

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

)
) GPA Docket 17-04
)

The Application of the Guam Power
Authority to Approve the Performance
Management Contract (PMC) for the GPA
Fuel Farm Bulk Storage Facility with IP&E
Guam LLC.

) PUC COUNSEL REPORT
)
)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of Guam Power Authority ["GPA"] for review and approval of the Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility.¹

BACKGROUND

2. On October 27, 2016, the PUC issued an Order approving the Petition of GPA to procure a performance management contract for the fuel bulk storage facility.²
3. GPA's current contract with Vital Energy, Inc. for the management of the GPA Fuel Bulk Storage Facility will expire on May 31, 2017.³
4. In November 2016, GPA issued a new Multi-Step Invitation for Bid, IFB GPA-014-17, for the Management, Operation, and Maintenance of the Fuel Bulk Storage Facility.⁴
5. Three bidders submitted bids for GPA's consideration: IP&E Guam LLC, Tristar Terminals Guam, and Vital Energy Inc.⁵
6. Vital Energy Inc. was disqualified for submitting a price proposal that was determined to be non-compliant with the requirements of the bid.⁶

¹ GPA Petition for Review and Approval of the Performance Management Contract for the GPA Fuel Farm Bulk Storage Facility, GPA Docket 17-04, filed April 14, 2017.

² PUC Order, GPA Docket 17-04, issued October 27, 2016, at p. 3.

³ Guam Consolidated Commission on Utilities, Resolution No. 2017-10, adopted April 18, 2017, at p. 1.

⁴ Id. at p. 1.

⁵ Id.

⁶ Id.

7. IP&E Guam LLC was determined to be the lowest, most responsive and responsible bidder.⁷
8. On April 18, 2017, the Guam Consolidated Commissions on Utilities issued Resolution No. 2017-10, which approved the selection of IP&E Guam LLC as the lowest, most responsive bidder for award of the Performance Management Contract for the Fuel Bulk Storage Facility.⁸
9. Subject to PUC approval, the GPA General Manager was authorized to enter into a PMC contract with IP&E Guam LLC.⁹
10. Under the proposed Contract, IP&E Guam LLC's initial term will be for two years, with three optional 1-year extensions.¹⁰ The total cost for the 2-year base period is \$1,644,300.00 for mandatory services.¹¹
11. The responsibilities of the PMC were fully set forth in the PUC Order dated October 27, 2016. They include: full responsibility for management, operation and maintenance of the GPA fuel bulk storage facility; transfer of fuel oil product to GPA owned and contracted facilities and locations; ensuring that products in GPA's storage tanks meet the fuel specification required by GPA; maintenance and upkeep of facilities and equipment; coordination and overseeing of CIP projects; compliance with requirements of the Oil Pollution Act of 1990 and membership in Guam Response Services Limited (G.R.S.L.).¹²
12. This matter was originally scheduled to be heard at the PUC Meeting held on April 27, 2017. However, at that meeting GPA advised the PUC that a protest had been filed by Vital, which meant that PUC could not proceed at that time with considering GPA's Application for Approval of Contract Award.
13. Subsequent to a meeting with Vital, GPA denied Vital's protest. GPA now represents that the period for Vital to file an appeal with the Office of Public Accountability has expired. GPA has not received a protest appeal nor is there any

⁷ See Exhibit "1" attached hereto.

⁸ CCU Resolution No. 2017-10, issued April 18, 2017, at p. 1.

⁹ Id. at p. 2.

¹⁰ Id. at p. 1.

¹¹ Id.

¹² PUC Order GPA Docket 17-04, dated October 27, 2016, at p. 2.

filing on the OPA website.¹³ This matter is now ripe for consideration by the PUC.

ANALYSIS

14. The PUC previously determined that the proposed Contract for the PMC for the Fuel Bulk Storage Facility should be adequate to require proper performance by the contractor, and that a PMC for the Fuel Farm is responsible, prudent and necessary.¹⁴
15. The present PMC for the GPA Fuel Farm Bulk Storage Facility, Vital Energy Inc., has been performing the PMC contract for a period of nearly five years.¹⁵
16. However, Vital was disqualified in the current bid process. In accordance with Bid Item No. 6, Vital was required to submit an Operation and Maintenance Budget for the Fuel Bulk Storage Facility. For an unknown reason, Vital submitted a negative number (-\$103,051.67) for the O&M Budget. Its response was “non-sensical”, according to GPA Legal Counsel.¹⁶
17. The PUC is not a procurement board and must rely upon GPA with regard to procedure by which the lowest responsible bidder is selected. In accordance with GPA’s determination, it appears that IP&E Guam LLC was the lowest responsive bidder and should be awarded the contract.
18. The per-year annual cost for the 2-year base period of the IP&E PMC contract is \$810,000.00 and \$834,300.00 respectively. Under the original Vital PMC contract from 2012 to 2015, the annual cost was roughly \$675,273.38 per year.¹⁷ While the annual cost has increased for the new contract, such increase does not appear to be out of line given inflation and other rising cost factors.

RECOMMENDATION

19. Counsel recommends that the PUC approve GPA’s Award of the Performance

¹³ Email from GPA Counsel Graham Botha to PUC Counsel Fred Horecky, Re: Docket 17-04, dated August 18, 2017.

¹⁴ Id. at p. 3.

¹⁵ Id. at p. 1.


¹⁶ Telephone conversation between GPA Legal Counsel Graham Botha and PUC Counsel Fred Horecky on April 21, 2017.

¹⁷ PUC Order, GPA Docket 10-08, dated June 11, 2012, at p. 2.

Management Contract for the management, operation and maintenance of the GPA
Fuel Farm Bulk Storage Facility to IP&E Guam LLC.

20. An Order is submitted herewith to the Commissioners for their consideration.

Dated this 20th day of August, 2017.


Frederick J. Horecky
PUC Legal Counsel