



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REVIEW AND APPROVAL OF)
CONTRACT WITH GHD INC.)
FOR WELL REHABILITATION)
DESIGN)
_____)

GWA DOCKET 16-01

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the March 8, 2016 Petition for Approval of Change Order No. 6 for the Well Rehabilitation Design in the Contract with GHD Inc. (the “Petition”), filed by the Guam Waterworks Authority (“GWA”).

DETERMINATIONS

GWA is presently in contract with GHD Inc. (“GHD”), formerly known as Winzler & Kelly, in the amount of \$984,857.00 for the design of three new wells, and rehabilitation of seven wells that have been out of service.¹ Based on GWA’s Request for Proposals RFP-01-ENG-2010 (the “RFP”), the subject contract involves engineering design services for these wells.

Pursuant to 12 G.C.A. §12105,² GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. In addition, GWA’s Contract Review Protocol requires that “[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 Petition for Approval of Change Order No. 6 for the Well Rehabilitation Design, (“Petition”), p.1-2 (March 8, 2016).

² Formerly 12 G.C.A. § 12004.

...”³ Further, all externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000, and any use of such funds, must be approved by the PUC.⁴

In its Petition, GWA sought ratification and approval of its contract with GHD and Change Order No. 6. The GHD contract involves the design of three new water wells, and the rehabilitation of seven wells, which originally cost GWA \$984,857.00.⁵ Since the execution of the contract, there have been five change orders. Change Order No. 1 increased the contract by \$39,771.00; and Change Order No. 2 reduced the contract by \$25,414.00. Change Order Nos. 3, 4, and 5 did not affect the contract amount. Change Order No. 6 to the contract, however, will increase the value of the contract by \$34,094.00, and thereby increase the total contract price to \$1,033,308.00.

GWA maintained that before it entered into the contract, the value of the contract remained below “the \$1M Contract Review Protocol threshold.”⁶ The Change Order involves “critical items that were not contemplated at the time the contract was entered into” and would “add additional elements . . . to accommodate revisions to the specifications to incorporate SCADA.”⁷ GWA maintained that “[t]he reason that GWA did not include the above items in the initial contract estimate was because the Scope of Work for the contract was created in April of 2011 and the SCADA project has changed

³ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁴ *Id.*

⁵ Petition, p. 1.

⁶ Petition, p. 2.

⁷ Petition, p. 2.

considerably since that time.”⁸ Specifically, GWA submitted that “in consultation with the U.S. E.P.A.,” it has determined that “additional work remains to be performed to ensure that proper integration of this project into GWA’s on-going efforts to implement System Control and Data Acquisition (‘SCADA’) was necessary to ensure the project will work as intended.”⁹

GWA submitted that the total cost of the contract will increase to \$1,033,308.00, which includes \$34,094.00 for the Change Order. The cost of the Change Order will be funded under GWA’s 2010 Bond funds.¹⁰

The Change Order involves revisions to the designs, which includes SCADA updates, as well as updates to any specifications to account for any changes to codes and standards, design requirements, and engineering design practices, since most of the engineering design took place during 2010-2012.¹¹ Ultimately, “the work by GWA and the design consultant to repackage the design documents and modify design specifications to incorporate SCADA integration spurred additional design hours by the design consultant above what was previously agreed upon.”¹²

The Petition is supported by Resolution No. 19-FY2016 issued by the Consolidated Commission on Utilities (the “CCU”) at its February 23, 2016 meeting. In the Resolution, the CCU found that the terms and the fee proposal were fair and

⁸ Petition, p. 2.

⁹ Petition, p. 1.

¹⁰ Petition, Exhibit 1, p. 3.

¹¹ GHD Scope of Work and Fee Proposal, p. 2 (Jan. 21, 2015).

¹² Petition, Exhibit 1, p. 2.

reasonable.¹³ The CCU further found that the terms and conditions of the Change Order were fair and reasonable, and therefore, authorized GWA to approve the Change Order.¹⁴ Accordingly, the CCU has authorized additional funding for the subject contract in the amount of \$34,094.00, and thereby approved a total contract amount of \$1,033,308.00.¹⁵

On March 29, 2016 the Administrative Law Judge of the PUC Joephet R. Alcantara (the “ALJ”) filed a report regarding the Petition, which included his findings and recommendation based on the administrative record before the PUC.

The ALJ found that, as indicated by GWA in RFP-01-ENG-2010, “[m]ost areas in Guam are served without interruptions, although lack of developed water sources in some areas, along with annual dry seasons and the occasional drought has highlighted the need for GWA to rehabilitate some of its existing wells and locate and drill new wells.” RFP, p. 11. In addition, the ALJ found that GWA had engaged in work to design additional deep wells and rehabilitate existing deep wells “to address the needs of people residing in this territory where interruptions in water service [are] being experienced.” RFP, p. 11.

The ALJ further found that this Commission previously reviewed and approved projects related to the design of new wells, as well as projects related to the SCADA Master Plan and SCADA updates. Therefore, the ALJ recommended that the PUC ratify the subject contract between GWA and GHD Inc., which includes Change Order No. 6, so that it can continue its efforts in creating new water sources for Guam.

¹³ Petition, Exhibit 1, p. 3.

¹⁴ Petition, Exhibit 1, p. 3.

¹⁵ Petition, Exhibit 1, p. 3.

Based on the documentation provided by GWA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC approve the contract between GWA and GHD Inc., including Change Order No. 6, to continue the work related to the design of the three wells, and for the rehabilitation of seven wells, for a total cost of \$1,033,308.00.

The Commission hereby adopts the findings contained in the March 29, 2016 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the March 29, 2016 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 March 8, 2016 Petition for approval of the \$1,033,308.00 contract with GHD Inc., including Change Order No. 6, for the new well and rehabilitation design is GRANTED and that such contract is hereby RATIFIED; GWA is therefore authorized to pay the amount owed to GHD Inc., not to exceed \$1,033,308.00.

2. 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 31st day of March, 2016.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner

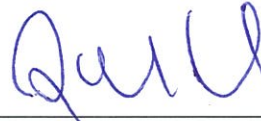


JOSEPH M. MCDONALD
Commissioner

FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

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