

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



PETITION TO AUTHORIZE GWA TO )  
USE THE REMAINING BALANCE OF )  
THE FUNDS REQUESTED FOR PMO )  
WORK ORDER NUMBER 2014-11 TO )  
MANAGE THE U.S. EPA'S STATE )  
REVOLVING FUND PROJECTS AND )  
FOR AN ADDITIONAL \$5.3M IN )  
ADDITIONAL FUNDING FOR )  
VARIOUS IMPORTANT PROJECTS )  
\_\_\_\_\_ )

GWA DOCKET 15-07

ALJ REPORT

This matter comes before the Guam Public Utilities Commission (the "PUC" or the "Commission") pursuant to the Petition for approval of \$544,925 for State Revolving Fund ("SRF") Grant Project Support, and a \$5,303,145 increase in the Program Management Office ("PMO") contract with Brown & Caldwell, filed by the Guam Waterworks Authority ("GWA") on August 5, 2015.

**DISCUSSION**

**A. Review of GWA's PMO Contract**

Pursuant to 12 G.C.A. §12004,<sup>1</sup> 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

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<sup>1</sup> Renumbered as 12 G.C.A. § 12105.

obtained before the procurement process is begun . . . .”<sup>2</sup> GWA must also seek PUC’s approval for any uses of bond funds.<sup>3</sup>

**B. GWA’s Petition for \$5.3 Million Increase**

In the instant Petition, GWA maintains that it continues to “need help relative to compliance with the November 2011 Court Order (‘Court Order’), for matters contained in the Stipulation attached to PUC’s Order approving GWA’s 5 Year rate plan covering FY2013-FY2018, . . . SRF project management, planning such as the update to GWA’s Master Plan, creation of a facilities plan for the Hagatna and Northern District Wastewater Treatment Plants [“WWTPs”] to be used relative to the U.S. E.P.A. secondary treatment negotiations and to create the ‘Consulting Engineer’s Report’ which is required to be provided in conjunction with the issuance of bonds.”<sup>4</sup> GWA submits that “the current request is consistent with GWA’s Five-Year Plan since the work covered under this request will occur in CY2015 and after.”<sup>5</sup> In short, it appears that GWA needs the continued support of the PMO in order for it to be successful in its compliance efforts.

**1. SRF Management**

With respect to SRF project management, GWA submits that “[d]ue to limited manpower within GWA engineering, GWA has been working with the PMO to

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<sup>2</sup> GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

<sup>3</sup> *Id.*

<sup>4</sup> Petition to Authorize the Guam Waterworks Authority to Use the Remaining Balance of the Funds Requested for PMO Work Order Number 2014-11 to Manage the USEPA’s State Revolving Fund Projects and for an additional \$5.3M in Additional Funding for Various Important Projects (“Petition”), p. 3 (August 5, 2015).

<sup>5</sup> Petition, p. 3.

implement 10 SRF funded grant project[s] related to Work Authorization 2014-11.”<sup>6</sup> GWA adds that the PMO has been a “tremendous benefit to GWA through subject matter expertise for all aspects of utility services provided by GWA, including procurement, design, construction, operations, maintenance, and funding”; and that the PMO “has helped GWA make significant progress over the years regarding issues or projects related to the 2011 Court Order as well as projects associated with the U.S. E.P.A. [the “EPA”] SRF.”<sup>7</sup> GWA requests that the remaining balance of \$544,925 reserved by the PUC’s December 29, 2014 Order in GWA Docket 13-01 be released to continue the PMO’s work with project management assistance related to the EPA’s SRF grant projects.<sup>8</sup>

The list of SRF projects to be managed by the PMO concerns the following:

