**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

|  |  |  |
| --- | --- | --- |
| **IN THE MATTER OF:****THE REQUEST OF THE GUAM WATERWORKS AUTHORITY FOR APPROVAL OF GWA’S ENTERPRISE RESOURCE PLANNING SYSTEM UPGRADE UNDER THE CONTRACT REVIEW PROTOCOL**  | **)****)****)****)****)****)****)****)****)** |  **GWA DOCKET 20-04** **PUC COUNSEL REPORT** |

**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission [“PUC”] pursuant the Guam Waterworks Authority’s [“GWA”] Petition for Approval of GWA’s Enterprise Resource Planning System Upgrade Under the Contract Review Protocol.[[1]](#footnote-1)

2. GWA requests that the PUC approve GWA’s contract with Red Rock Consulting Pty. Ltd. [DXC Red Rock] for the upgrade of GWA’s Enterprise Resource Planning System [ERP] and its $5,286,385 cost.

**BACKGROUND**

3. Since 1998, GWA has used its ERP software system to manage its accounting, procurement, and human resource activities and the version of this software used by GWA is JDE World ERP v9.3. This version of the ERP software is one version behind the current version and will not be supported or upgraded by the vendor after March, 2020. Further, GWA employees have had to develop and implement manual workarounds and stand-alone applications to perform tasks and create reports on its increasingly inefficient and outdated ERP software.[[2]](#footnote-2)

4. GWA seeks to migrate its existing ERP software to a new, modern, browser-based digital platform called JDE E1. Oracle is the only software company offering the JDE E1 software and DXC Red Rock is the only contractor with a proprietary pre-built JDE E1 configuration and implementation plan for engineering and construction firms in the Western Pacific Region.[[3]](#footnote-3)

5. Accordingly, on December 5, 2018, GWA issued a sole source procurement awarding the contract for the discovery phase of its JDE E1 upgrade to DXC Red Rock. The discovery phase of the upgrade included defining the scope for a technical and transformational upgrade and it had several key project planning deliverables including pricing.[[4]](#footnote-4) DXC Red Rock subsequently submitted proposal for a three year contract with implementation of the upgrade in the first year, and recurring licensure costs and managed services for all three years with a total contract estimated the cost of $5,286,385.[[5]](#footnote-5)

6. On January 21, 2020, GWA issued a second sole source procurement awarding the contract for the JDE E1 upgrade to DXC Red Rock.[[6]](#footnote-6)

7. On February 21, 2020, the Consolidated Commission on Utilities [CCU] approved GWA Resolution No. 13-FY2020 which authorized GWA to enter into a contract with DXC Red Rock for the JDE E1 upgrade for the amount of $5,286,385 and to seek the PUC’s approval of the contract.[[7]](#footnote-7)

**ANALYSIS**

8. The PUC’s Contract Review Protocol for GWA mandates that GWA obtain prior PUC approval for multi-year contracts that exceed the amount of one-million-dollars ($1,000,000).[[8]](#footnote-8) Here, the $5,286,385 cost for GWA’s JDE E1 upgrade contract with DXC Red Rock requires PUC approval because the total cost of the contract exceeds the $1,000,000 contract review amount.

 9. The $5,286,385 contract cost is reasonable. Even in a sole source procurement, the procurement officer is required to conduct negotiations, as appropriate, as to price, delivery, and terms. 2 G.A.R., Div. 4, Chap. 3, §3112(d). Here, GWA states that independent third-party research indicates that the typical cost for an average mid-size business ERP upgrade is between 3% to 7% of its annual revenue and for GWA, this translates to a range of $3.3 million to $7.4 million.[[9]](#footnote-9) Albeit the $5,286,385 price is in the middle of this range instead of the lower end of the range. This mid-range cost position is justified because GWA is not merely trying to upgrade its existing licenses as allowed by Oracle, but is also purchasing additional licenses, support, infrastructure, and professional services from Oracle and DXC Red Rock.[[10]](#footnote-10) GWA states that it has obtained a $500,000 federal grant for the upgrade, and that it will be applying for second federal grant in April, 2020, and that it will be paying the non-grant funded costs of its contract using its bond, internal CIP, and revenue funds.[[11]](#footnote-11) Hence, the $5,286,385 contract cost is reasonable.

