

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**PORT AUTHORITY OF GUAM'S
PETITION FOR REMOVAL AND
DEMOLITION OF CRANES AND
HEAVY EQUIPMENT**

PAG DOCKET 21-03

ALJ REPORT



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the April 9, 2021 Petition for review and approval of the contract related to the demolition and disposal of five (5) inoperable port cranes and removal and disposal of Barge YFN 816 (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”).

BACKGROUND

On December 31, 2020, PAG issued Multi-Step Invitation for Bid IFB-PAG-CIP-021-002 (hereinafter referred to as the “IFB”) for the deconstruction, removal and proper disposal of certain Port assets.¹ Based on the IFB, this project is to “safely dismantle” two (2) ship-to-shore gantry cranes, one (1) mobile harbor crane, two (2) rubber-tire gantry cranes, and one (1) partially sunken barge, which involves disassembly and transport to an off-site salvage or disposal facility.²

¹ Petition, p. 1 (Apr. 9, 2021).

² IFB, p. 81 (Dec. 31, 2020).

According to PAG, Gantry Crane 2 is a crane currently located dockside on Wharf F-4, and is not operational.³ This crane is a rail-mounted gantry crane, which was installed on the dock back in 1979.⁴ According to the IFB, the boom of the crane is in an upright stowed position and cannot be boomed down.⁵

Gantry Crane 3 is located dockside on Wharf F-4 and is also not operational.⁶ This crane is a Hitachi rail-mounted gantry crane, which was installed on the dock back in 1994.⁷ According to PAG, the boom of the crane is also in an upright stowed position and cannot be boomed down.⁸

The mobile crane is located between the CFS Building and the Port Police Building, and is similarly not operational.⁹ The two rubber-tire gantry cranes (RTG) are currently located at “Area P” on the Port terminal yard, both of which are also not operational.¹⁰ Each RTG crane weighs approximately 90,000 pounds.¹¹ And finally, Barge YFN-816 is partially sunk in the harbor at the end of Wharf F-6.¹²

³ IFB, p. 81.

⁴ IFB, p. 81.

⁵ IFB, p. 81.

⁶ IFB, p. 81.

⁷ IFB, p. 81.

⁸ IFB, p. 81.

⁹ IFB, p. 81.

¹⁰ IFB, p. 81.

¹¹ IFB, p. 81.

¹² IFB, p. 81.

Subsequently, PAG received one (1) bid submitted by Guam Industrial Services Inc. *dba* Guam Shipyard.¹³ PAG thereafter evaluated Guam Shipyard's bid, specifically its unpriced technical offer, and determined that the bid was "acceptable."¹⁴ Further, upon PAG's evaluation of Guam Shipyard's sealed priced offer, PAG determined that Guam Shipyard's \$2,573,155.00 bid was "fair and reasonable"; and, that Guam Shipyard was a responsible bidder.¹⁵ Accordingly, Guam Shipyard's bid met the standards of responsibility and responsiveness, and that Guam Shipyard was the lowest responsive and responsible bidder.¹⁶

On March 25, 2021, PAG's Board of Directors issued Resolution No. 2021-04, which approved the awarding of the contract to Guam Shipyard, and thereby authorizing the \$2,573,155.00 expense for the demolition, removal and disposal of five (5) inoperable cranes and the removal and disposal of Barge YFN 816.

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 externally funded

¹³ Petition, p. 1.

¹⁴ Petition, p. 1.

¹⁵ Bid-Analysis, by the General Manager and Assistant Attorney General, p. 2 (undated).

¹⁶ Evaluation, Bid-Analysis and Recommendation of Priced Offer (Part B), by the Contract Management Administrator to the General Manager, p. 2 (Mar. 11, 2021).

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 IFB, the scope of work involves the safe dismantling of two (2) ship-to-shore gantry cranes, one (1) mobile harbor crane, two (2) rubber tired gantry cranes, and one partially sunken barge, which includes not only disassembly but the transport of such equipment to a salvage or disposal facility.¹⁷

Aside from mobilization and demobilization, and among other duties and requirements, the contractor must submit a proposed methodology for dismantling and removal of the equipment.¹⁸ In addition, the contractor is further required to prepare a Health and Safety Plan (“HASP”) compliant with U.S. federal regulations.¹⁹ The purpose of the HASP is “to establish site-specific health and safety requirements for protecting the health and safety of personnel during all activities conducted on-site.”²⁰

The contractor will also be responsible for compliance with regulatory requirements pertaining to the disposal of all construction and demolition waste materials.²¹ Further, prior to the demolition activities, the contractor must engage the

¹⁷ IFB, p. 81 (Dec. 31, 2020).

¹⁸ IFB, p. 81.

¹⁹ IFB, p. 98.

²⁰ IFB, p. 98.