(1) Route 1 Sewer Line Upgrade in the Asan-Adelup Area; (2) Route 2 Sewer Line Upgrade in the Agat War in the Pacific National Park Area; (3) Route 4 Sewer Line Upgrade in the Hagatna-Sinajana Area; (4) Well Rehabilitation Project for Wells D-03, D-17, D-18, D-22, and M-09; (5) Well Rehabilitation Project for Wells F-03, F-20, A-07, A-12, and M-17A; (6) SSES Based Collection System Improvements in Agat and Santa Rita; (7) SSES Based Collection System Improvements in Umatac and Malesso; (8) SSES Based Collection System Improvements in Baza Gardens and Talofoto; (9) Tumon San Vitores Hot Spots project; and (10) Tamuning Hot Spots project.<sup>9</sup> As indicated by GWA, the funding source for the PMO’s management of these projects will be the SRF grant.

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<sup>6</sup> Petition, p. 5.

<sup>7</sup> Petition, p. 5.

<sup>8</sup> Petition, p. 5.

<sup>9</sup> Petition, p. 4.



## **2. PMO Contract**

In addition, GWA further seeks to amend its contract with Brown & Caldwell in order to increase the amount of the contract by \$5,303,145. GWA submits that utilizing the PMO “will save GWA significant sums of money since the PMO is already familiar with GWA’s system” since Brown & Caldwell developed the original Master Plan in 2006, as well as the Consulting Engineers Reports for GWA’s bond issuances.<sup>10</sup> GWA maintains that “if any other firm was hired to perform such work, GWA’s fees for the same scope of work would undoubtedly be higher since any firm unfamiliar with GWA’s system and its finances would have to essentially ‘start from scratch’ as opposed to updating existing data.”<sup>11</sup> GWA further submits that the funding source of these additional projects will be from the 2010 and 2013 bond proceeds.

The following projects have been identified by GWA as requiring additional PMO funding: (1) Program Management Support relative to helping GWA meet critical deadlines under GWA’s Capital Management Plan at an estimated cost of \$894,882.00; (2) Solids Disposal Odor Assessment relative to sludge causing nuisance odor problems at Government of Guam’s Layon landfill at an estimated cost of \$140,420; (3) Consulting Engineer’s Report for 2015 Series Revenue Bonds at an estimated cost of \$197,790; (4) Facility Plan for Northern District and Hagåtña Wastewater Treatment Plants to define the technical requirements for facility upgrades to meet secondary treatment permit requirements at an estimated cost of \$975,385; (5) Master Plan Update

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<sup>10</sup> Petition, p. 6.

<sup>11</sup> Petition, p. 6.

for 2006 Master Plan at an estimated cost of \$2,623,300; and (6) Source Control Program Technical Support at an estimated cost of \$471,368.

### **ANALYSIS AND RECOMMENDATION**

With respect to GWA's request for authority to utilize \$544,925 for the PMO to support and manage SRF grant projects, the PUC has already reviewed the related Work Authorization in a prior review, but reserved \$544,925 in an effort to monitor the GWA and the PMO's progress. Back in December, 2014, 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. In its December 29, 2014 Order, the PUC reserved \$544,925 upon the PUC's review of the project after eleven (11) months. Based on the record, GWA has made a sufficient showing that the reserved funds should now be released so that the PMO can continue to manage the EPA funded projects listed in Part B above.

In addition, the EPA has indicated in an email to the PUC that it is "sympathetic" to the PUC's preference that GWA hire its own skilled professionals for its engineering needs instead of hiring an outside consultant.<sup>12</sup> However, the EPA expressed that "GWA needs to move expeditiously implementing and completing EPA grant funded projects" and "approve the use of the PMO funds as quickly as is possible."<sup>13</sup> The EPA noted that "GWA has seen a significant improvement in its ability to plan, develop and implement infrastructure projects but it needs continued technical assistance to manage the increased workload properly"; and that this scenario is "understandable given the

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<sup>12</sup> Email from Thomas Konner, U.S. E.P.A. to the PUC, Re: Approval of GWA's PMO Funding for EPA Funded Projects (July 1, 2015) ("Konner Email").

