, among other services and duties.² The selected firm would act as legal counsel to the Port, review contracts, lease agreements, bid invitations, along with other tasks requested by PAG and its Board of Directors.³ The RFP provided that the contract would be for a term of one year, with three one-year options for renewal.⁴

¹ Evaluation Analysis and Recommendation (“Evaluation Analysis”), RFP No. PAG-015-004 Legal Services, p. 1 (Apr. 22, 2015).

² RFP No. PAG-015-004 Legal Services (“RFP”), “Attachment 1,” p. 1 (Apr. 2015).

³ RFP, “Attachment 1,” p. 1.

⁴ RFP, p. 2.

On April 13, 2015, PAG held a Pre-Proposal Conference.⁵ Proposals were accepted through April 17, 2015.⁶ Thereafter, PAG's Evaluation Committee met and reviewed the proposals submitted pursuant to the RFP.⁷ Only one law firm submitted a proposal.⁸ The Evaluation Committee ultimately selected Phillips & Bordallo pursuant to the members' evaluation of the proposal.⁹

On April 22, 2015, PAG Procurement and Supply Manager, Alma Javier, provided the General Manager with the Evaluation Analysis and Recommendation related to the legal services procurement. Ms. Javier indicated that Phillips & Bordallo ranked the highest and was the best qualified, responsive, and responsible offerer; and, therefore, recommended that Phillips & Bordallo be afforded the opportunity to negotiate a cost for its services.¹⁰ On April 22, 2015, PAG issued a Notice of Intent to Award to Phillips & Bordallo and requested the law firm to submit a detailed cost proposal.¹¹

On May 13, 2015, PAG's Board of Directors approved the contract award to Phillips & Bordallo and further authorized PAG Management to petition the PUC for review and approval of the subject contract for legal services.¹² On May 22, 2015, the Administrative Law Judge of the PUC, filed an ALJ Report regarding the PUC's review of the Professional Service Agreement. Upon review and based on the record provided by PAG, the ALJ found the following.

⁵ Evaluation Analysis, p. 1.

⁶ Evaluation Analysis, p. 1.

⁷ Evaluation Analysis, p. 1.

⁸ Evaluation Analysis, p. 1.

⁹ Evaluation Analysis, p. 1.

¹⁰ Evaluation Analysis, p. 2.

¹¹ Notice of Intent to Award, RFP No. PAG-015-004 Legal Services, p. 1 (Apr. 22, 2015).

¹² PAG Board of Directors' Resolution No. 2015-04, p. 1 (May 13, 2015).

Under 12 G.C.A. §12004, the PUC must expressly approve any contractual agreements or obligations which could increase PAG's rates and charges. In addition, under PAG's Contract Review Protocol, "[a]ll professional service contracts in excess of \$1,000,000" "shall require prior PUC approval"¹³

In its Petition, PAG requested that the PUC review and approve the proposed Professional Service Agreement between Phillips & Bordallo and PAG. The Professional Service Agreement indicated that Phillips & Bordallo shall provide the services required and identified pursuant to the RFP. These services included acting as General Counsel to PAG; preparing legal opinions, resolutions, and reports to PAG's Board of Directors or the General Manager; providing representation in litigated matters; providing representation before the Guam Legislature, Boards, and other agencies; review contracts, lease agreements, bid invitations, and other legal assistance and advice, along with other tasks requested by PAG and its Board of Directors.¹⁴

As required under the RFP, the initial contract term is for one calendar year, with three one-year options for renewal. The agreement further provided that monthly billings shall not exceed the sum of \$70,000.00 per month without the prior written approval or subsequent ratification by PAG's Board of Directors.¹⁵ Based on the record of negotiations between PAG and Phillips & Bordallo, it appeared that PAG expended about \$774,803.00 during Fiscal Year 2014 for legal services, and about \$923,563.00 for Fiscal

¹³ Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

¹⁴ RFP, "Attachment 1," p. 1.

¹⁵ "Exhibit A," [Proposed] Professional Service Agreement between Jose D. Leon Guerrero Commercial Port and Phillips and Bordallo, P.C. ("Legal Service Agreement"), p. 2.

Year 2013. Accordingly, it appeared that PAG expends an average of \$70,000.00 per month for legal services.

Pursuant to the negotiations between PAG and Phillips & Bordallo, the cost of services is as follows: \$200.00 per hour for “Shareholders”; \$175.00 per hour for Associates; and \$100.00 per hour for Paralegals, Law Clerks, and Special Assistants. PAG has indicated that the funding source for the Legal Services Agreement is its Operating and Maintenance fund.

The Commission hereby adopts the findings made in the May 22, 2015 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, 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. That the proposed Professional Service Agreement between PAG and Phillips & Bordallo is hereby APPROVED.

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 this docket. Assessment of the PUC’s regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the PUC.

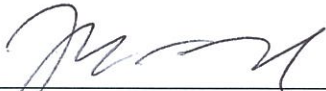
SO ORDERED this 28th day of May, 2015.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner



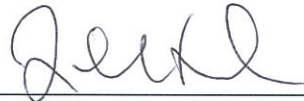
JOSEPH M. MCDONALD
Commissioner



FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

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