

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

**IN RE: PETITION TO PROCURE** ) **GWA DOCKET 18-05**  
**LABORATORY SERVICES** ) **ALJ REPORT**  
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**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the January 17, 2018 Petition to review and approve its request to initiate procurement of Laboratory Services (hereinafter referred to as the “Petition”) filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of an invitation for bid (the “IFB”) related to contract for laboratory services.

**BACKGROUND**

GWA’s existing contract with Eurofins Eaton, Inc. for laboratory services, which was a multi-year contract, expires in August, 2018. GWA has prepared an IFB to procure another contract that will succeed the existing contract.

**DISCUSSION**

**A. Contract Review Protocol**

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s Contract Review Protocol issued in Administrative Docket 00-04, “[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 . . . .”<sup>1</sup>

With respect to “multi-year contracts,” “[t]he test to determine whether a procurement exceeds the \$1,000,000 threshold for PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”<sup>2</sup>

**B. GWA’s Petition to Procure Lab Services**

In its petition, GWA requests that the PUC approve an IFB for a multi-year contract for laboratory services.<sup>3</sup> GWA submits that it is required to have water and wastewater samples tested by a lab certified by the U.S. E.P.A.<sup>4</sup> GWA further submits that since it does not have testing facilities in-house, it must utilize a third-party vendor for the laboratory testing.<sup>5</sup>

GWA estimates that the laboratory services will cost approximately \$540,000.00 per year.<sup>6</sup> Accordingly, it submits that a three-year contract for laboratory services will exceed \$1 million. GWA believes that procuring a multi-year contract would lessen costs, as the price of the services would be fixed over a longer period of time, and that GWA would not need to spend time procuring these services yearly.<sup>7</sup>

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

<sup>2</sup> GWA CRP, p. 4.

<sup>3</sup> Petition, p. 2.

<sup>4</sup> Petition, p. 2.

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

<sup>6</sup> Petition, p. 2.

<sup>7</sup> Petition, p. 2.

**C. Scope of Services**

Based on the IFB submitted for review by GWA, the IFB requires that the contractor must be able to provide monthly, quarterly, biannual, and annual tests on GWA's water, wastewater, and UCMR3 (unregulated contaminants) samples. These tests will measure levels of pesticides, metal, lead copper, and toxicity in GWA's water and wastewater, among others.

The IFB requires that samples be analyzed under the Standardized Monitoring Requirements of the Guam Environmental Protection Agency, in compliance with Guam's Safe Drinking Water Act, and Primary and Secondary Safe Drinking Water Regulations. The IFB also requires that samples be analyzed under the National Pollutant Discharge Elimination System (NPDES) requirements, in compliance with the Clean Water Act and Guam Water Quality Standards.

**D. Projected Funding Source and Estimated Cost**

According to GWA, the projected source of funding for this contract will be from its Operations and Maintenance budget. GWA estimates that the laboratory services will cost approximately \$540,000.00 per year.<sup>8</sup>

**E. CCU Resolution No. 27-FY2018**

The instant Petition is supported by Resolution No. 27-FY2018 issued by the Consolidated Commission on Utilities ("CCU") ("Resolution"). Pursuant to the Resolution, the CCU found that the subject procurement is "reasonable, prudent, and necessary," thereby authorizing the procurement.

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

### **CONCLUSION**

Based on the documentation provided by GWA, the ALJ finds that GWA is required to have water and wastewater samples tested by a lab certified by the U.S. E.P.A., and that no reasonable alternatives to such services exist. The ALJ, therefore, finds the procurement to be reasonable, particularly for services of a U.S. E.P.A. certified lab to analyze the water and wastewater samples GWA provides to the Guam Environmental Protection Agency, considering that such testing is required under Guam's Safe Drinking Water Act and the Guam Primary and Secondary Water Regulations. The ALJ further finds that the use of a multi-year contract, which will allay some costs, is appropriate under the circumstances.

### **RECOMMENDATION**

Based on the foregoing, the ALJ recommends that the PUC approve GWA's petition. Accordingly, GWA should be authorized to issue GWA IFB No. 2018-06, related to the procurement of laboratory services. A proposed Order is submitted herewith for the Commissioners' consideration.

Dated this 24<sup>th</sup> day of April, 2018.



