

BEFORE THE PUBLIC UTILITIES COMMISSION



IN RE: PETITION FOR APPROVAL) PAG DOCKET 21-02
OF AWARD TO GHD INC.)
FOR THE CONSTRUCTION)
MANAGEMENT SERVICES)
FOR THE REHABILITATION) ORDER
OF H-WHARF AND HIGHWAY)
11 ROADWAY)
RECONSTRUCTION BY)
PORT AUTHORITY OF GUAM)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the January 26, 2021 Petition for review and approval of the contract related to the Construction Management Services for the Rehabilitation of H-Wharf and Highway 11 Roadway Reconstruction (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”).

On January 27, 2021, 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

Back in 2018, PAG issued revenue bonds in order to secure funding for its modernization projects, which include the restoration of its H-Wharf. On March 6, 2020, PAG issued Request For Proposals No. PAG-020-002 to solicit construction management

services (“Construction Manager”) for the Rehabilitation of H-Wharf and Highway 11 Roadway Reconstruction (“RFP”) projects.¹

Based on the RFP, the construction project for the H-Wharf will involve the demolition of the facilities currently sitting on the wharf and the removal of concrete foundations and pavement.² The project will further include the construction of a new wharf, consisting of a new sheet pile bulkhead retaining wall, sheet pile cap with supporting structures, and a new concrete surface.³ The H-Wharf construction will also include the installation of utilities, as well as the paving of about 2.5 acres of upland to serve as an unloading zone.⁴

The Highway 11 roadway reconstruction project will involve the repaving of approximately 4,200 feet, comprised of two 11-foot lanes and a two-foot unpaved shoulder.⁵ The work will include new pavement striping and signage, utilities under the pavement, and storm water piping, just to name a few.⁶

Seven (7) offerors submitted proposals in response to the RFP, which were evaluated by a PAG Evaluation Committee.⁷ The Evaluation Committee thereafter determined GHD to be the best qualified offeror.⁸

¹ Petition, p. 1 (Jan. 26, 2021).

² RFP, p. 19 (Mar. 6, 2020).

³ RFP, p. 19.

⁴ RFP, p. 19.

⁵ RFP, pp. 19-20.

⁶ RFP, pp. 19-20.

⁷ Petition, p. 1.

⁸ Petition, p. 1.

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 externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000," "shall require prior PUC approval" Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

2. Scope of Work and Proposed Contract

a. Scope of Work

Based on the RFP and negotiations between GHD and PAG, the scope of work for the Construction Manager involves the general administration of the construction contract related to the projects, which includes preconstruction conferences, status reports, reviewing payment estimates and change orders, and project close-out services.⁹ Owing to cost negotiations, services related to procurement of the contractor were eventually eliminated from the scope of work.

The Construction Manager will be involved in the preconstruction meetings between PAG, stakeholders, and the contractor.¹⁰ During the construction of the projects, the Construction Manager will hold project meetings and weekly progress meetings, and will prepare reports as required by PAG.¹¹ The Construction Manager will also process

⁹ RFP, pp. 21-22.

¹⁰ RFP, pp. 20-21.

¹¹ RFP, pp. 20-21.

payment requests and review change orders, claims, and disputes.¹² It will also review the contractor's project submissions, surveys, and drawings.¹³ The Construction Manager will further engage in quality control, testing, and inspections.¹⁴ Towards the end of the construction, it will develop a punch list and will perform close-out inspections.¹⁵

In addition, the Construction Manager is required to provide staffing for eighteen (18) months during the construction of the project.¹⁶ During this time, the Construction Manager will provide inspection and engineering support for any civil, structural, electrical, mechanical, pile driving inspection and monitoring, soil engineering, and diving inspections.¹⁷

b. Contract Term

Based on the summary of cost negotiations with GHD contained in PAG's procurement records, the term of the contract shall be for an initial term of two (2) years, with three (3) additional options to renew, but not to exceed five (5) years.¹⁸ This contract will run concurrent with the construction contract.¹⁹ Substantial completion of the construction project itself is scheduled at eighteen (18) months.

¹² RFP, p. 22.

¹³ RFP, pp. 22-24.

¹⁴ RFP, p. 24.

¹⁵ RFP, pp. 22-24.

¹⁶ RFP, p. 25.

¹⁷ RFP, p. 25.

¹⁸ Memorandum from Contract Management Administrator to General Manager, "Cost Negotiations for the Construction Management Services of the Rehabilitation of H-Wharf and Highway 11 Roadway and Reconstruction ("Cost Negotiations Memo."), p. 1 (Dec. 15, 2020).