<sup>13</sup> Konner Email.

challenges associated [with] finding and retaining qualified engineers in the Pacific Island Territories.”<sup>14</sup> In sum, the EPA approves of the PMO’s management of these EPA funded projects listed above.<sup>15</sup>

Further, as GWA has indicated, the SRF grant would fund this work, and therefore would not result in any negative impact to ratepayers.<sup>16</sup>

With respect to the other significant projects that require PUC approval for additional funding for the PMO contract, based on the record, the ALJ finds that the additional funds for the Consulting Engineer’s Report for 2015 Series Revenue Bonds, and the project for Facility Plan for Northern District and Hagåtña WWTPs, are critical and necessary in order for GWA to meet the deadlines imposed by the federal Stipulated Order, as well as to secure funding for more capital improvement projects.

Based on the documents submitted by GWA, the purpose of the Consulting Engineer’s Report for 2015 Series Revenue Bonds is to assess GWA’s capital needs and its financial ability, which will provide an assessment for bondholders prior to the sale of the bonds, and which will be used for GWA’s Official Statement of Revenue in its bond documents.<sup>17</sup> It appears that GWA must produce this report by the end of this year.<sup>18</sup> In fact, based on the sample timeline provided by GWA, it appears that GWA plans on finalizing closing documents by mid-December.

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<sup>14</sup> Konner Email.

<sup>15</sup> See Konner Email.

<sup>16</sup> Petition, pp. 5-6.

<sup>17</sup> Summary of PMO Contract Amendment No. 5.

<sup>18</sup> Summary of PMO Contract Amendment No. 5.



With respect to the facility plans for the WWTPs, this project will define the technical requirements for facility upgrades to the WWTPs.<sup>19</sup> This project will involve flow assessments, assessments of liquid treatment options, assessments of solids treatment options, facility layouts, opinions on construction and operational costs.<sup>20</sup> This project will also provide GWA with strategy for negotiations with the EPA on secondary treatment timelines.<sup>21</sup> GWA maintains that its “ability to negotiate secondary treatment with the U.S. E.P.A. in an effective manner may be severely compromised unless the facilities plan is delivered in a timely manner.”<sup>22</sup>

It does not appear that the increase requested herein will have a negative impact on rates since, as GWA has indicated, the source of funding would be the 2010 and 2013 bond proceeds.<sup>23</sup> GWA has already petitioned the PUC for reprogramming of its 2013 bond funds.

The ALJ recommends that the PUC approve the instant petition, but only for the amount of \$1,173,175, sufficient to cover the Consulting Engineer’s Report for the 2015 Revenue Bonds, and the facility plans for the Northern District and the Hagatna WWTPs. The ALJ further recommends the release of \$544,925 previously reserved by the PUC. Accordingly, at this time, GWA may increase its contract price with Brown & Caldwell, not to exceed \$1,718,100.

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<sup>19</sup> Summary of PMO Contract Amendment No. 5.

<sup>20</sup> Summary of PMO Contract Amendment No. 5.

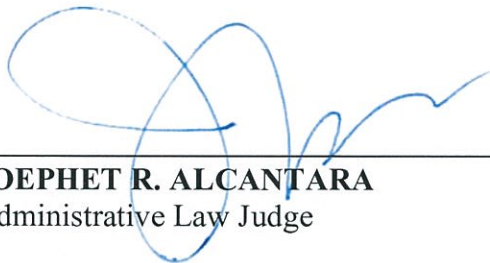
<sup>21</sup> Summary of PMO Contract Amendment No. 5.

<sup>22</sup> Petition, p. 7.

<sup>23</sup> Petition, p. 6.

With respect to the other projects, GWA should file work authorizations, which should include descriptions of the projects, more detailed deliverables, schedules, timeframes and deadlines, as well as a breakdown of cost estimates. Finally, GWA should continue to provide the PUC with monthly PMO reports. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 26<sup>th</sup> day of August, 2015.



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**JOEPHET R. ALCANTARA**  
Administrative Law Judge

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