²¹ IFB, p. 102.

services from an Environmental Hygienist to conduct a hazardous materials survey for each crane, paying particular attention to, for instance, asbestos, lead, chromium, and PCBs.²²

Pursuant to the terms of the IFB, the contractor must also keep all work and adjacent areas clean and uncluttered by removing all rubbish, surplus materials, and unnecessary construction equipment.²³ Similarly, upon completion of demolition and removal operations, all affected areas must be cleaned of debris and rubbish; and, all affected areas must be restored to some kind of satisfactory condition as determined by PAG.²⁴

b. Contract Term

Based on the proposed contract, the term of the contract includes the following: a term of three hundred sixty-five days (365) for the demolition of the cranes; and one (1) year and forty-five (45) days for the optional bid item, namely the dismantling and disposal of the YFN 816 barge.²⁵ Similar to other PAG construction contracts, the proposed contract contains a liquidated damages provision, requiring \$1,000.00 each day beyond the expiration of these terms.²⁶

²² IFB, p. 104.

²³ IFB, pp. 111.

²⁴ IFB, pp. 111, 117.

²⁵ Proposed Contract, p. 2.

²⁶ Proposed Contract, p. 2.

c. **Cost and Funding**

According to the Petition, PAG seeks PUC approval of its demolition and disposal project at a cost of \$2,573,155.00.²⁷ Specifically, based on its Price Abstract, Guam Shipyard's bid is comprised of the following: \$175,000.00 for mobilization and demobilization; \$45,655.00 for environmental controls; \$96,474.00 for a demolition and dismantling plan; \$350,580.00 for the demolition of Gantry Crane #2; \$398,680.00 for the demolition of Gantry Crane #3; \$105,515.00 for the demolition of the mobile harbor crane; \$320,132.00 for the demolition of two rubber-tire gantry cranes; and \$783,040.00 for the disposal of materials. In addition, \$298,079.00 for the demolition and disposal of the barge.

Based on answers in response to the April 21, 2021 Request for Information issued by the Administrative Law Judge assigned to this docket (the "RFI"), PAG indicated that it arrived at a government estimate through a market research survey sent to three (3) prospective vendors. According to an estimate provided by one vendor, it would cost \$2.15 million to remove and dispose of five (5) assets. PAG then added an additional \$350,000 for the removal and disposal of Barge YFN 816 to the estimate, totaling \$2.5 million for the entire removal and demolition project. Guam Shipyard's bid is about 3% more than PAG's estimate.

This project will be funded internally by PAG.²⁸

²⁷ Petition, p. 1.

²⁸ Petition, p. 1.

3. **Board Resolution**

Resolution No. 2021-04, issued on March 25, 2021, approved the award to Guam Shipyard, and authorized the payment of \$2,573,155.00 for the demolition, removal and disposal of five (5) inoperable cranes and the removal and disposal of Barge YFN 816.

RECOMMENDATION AND CONCLUSION

According to its Petition, PAG submits that “removal of these 5 Port inoperable cranes and the partially sunken barge . . . would present the Port with financial opportunities to generate revenue by creating additional berthing space for ships along [the Port’s] wharfs.”²⁹ PAG adds that the removal of these inoperable assets will “eliminate the potential for falling objects (crane parts) to damage [the Port’s] wharfs,” and eliminate “unsafe conditions.”³⁰

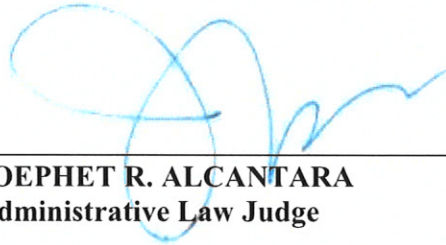
Further, in response to the RFI issued in this docket, PAG indicated that it “anticipates” an increase in cargo as a result of the “military build-up in 2023.” Accordingly, PAG submits that the removal of the assets indicated in the subject Petition “will allow the Port to expand the use of its container yard and stage the cargoes without limitations.” Further, such removal of assets would further “allow the Port to conduct relocation of its waterline infrastructure in the terminal yard”; and that “waterfront facilities, especially F4 and F6, would be fully utilized by berthing a domestic vessel, conventional vessel and [Roll-on Roll-off] vessel.”

²⁹ Petition, p. 1.

³⁰ Petition, p. 1.

The ALJ hereby finds that the demolition and disposal of five (5) inoperable port cranes and removal and disposal of Barge YFN 816 aligns with PAG's efforts to modernize, and to continue to streamline and expand its operations. Accordingly, based on this record, the ALJ recommends that the PUC approve the proposed contract with Guam Shipyard, at a cost of \$ 2,573,155.00. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 26th day of April, 2021.



JOEPHET R. ALCANTARA
Administrative Law Judge

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