



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: REQUEST FOR REVIEW) PAG DOCKET 18-05
AND APPROVAL OF)
CONTRACT WITH)
KORANDO CORPORATION)
FOR CONCRETE/ASPHALT) ALJ REPORT
PAVEMENT AND FIRE)
HYDRANT REPAIRS BY PORT)
AUTHORITY OF GUAM)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 6, 2018 Petition for review and approval of the contract related to the Container Yard Improvement Project–Concrete/Asphalt Pavement and Fire Hydrant Repairs (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of the subject contract with Korando Corporation (“Korando”) in the amount of Two Million Seven Hundred Seventy Thousand Three Hundred Seventy-Nine and 98/100 Dollars (\$2,770,379.98).

BACKGROUND

On August 29, 2017, PAG issued Invitation for Bid No. PAG-CIP-017-002 to solicit construction work for its Container Yard Improvement Project-Concrete/Asphalt Pavement and Fire Hydrant Repairs (“IFB”).¹ Five firms submitted bids in response to the IFB, which were evaluated by PAG’s procurement personnel.² PAG’s procurement

¹ Petition, p. 1.

² Petition, p. 1.

personnel thereafter determined Korando to be the lowest responsive and responsible bidder.³ On May 30, 2018, PAG's Board of Directors approved the bid award to Korando and issued Resolution No. 2018-04, which also authorized PAG to petition the PUC for approval of the contract with Korando.⁴

DISCUSSION

1. PAG's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Accordingly, pursuant to PAG's current Contract Review Protocol, "[a]ll professional services contracts in excess of \$1,000,000" and "[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000, whether or not the contract extends over a period of one year or several years" "shall require prior PUC approval under 12 G.C.A. §12004." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

2. Petition

PAG seeks PUC review and approval of its contract award to Korando for the Container Yard Improvement Project (Concrete/Asphalt Pavement and Fire Hydrant Repairs) at a cost of \$2,770,379.98.⁵ PAG submits that this project "will provide the necessary repairs for the container yard," which is "vital to its operations."⁶

³ Petition, p. 1.

⁴ Petition, p. 1.

⁵ Petition, p. 2.

⁶ Petition, p. 2.

The following was submitted by PAG in support of its Petition: IFB No. PAG-CIP-017-002 and specifications; Board Resolution No. 2018-04 issued by PAG's Board of Directors; the April 23, 2018 Bid Evaluation memorandum for IFB No. PAG-CIP-017-002; Korando's bid submission; and the proposed contract.

3. Scope of Work and Proposed Contract

a. Scope of Work

Based on the Bid Specifications, the scope of work includes repair, improvements, and incidental work related to PAG's container yard pavement, and fire hydrant, manhole repair, and valve replacement. Specifically, the bid sought prices for pavement markings; asphalt cement concrete pavement repair or replacement; Portland cement concrete pavement repair or replacement; and fire hydrant adjustments and repairs.

Based on Korando's bid submission, it appears that it will cost about \$1.1 million to repave about four acres with asphalt cement concrete; and about \$838,000 to repave about 1.3 acres with Portland cement concrete, which comprise the bulk of the cost of the contract.

b. Contract Term

Pursuant to the Proposed Contract, the duration of the project is two hundred and forty (240) days after issuance of the Notice to Proceed. In addition, along with standard provisions, the contract also contains a liquidated damages clause, which provides PAG with liquidated damages in the amount of \$1,000 per day beyond the two hundred forty (240) day term to complete the project.

c. Funding

PAG submits that “[t]he funding for this project is through the Facility Maintenance Fee at \$3,047,418 which includes a 10% contingency.”⁷

4. Korando

Based on its bid, Korando has experience with construction paving projects. Part of its representative work includes demolition of, and site improvements to, the Guam Solid Waste Authority-Agat Transfer Station and Dededo Transfer Station, which involved the demolition of existing structures and the construction of retaining walls, pavement, and roadways. Korando’s other projects include the demolition and replacement of the Bile and Pigua bridges in Merizo, which was just recently completed. Korando was also involved with repair and renovation projects of several buildings and facilities on Anderson Air Force Base.

5. Board Approval

Resolution No. 2018-04 indicates that PAG’s Board of Directors approved the contract award to Korando during its May 30, 2018 meeting.⁸ In addition, the Resolution authorizes PAG management to petition the PUC for approval of the award to Korando.⁹

RECOMMENDATION AND CONCLUSION

Based on the record before the Commission, the ALJ finds that the subject contract properly underwent Guam’s competitive bidding process. PAG has noted in its

⁷ Petition, p. 1.

⁸ Resolution No. 2018-04, PAG Board of Directors, p. 1 (May 30, 2018).

⁹ Resolution No. 2018-04, p. 1.

Bid Evaluation memorandum that while another bidder submitted a lower bid than Korando, that bid was made in error. In particular, it appears that the bidder made an error in its estimates because it utilized a different unit of measure. PAG rejected this particular bid as non-responsive. As a result, PAG's procurement personnel concluded that Korando, as the second lowest bid, was the lowest responsive and responsible bidder.

Moreover, the record also indicates that Korando has experience with construction paving projects since part of its representative work included demolition of, and site improvements to, the Guam Solid Waste Authority Agat Transfer Station and Dededo Transfer Station, which involved the demolition of existing structures and the construction of retaining walls, pavement, and roadways. Korando's work additionally included the demolition and replacement of the Bile and Pigua bridges in Merizo, and the repair and renovation projects of several buildings and facilities on Anderson Air Force Base.

Accordingly, based on this record, the ALJ recommends that the PUC approve the proposed contract with Korando, at a cost of \$2,770,379.98. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 22nd day of June, 2018.



JOEPHET R. ALCANTARA
Administrative Law Judge