

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN RE: REQUEST BY THE PORT )
AUTHORITY OF GUAM FOR )
FOR APPROVAL OF )
CONTRACT FOR INSURANCE )
PAG DOCKET 18-01
ALJ REPORT

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") pursuant to the October 12, 2017 Petition for Approval of Bid Award for Insurance Coverage (hereinafter referred to as the "Petition"), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam ("PAG"). PAG seeks PUC approval of its contract for insurance with AM Insurance ("AM").

BACKGROUND

On September 6, 2017, the General Services Agency of the Government of Guam ("GSA") publicly announced Invitation for Bid No. GSA/PAG 020-17 ("IFB GSA/PAG 020-17") in the Pacific Daily News, which sought sealed bids for property insurance, liability insurance, directors and officers liability insurance, automobile insurance, and crime insurance. Invitation for Bid No. GSA/PAG 020-17, p. 36.

On September 21, 2017, GSA held a bid opening. Thereafter, GSA transmitted a copy of the sole submission by AM to PAG's Risk Consultant for its review. PAG then selected bids for the list of coverage for five-year terms. On September 26, 2017, PAG's Board of Directors ratified the award to AM, approving the bid amounts indicated for each coverage type.

1 Petition for Review and Approval for Bid Award for Insurance Coverage ("Petition"), p. 1 (Oct. 12, 2017).
2 Petition, p. 1.
3 Petition, p. 1.

PAG represents that the Board of Directors intends to issue Resolution No. 2017-21 on October 25, 2017, which will formally approve GSA's award to AM at an annual premium amount of \$2,372,181.47.

## **DISCUSSION**

### **1. PAG's Petition**

In the Petition, PAG requests that the PUC approve PAG's purchase of property insurance, as well as other types of insurance, itemized in IFB GSA/PAG 020-17 on the basis that such insurance serves "as safeguards to all of PAG's assets from all risk, including natural disasters or catastrophic events, as well as, coverage for any liabilities resulting from PAG's operations."<sup>4</sup> Furthermore, PAG maintains that such insurance coverage "is instrumental to PAG's compliance to the existing loan conditions."<sup>5</sup> PAG specifically seeks approval to contract with AM for the following coverage: Property Insurance, Liability Insurance, Directors and Officer Liability Insurance, Crime Insurance, and Automobile Insurance; for a five-year annual premium cost of \$2,372,181.47.

### **2. Proposed Insurance Coverage**

In the Petition, PAG seeks approval for the following five-year premiums: (1) \$55 million Property Insurance for \$2,004,787.00, with a \$1,000,000 deductible for typhoon, earthquake, and flood, and a \$50,000 deductible for all other peril; (2) \$50 million Liability Insurance for \$283,560.00, with a \$15,000 deductible; (3) \$2-\$5 million Directors and Officers Liability Insurance for \$55,575.00, with a \$10,000 deductible for any one claim, and \$75,000 deductible for employment practice liability claims; (4) \$2 million Automobile Insurance for

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<sup>4</sup> Petition, p. 1.

<sup>5</sup> Petition, p. 2.

\$15,908.47, with a \$1,000 deductible; and (5) \$1,000,000 Crime Insurance for \$12,351.00, with a \$10,000 deductible. In Fiscal Year 2013, the total cost for PAG's annual insurance premiums was \$1,957,484.75 per year.

**3. PAG's Contract Review Protocol**

Pursuant to 12 G.C.A. §12105,<sup>6</sup> PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to PAG's current Contract Review Protocol, "[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000" and "[a]ll capital items by account group utilizing O&M funds, which in any year exceed \$1,000,000"; and "[a]ny contract or obligation not specifically referenced above which exceeds \$1,000,000" "shall require prior PUC approval under 12 G.C.A. Section 12004." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

**4. Board Approval**

According to PAG, its Board of Directors ratified the award to AM on September 26, 2017. PAG also submits that its Board of Directors will issue Resolution No. 2017-21, which draft indicates formal approval of PAG's recommendation to award the contract for insurance coverage to AM. In addition, the draft Resolution authorizes the contract term of five years and expressly authorizes the amount of \$2,375,181.47 for the cost of the annual premium.

**CONCLUSION AND RECOMMENDATION**

Based on the documentation provided, the ALJ agrees with PAG and therefore finds that insurance "safeguards" "PAG's assets from all risks, including natural disasters or

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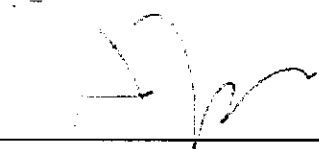
<sup>6</sup> Formerly 12 G.C.A. §12004.

catastrophic events, as well as, coverage for any liabilities resulting from PAG's operations."<sup>7</sup> Additionally, the ALJ further finds that such insurance coverage "is instrumental to PAG's compliance to the existing loan conditions."<sup>8</sup>

Further, this Commission has historically highlighted the importance of maintaining insurance since such insurance benefits ratepayers with regard to the protection of assets by assisting with recovery efforts after natural disasters such as typhoons, earthquakes, or other calamities.

Accordingly, the ALJ therefore recommends that the PUC approve PAG's contract for insurance with AM for coverage indicated in the Petition, and for an annual premium cost of \$2,372,181.47. A proposed Order for the PUC is attached hereto for the PUC's consideration.

Dated this 24<sup>th</sup> day of October, 2017.



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**JOEPHET R. ALCANTARA**  
Administrative Law Judge

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<sup>7</sup> See Petition, p. 1.

<sup>8</sup> See Petition, p. 2.