**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

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| **IN THE MATTER OF:**  **THE APPLICATION OF THE GUAM POWER AUTHORITY FOR APPROVING THE PROCUREMENT FOR SUPPLY OF DIESEL FUEL OIL TO THE GUAM POWER AUTHORITY.** | **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)** | **GPA DOCKET 20-07**  **PUC COUNSEL REPORT** |

**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of the Guam Power Authority [“GPA”] For Approving the Procurement for Supply of Diesel Fuel Oil to GPA.[[1]](#footnote-1)
2. GPA requests approval of its solicitation for a contract for the supply of Diesel Fuel Oil No. 2 for GPA’s Tenjo Vista Power Plant.[[2]](#footnote-2)

**BACKGROUND**

1. GPA operates the Tenjo Vista Diesel Power Plant which requires the use of Diesel Fuel Oil No. 2 to operate and the plant used 2,086,644 gallons of said fuel oil in FY2019.[[3]](#footnote-3)
2. GPA has existing contracts that supply Diesel Fuel Oil to its baseload and peaking units and these contracts include the Tenjo Diesel Power Plant.[[4]](#footnote-4)
3. GPA seeks to solicit for a separate contract to supply Diesel Fuel Oil No. 2 to the Tenjo Vista Diesel Power Plant only and it seeks a contract with an initial term of three years commencing June 1, 2020 and ending on May 1, 2023 with two additional one-year extension options.[[5]](#footnote-5)
4. On January 28, 2020, the Guam Consolidated Commission on Utilities [“CCU”] issued Resolution No. 2020-20 authorizing GPA’s management, subject to the PUC’s approval, to solicit for a contractor to Supply Diesel Fuel Oil No. 2 to GPA’s Tenjo Vista Power Plant.[[6]](#footnote-6)

**ANALYSIS**

1. GPA’s contract review protocol requires that any GPA contract that exceeds the amount of $1,500,000 requires prior PUC approval and which shall be obtained before the procurement process is begun.[[7]](#footnote-7) Here, GPA must obtain the PUC’s authorization to solicit for a contract to supply Diesel Fuel Oil No. 2 to its Tenjo Vista Power Plant because it is estimated that the contract will cost in excess of $1.5 million review threshold.[[8]](#footnote-8)
2. GPA seeks to use the multi-step invitation for bids solicitation method to solicit for a contract to supply Diesel Fuel Oil No. 2 to its Tenjo Vista Power Plant.[[9]](#footnote-9) Said procurement method is authorized by 5 G.C.A. §5211(h) and 2 G.A.R., Div. 4, Chap. 3, §3109(a).
3. GPA’s draft contract for the supply of Diesel Fuel Oil No. 2 to GPA’s Tenjo Vista Power Plant, which is part of the solicitation, contains all the standard contract clauses, including quantity and quality assurances, security of supply, permits and responsibilities, force majeure, disputes, default, and termination for convenience.[[10]](#footnote-10)
4. The solicitation and draft contract define the minimum quantity of fuel oil to be delivered to the plant annually as two million gallons and the maximum amount to be delivered as 3 million gallons. This is an acceptable range because, since FY2016, the lowest amount of fuel oil the plant used was 2,086,644 gallons of fuel oil in FY2019, and highest amount of fuel oil the plant used annually during this period was 3,474,324 in FY2016. Although the plant’s FY2016 annual fuel consumption rate was higher than the three million gallon maximum amount, it is in line with the plant performance during the last two years in which it consumed less than that amount, specifically it consumed 2,990,526 gallons in FY2018 and 2,086,644 in FY2019.[[11]](#footnote-11)
5. GPA’s request is reasonable, prudent and necessary.

**RECOMMENDATION**

1. Counsel recommends that PUC approve GPA’s solicitation for a contract for the supply of Diesel Fuel Oil No. 2 for GPA’s Tenjo Vista Power Plant.
2. A proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 23rd day of February, 2020.

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Anthony R. Camacho, Esq.

PUC Legal Counsel

1. GPA Petition for Approving the Procurement of the Supply of Diesel Fuel Oil to GPA, GPA Docket 20-07, dated February 14, 2020. [↑](#footnote-ref-1)
2. Id., at 1. NOTE: Page Numbers are the PDF page numbers and not the page numbers used in the actual Petition. [↑](#footnote-ref-2)
3. Id., at 1. [↑](#footnote-ref-3)
4. Id., at 2. [↑](#footnote-ref-4)
5. Id., at 3. [↑](#footnote-ref-5)
6. Id., at 3. [↑](#footnote-ref-6)
7. Contract Review Protocol for GPA, Order dated February 15, 2008, Administrative Docket at 1. [↑](#footnote-ref-7)
8. Id., at 3. [↑](#footnote-ref-8)
9. Id., at 5. [↑](#footnote-ref-9)
10. Id., at 6-7. [↑](#footnote-ref-10)
11. Id., at 47. [↑](#footnote-ref-11)