10. GWA’s use of the sole source procurement method is prudent because there is only one source for the supply and the compatibility of equipment, accessories, and replacement parts is of paramount importance. Generally, a contract may be awarded for a supply, service, or construction item when the head of a purchasing agency determines in writing that there is only one source for the supply, service, or construction item. 5 G.C.A. §5214 and 3 G.A.R., Div. 4, Chap. 4, §3112. Further, sole source procurement may be necessary where the compatibility of equipment, accessories, and replacement parts is of paramount importance. 2 G.A.R., Div. 4, Chap. 3, §3112(b)(1). Here, GWA states that Oracle is the owner of JDE World ERP v9.3 software that GWA is currently using and the owner of JDE E1 digital platform that GWA is migrating to. GWA states that Oracle is allowing GWA to migrate the licenses for its existing software to the JDE E1 digital platform and that Oracle directed GWA to upgrade to the JDE E1 digital platform with DXC Red Rock because DXC Red Rock was Oracle’s only Platinum Partner in the Western Pacific Region with a proprietary pre-built JDE E1 configuration and implementation plan for engineering and construction firms that do similar work to GWA.[[12]](#footnote-12) Therefore, GWA’s use of sole source procurement is prudent because of Oracle’s ownership of its existing ERP software, Oracle’s ownership JDE E1 digital platform that GWA is migrating to, and Oracle’s insistence that GWA use DXC Red Rock’s proprietary pre-built JDE E1 configuration and implementation plan.

11. GWA’s use if the sole source procurement method is also prudent because no other digital platform or software system will be suitable or acceptable to meet its needs. Generally, any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. 2 G.A.R., Div. 4, Chap. 3, §3112(b)(5). Here, GWA states that the use of any other software product would result in licensure, development and implementation costs significantly higher than

 the upgrade of its existing software to the JDE E1 digital platform, and would result in potentially significant disruption to the provision of GWA’s public utility services.[[13]](#footnote-13) This is sufficient explanation as to why no other software is suitable or acceptable to meet the need.

12. GWA’s upgrade to the JDE E1 digital platform is necessary. GWA’s existing JDE World ERP v9.3 is now twenty-two years old and is showing its age. As stated above, this software will not be supported or upgraded by the vendor after March, 2020. Further, as stated above, just to keep the software operational, GWA employees have to develop and implement manual workarounds and stand-alone applications to perform tasks and create reports on its increasingly inefficient and outdated ERP software.[[14]](#footnote-14) Hence, GWA’s upgrade to the JDE E1 digital is necessary.

13. Based on the foregoing, GWA’s sole source procurement of the DXC Red Rock contract and the contract’s $5,286,385 cost are reasonable, prudent, and necessary.

**RECOMMENDATION**

14. Counsel recommends that the PUC approve GWA’s contract with DXC Red Rock for the amount of $5,286,385.

15. A Proposed Order is submitted herewith for the consideration of the Commissioners.

 Dated this 16th day of March, 2020.

 Anthony R. Camacho

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Anthony R. Camacho, Esq.

 PUC Legal Counsel

1. GWA Request for Approval of GWA’s Enterprise Resource Planning System Upgrade under the Contract Review Protocol, GWA Docket 20-04, filed on February 27, 2020 [GWA Petition] at 1. [↑](#footnote-ref-1)
2. Id., at 1-2. [↑](#footnote-ref-2)
3. Id., at 2. [↑](#footnote-ref-3)
4. Id. [↑](#footnote-ref-4)
5. GWA Exhibits at 51. NOTE: Exhibit page numbers refer to the PDF page numbers and not any page numbers listed in the exhibits. [↑](#footnote-ref-5)
6. Id., at 45. [↑](#footnote-ref-6)
7. Id., at 47-51. [↑](#footnote-ref-7)
8. PUC Order re Contract Review Protocol for GWA, PUC Administrative Docket 00-004, filed on October 27, 2005 at paragraph 4(b) at 2. [↑](#footnote-ref-8)
9. GWA Exhibits at 48. [↑](#footnote-ref-9)
10. Id. [↑](#footnote-ref-10)
11. Id. [↑](#footnote-ref-11)
12. Id., at 45 and 47. [↑](#footnote-ref-12)
13. Id. [↑](#footnote-ref-13)
14. Id., at 1-2. [↑](#footnote-ref-14)