



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**IN RE: PETITION FOR APPROVAL
OF PROPOSED BID FOR
PROCUREMENT OF DIESEL
AND GASOLINE FOR THE
GWA TRANSPORTATION
FLEET.**

GWA DOCKET 16-03

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 7, 2016 Petition for Approval of the Procurement of Diesel and Gasoline for the GWA Transportation Fleet (the “Petition”), filed by the Guam Waterworks Authority (“GWA”).

DETERMINATIONS

Pursuant to 12 G.C.A. § 12105,¹ 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 provides that “[a]ll professional service procurements in excess of \$1,000,000” and “[a]ny contract or obligation . . . which exceeds \$1,000,000” require “prior PUC approval under 12 G.C.A. § 12004, which shall be obtained before the procurement process is begun”²

¹ Formerly 12 G.C.A. § 12004.

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

With respect to multi-year contracts, “[t]he term of a contract or obligation (procurement) will be the term stated therein, including all options for extension or renewal”; and the “test to determine whether a procurement exceeds the \$1,000,000 threshold for the PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”³

On June 7, 2016, GWA filed its Petition requesting PUC approval of the procurement of diesel and gasoline for the GWA Transportation Fleet. On July 25, 2016 the Administrative Law Judge of the PUC Joepheth R. Alcantara (the “ALJ”) filed a report regarding the Petition, which included his findings and recommendation based on the administrative record before the PUC.

In the Petition, GWA submitted that its existing fleet fuel contract will expire at the end of September.⁴ As part of the Petition, GWA attached its proposed Invitation for Bid (the “IFB”) as “Exhibit A” to Resolution No. 35-FY2016 issued by the Consolidated Commission on Utilities (“CCU”). Therefore, GWA further submitted that it “must issue a new IFB for a new contract before expiration of existing fuel supply contract in order to insure continuity of operations”; and, that “an open, competitive procurement for a multi-year supply contract with fixed terms and variable annual costs is appropriate and allows GWA to obtain the needed fuels at the lowest possible cost.”⁵

³ GWA CRP, p. 2.

⁴ Petition for Approval of the Procurement of Diesel and Gasoline for the GWA Transportation Fleet, p. 1 (June 7, 2016).

⁵ CCU Resolution No. 35-FY2016, p. 1.

GWA submitted that the estimated annual cost for the purchase of the necessary transportation fleet fuel is about \$300,000.⁶ Accordingly, the cost for a three (3) year contract, with the exercised options, could potentially cost GWA over \$1 million for the next five (5) years.⁷

The IFB lists two types of fuel that the bidder must provide, specifically diesel fuel oil and automotive gasoline, regular unleaded.⁸ With respect to quantity, GWA estimates that it will purchase approximately 50,000 gallons of diesel fuel oil per year, and approximately 115,000 gallons of automotive gasoline, regular unleaded per year.⁹

With respect to contract price, the IFB indicates that the total price per gallon shall be inclusive of all costs.¹⁰ In addition, “[t]he contract price for each year shall be at the same price as contract price offer and all other terms remain unchanged unless other terms are agreed upon between the parties.”¹¹

According to the Bid, the contract term is for three (3) years with the price fixed, with two (2) options to renew for additional one (1) year terms, upon mutual agreement of both parties.¹²

The instant petition was supported by CCU Resolution No. 35-FY2016 (the “Resolution”). In the Resolution, the CCU found that GWA’s contract for transportation fleet

⁶ Petition, p. 1.

⁷ Petition, p. 1.

⁸ IFB, p. 11.

⁹ IFB, p. 11.

¹⁰ IFB, p. 12 (emphasis omitted).

¹¹ IFB, p. 12 (emphasis omitted).

¹² IFB, p. 12.

fuel will expire, and therefore GWA must issue an IFB for a new contract “in order to insure continuity of operations.”¹³ The CCU further found that GWA has “previously evaluated alternatives for procurement of these fuels, and determined that an open, competitive procurement for a multi-year supply contract with fixed terms and variable annual costs is appropriate and allows GWA to obtain the needed fuels at the lowest possible cost”¹⁴

The Resolution further indicated that the funding source of the contract would be from GWA’s operational revenues.¹⁵ The Resolution also authorized GWA to issue the bid for the purchase of diesel fuel and regular unleaded gasoline for its transportation fleet, as well as petition the PUC for approval of such bid.¹⁶

CONCLUSION AND RECOMMENDATION

In the July 25, 2016 ALJ Report, the ALJ found that GWA’s use of a multi-year contract for the purchase of fuel for its transportation fleet, particularly diesel fuel oil and automotive gasoline, regular unleaded, was reasonable and necessary given that fuel for its transportation fleet is vital to its daily operations. In addition, the ALJ found that GWA has provided adequate documentation to support the procurement. Therefore, the ALJ recommended that the PUC approve the subject IFB.

The ALJ recommended that the PUC approve GWA’s Petition and that GWA should be authorized to proceed with the procurement related to the purchase of diesel fuel oil and automotive gasoline, regular unleaded, as set forth in the IFB submitted by GWA.

¹³ CCU Resolution No. 35-FY2016, p. 1 (May 24, 2016).

¹⁴ CCU Resolution No. 35-FY2016, p. 1.

¹⁵ CCU Resolution No. 35-FY2016, p. 2.

¹⁶ CCU Resolution No. 35-FY2016, p. 2.

The Commission hereby adopts the findings contained in the July 25, 2016 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the July 25, 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 June 7, 2016 Petition for approval of the procurement of diesel and gasoline for GWA's Transportation Fleet is hereby GRANTED.

2. That 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. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 28th day of July, 2016.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner



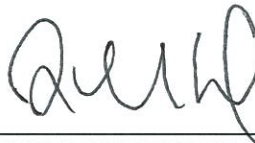
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