



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>PETITION TO AUTHORIZE GWA TO</b>	)	<b>GWA DOCKET 15-07</b>
<b>USE THE REMAINING BALANCE OF</b>	)	
<b>THE FUNDS REQUESTED FOR PMO</b>	)	
<b>WORK ORDER NUMBER 2014-11 TO</b>	)	<b>ORDER</b>
<b>MANAGE THE U.S. EPA'S STATE</b>	)	
<b>REVOLVING FUND PROJECTS AND</b>	)	
<b>FOR AN ADDITIONAL \$5.3M IN</b>	)	
<b>ADDITIONAL FUNDING FOR</b>	)	
<b>VARIOUS IMPORTANT PROJECTS</b>	)	
_____	)	

**INTRODUCTION**

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.

**DETERMINATIONS**

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>

GWA maintained 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 submitted 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> It appeared that GWA needs the continued support of the PMO in order for it to be successful in its compliance efforts.

With respect to SRF project management, GWA submitted that “[d]ue to limited manpower within GWA engineering, GWA has been working with the PMO to implement 10 SRF funded grant project[s] related to Work Authorization 2014-11.”<sup>6</sup>

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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.

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

GWA added 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 requested 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.

In addition, GWA further sought to amend its contract with Brown & Caldwell in order to increase the amount of the contract by \$5,303,145. GWA submitted

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

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

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



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 maintained 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 submitted 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 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.

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

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

On August 26, 2015 the Administrative Law Judge of the PUC Joephet R. Alcantara (the “ALJ”) filed an ALJ Report regarding the Petition which included his findings and recommendations based on the administrative record before the PUC.

With respect to GWA’s request for authority to utilize \$544,925 for the PMO to support and manage SRF grant projects, the ALJ found that 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, the ALJ found that 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 of the ALJ Report.

The ALJ further found that 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

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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.

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 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>

Additionally the ALJ found that, 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 found 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 appeared that GWA must produce this report by the end of this year.<sup>18</sup> In

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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.



fact, based on the sample timeline provided by GWA, it appeared that GWA plans on finalizing closing documents by mid-December.

The ALJ further found that, 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 maintained 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>

The ALJ found that it did not appear that the increase requested in the Petition 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 recommended 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

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

<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.

WWTPs. The ALJ further recommended the release of \$544,925 previously reserved by the PUC. Accordingly, at this time, the ALJ recommended that GWA may increase its contract price with Brown & Caldwell, not to exceed \$1,718,100.

With respect to the other projects, the ALJ further recommended that 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, the ALJ recommended that GWA should continue to provide the PUC with monthly PMO reports.

The Commission hereby adopts the findings contained in the August 26, 2015 ALJ Report and, therefore, issues the following:

### **ORDERING PROVISIONS**

After careful review and consideration of the above determinations, the August 26, 2015 ALJ Report, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS the following:

1. That GWA's August 5, 2015 Petition for a \$5,303,145 increase in the Program Management Office contract with Brown & Caldwell is APPROVED for the amount of \$1,718,100, and that approval of the remaining amount will be considered upon GWA's submission of work authorizations discussed in the following Ordering Provision.

2. That GWA file with the PUC work authorizations related to the other projects, which should include descriptions of the projects, more detailed deliverables, schedules, timeframes and deadlines, as well as a breakdown of cost estimates.



3. That GWA shall continue to provide the PUC with monthly PMO reports generated by Brown & Caldwell to track project performance and progress.

4. GWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses associated with the instant proceeding. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§12002(b), 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 Public Utilities Commission.

**SO ORDERED** this 27<sup>th</sup> day of August, 2015.



**JEFFREY C. JOHNSON**  
Chairman



**ROWENA E. PEREZ**  
Commissioner



**JOSEPH M. McDONALD**  
Commissioner

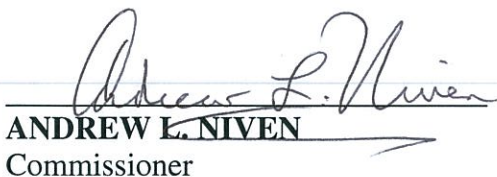


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