¹⁹ Cost Negotiations Memo., p. 2.

c. Cost and Funding

According to the Petition, PAG seeks PUC approval of its construction management contract with GHD at a cost of \$2,249,945.54.²⁰ PAG submitted that this contract is necessary in order to ensure “quality control measures are in place in order to meet construction deadlines and to stay within the budgeted amount.”²¹

Based on PAG’s procurement record, PAG and GHD have been engaged in cost negotiations since July 17, 2020.²² PAG and GHD arrived at the final figure above after several meetings and revisions to the proposal and scope of work.²³ According to PAG, this figure saves the Port about \$301,863.65 since the initial offer was for \$2,551,809.19.²⁴

In conversations with PAG, it submitted that this contract will be funded by Port Revenue Bond funds. According to PAG, the cost of the contract will be issued in a lump sum, and will be drawn down on a monthly basis for the term of the contract or upon completion of the project, whichever comes first.²⁵

3. GHD

According to its proposal, GHD has a local staff of over twenty employees, which includes eleven engineers with expertise in the fields of civil, marine structural, electrical, mechanical, pile driving, and geotechnical engineering, as well as construction

²⁰ Petition, p. 2.

²¹ Petition, p. 2.

²² “Letter of Acceptance” from PAG to GHD, p. 1 (Dec. 15, 2020).

²³ “Letter of Acceptance” from PAG to GHD, p. 1.

²⁴ “Letter of Acceptance” from PAG to GHD, p. 1.

²⁵ “Letter of Acceptance” from PAG to GHD, p. 1.

management.²⁶ Part of its representative work includes the PAG's Port Facility Expansion Project; the P-204 Wharf Improvements NAVFAC Uniform & Tango Wharf Replacement; and projects at Naval Base Guam, including the Repair of Glass Breakwater North Shore, and the Sumay Cove Bulkhead Replacement.²⁷

Further, based on its proposal, GHD's "Maritime and Coastal Group" has experts in its team "providing coastal planning, modeling, engineering design, and constructability reviews for coastal defense systems, seawalls, port facilities, harbors, floating and fixed docks, coastal and marine piles, boat ramps, wharves, fendering systems, dolphin structures, mooring systems, piers, coastal promenades, causeways, [and] ferry terminals," to name a few.²⁸

RECOMMENDATION AND CONCLUSION

Based on the record before the Commission, the ALJ found that the subject contract properly underwent Guam's competitive bidding process. The ALJ further found that the procurement record reflected that PAG and GHD had been engaged in cost negotiations since July 17, 2020; and that PAG and GHD arrived at the final figure after several meetings and revisions to the proposal and scope of work.²⁹ Accordingly, based on these negotiations, PAG was able to secure \$301,863.65 in savings.³⁰

Moreover, the ALJ found that, the record also indicates that GHD is linked to experts who have extensive experience in "providing coastal planning, modeling,

²⁶ GHD Proposal, p. 44 (May 7, 2020).

²⁷ GHD Proposal, p. 44.

²⁸ GHD Proposal, p. 46.

²⁹ "Letter of Acceptance" from PAG to GHD, p. 1.

³⁰ "Letter of Acceptance" from PAG to GHD, p. 1.

engineering design, and constructability reviews for coastal defense systems, seawalls, port facilities, harbors, floating and fixed docks, coastal and marine piles, boat ramps, wharves, fendering systems, dolphin structures, mooring systems, piers, coastal promenades, causeways, [and] ferry terminals,” as a few examples.³¹

GHD has eleven engineers on staff locally with expertise in the fields of civil, marine structural, electrical, mechanical, pile driving, and geotechnical engineering, as well as construction management.³² Its representative work includes the Port Facility Expansion Project; the P-204 Wharf Improvements NAVFAC Uniform & Tango Wharf Replacement; and projects at Naval Base Guam, including the Repair of Glass Breakwater North Shore and Sumay Cove Bulkhead Replacement.³³

Accordingly, based on this record, the ALJ recommended that the PUC approve the proposed contract with GHD, at a cost of \$2,249,945.54.

The Commission hereby adopts the findings made in the January 26, 2021 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.

³¹ GHD Proposal, p. 46.

³² GHD Proposal, p. 44.

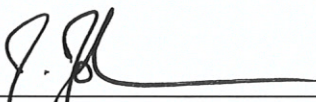
³³ GHD Proposal, p. 44.

2. PAG is authorized to enter into the proposed contract with GHD, Inc. for construction management services related to the Rehabilitation of H-Wharf and Highway 11 Roadway Reconstruction projects, at a total cost of \$2,249,945.54.

3. PAG 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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 28th day of January, 2021.




JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. McDONALD
Commissioner

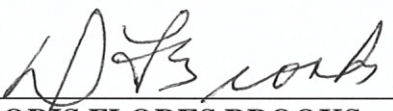


PEDRO GUERRERO
Commissioner

MICHAEL A. PANGELINAN
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