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**JOEPHET R. ALCANTARA**  
Administrative Law Judge

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>IN RE: PETITION TO PROCURE</b>	)	<b>GWA DOCKET 18-05</b>
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<b>LABORATORY SERVICES</b>	)	<b>ORDER</b>
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This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the January 17, 2018 Petition to review and approve its request to initiate procurement of Laboratory Services (hereinafter referred to as the “Petition”) filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of an invitation for bid (the “IFB”) related to contract for laboratory services.

On April 24, 2018, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**DETERMINATIONS**

GWA’s existing contract with Eurofins Eaton, Inc. for laboratory services, which was a multi-year contract, expires in August, 2018. GWA has prepared an IFB to procure another contract that will succeed the existing contract.

**A. Contract Review Protocol**

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s Contract Review Protocol issued in Administrative Docket 00-04, “[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 . . . .”<sup>1</sup>

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**B. GWA’s Petition to Procure Lab Services**

In its petition, GWA requested that the PUC approve an IFB for a multi-year contract for laboratory services.<sup>3</sup> GWA submitted that it is required to have water and wastewater samples tested by a lab certified by the U.S. E.P.A.<sup>4</sup> GWA further submitted that since it does not have testing facilities in-house, it must utilize a third-party vendor for the laboratory testing.<sup>5</sup>

GWA estimates that the laboratory services will cost approximately \$540,000.00 per year.<sup>6</sup> Accordingly, it submitted that a three-year contract for laboratory services will exceed \$1 million. GWA believes that procuring a multi-year contract would lessen costs, as the price of the services would be fixed over a longer period of time, and that GWA would not need to spend time procuring these services yearly.<sup>7</sup>

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**C. Scope of Services**

Based on the IFB submitted for review by GWA, the IFB requires that the contractor must be able to provide monthly, quarterly, biannual, and annual tests on GWA's water, wastewater, and UCMR3 (unregulated contaminants) samples. These tests will measure levels of pesticides, metal, lead copper, and toxicity in GWA's water and wastewater, among others.

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**D. Projected Funding Source and Estimated Cost**

According to GWA, the projected source of funding for this contract will be from its Operations and Maintenance budget. GWA estimates that the laboratory services will cost approximately \$540,000.00 per year.<sup>8</sup>

**E. CCU Resolution No. 27-FY2018**

The instant Petition was supported by Resolution No. 27-FY2018 issued by the Consolidated Commission on Utilities ("CCU") ("Resolution"). Pursuant to the Resolution, the CCU found that the subject procurement is "reasonable, prudent, and necessary," thereby authorizing the procurement.

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

## **CONCLUSION**

Based on the documentation provided by GWA, the ALJ found that GWA is required to have water and wastewater samples tested by a lab certified by the U.S. E.P.A., and that no reasonable alternatives to such services exist. The ALJ, therefore, found the procurement to be reasonable, particularly for services of a U.S. E.P.A. certified lab to analyze the water and wastewater samples GWA provides to the Guam Environmental Protection Agency, considering that such testing is required under Guam's Safe Drinking Water Act and the Guam Primary and Secondary Water Regulations. The ALJ further found that the use of a multi-year contract, which will allay some costs, is appropriate under the circumstances.

Accordingly, based on the record before the PUC, the ALJ recommended that the PUC approve GWA's petition and that GWA should be authorized to issue GWA IFB No. 2018-06, related to the procurement of laboratory services.

The Commission hereby adopts the findings made in the April 24, 2018 ALJ Report, and therefore, issues the following:

## **ORDERING PROVISIONS**

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. That the instant Petition is hereby APPROVED and GWA is authorized to issue GWA IFB No. 2018-06, related to the procurement of laboratory services.



2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. 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 PUC.

**SO ORDERED** this 26<sup>th</sup> day of March, 2018.

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**JEFFREY C. JOHNSON**  
Chairman

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**ROWENA E. PEREZ**  
Commissioner

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**JOSEPH M. MCDONALD**  
Commissioner

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**FILOMENA M. CANTORIA**  
Commissioner

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**MICHAEL A. PANGELINAN**  
Commissioner

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**PETER MONTINOLA**  
Commissioner

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**ANDREW L. NIVEN**  
Commissioner

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