

BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: PETITION REQUESTING) GPA DOCKET 21-13
APPROVAL OF THE)
PROCUREMENT OF)
ENGINEERING SERVICES BY) ALJ REPORT
GUAM POWER AUTHORITY)
_____)



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 10, 2021 Petition for approval of the procurement of an Engineering, Procurement and Construction Management (“EPCM”) contract (the “Petition”), filed by the Guam Power Authority (hereinafter referred to as “GPA”).

BACKGROUND

As indicated in GPA Docket 21-01, the PUC has a “history of involvement with the EPCM contract.”¹ Back in GPA Docket 15-05, the PUC authorized GPA to “procure an Engineering, Procurement and Construction Management contractor for a new combined cycle plant, and authorized the expenditure of \$750,000 for such engineering and consulting services”²

In GPA Docket 18-09, the PUC approved a request for an increase in the EPCM contract with Stanley Consultants. The PUC highlighted the depth of the contractor’s work, which included the preparation of the procurement of the 180MW power plant, assistance with the land acquisition for the new plant, including rezoning

¹ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

² PUC Order, GPA Docket 15-05, p. 9 (Oct. 27, 2016).

efforts.³ The PUC further recognized that the contractor had been “involved in every aspect of the administration of the IPP Contract.”⁴ Again in GPA Docket 18-09, the PUC approved the extension of two years on the EPCM contract, to include work related to the “project management” for the new power plant during the term of the construction, plus all regulatory support, which included the preparation of a rate impact study.⁵

In October 2020, the PUC approved another increase in the EPCM contract with Stanley Consultants, noting that “[t]he environmental and construction permitting for the new power plant and pipeline have proven to be more complex than originally anticipated”⁶ The PUC further highlighted that such work “is extremely important to ensure the commissioning of a safe and efficient plant”; and that “shortchanging the funding for such services would be highly risky.”⁷ In addition, with the current EPCM contract ending in March 2022, the PUC has been aware that GPA will need to solicit a brand new contract in August 2021.⁸

DISCUSSION

1. GPA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Accordingly, GPA’s Contract Review Protocol requires that “[a]ll

³ PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

⁴ PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

⁵ PUC Order, GPA Docket 18-09, pp. 5-6 (Nov. 29, 2018).

⁶ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

⁷ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

⁸ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

professional service procurements in excess of \$1,500,000” require “prior PUC approval . . . which shall be obtained before the procurement process is begun.”⁹

2. Petition

In its Petition, GPA indicates that it has a “need for assistance with engineering consulting services for implementing the U.S. E.P.A. compliance plan.”¹⁰ GPA submits that “[t]his procurement is necessary to assist GPA with consulting services regarding the construction and commissioning of the new power plant, and to develop procurement for the infrastructure required to receive [liquified natural gas] LNG for the new power plant.”¹¹

3. Scope of Work and Proposed Contract

a. Scope of Work

Based on the proposed Request for Proposal (“RFP”), the scope of work for the EPCM is comprised of three components: work related to the New Generation contract and Owner’s Engineer support; LNG infrastructure; and LNG supply. In particular, the contractor would assist GPA in evaluating and managing contract requirements, including design review for compliance of the new power plants, new supply fuel pipelines and electrical interconnections; project schedule review; construction inspections and monitoring; commissioning support and performance evaluation.¹² With respect to LNG infrastructure, the contractor would assist GPA in developing a business model and

⁹ GPA’s Contract Review Protocol (“GPA CRP”), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

¹⁰ Petition, p. 1 (June 10, 2021).

¹¹ Petition, p. 2.

¹² Proposed RFP, p. 22.

procurement specifications for such LNG infrastructure to support fuel supply to the new generation facility and for other uses that GPA determines.¹³ And with regard to LNG supply, the contractor will assist GPA with developing a fuel contract and procurement for such LNG fuel supply.¹⁴

Accordingly, the EPCM contractor shall be responsible for the provision of engineering and design services; shall procure contracts with suppliers and contractors as GPA's agent; and shall manage the construction phase of the project, serving as GPA's Construction Manager, inasmuch as it shall supervise and coordinate all of the suppliers, construction contractors and other contractors.¹⁵

Further, as part of its qualifications, the EPCM contractor will be required to demonstrate experience in the design, evaluation, permitting, and construction of combined cycle combustion turbine and diesel generator technologies to support construction of the Ukudu Power Plant and its reserve facility.¹⁶ The EPCM contractor should also demonstrate experience in design, evaluation, permitting, and construction of fuel systems including piping, supply and treatment system and storage.¹⁷

According to the proposed RFP, the EPCM would further be required to demonstrate experience in LNG infrastructure and gas piping, fuel sourcing, and feasibility studies; and provide or demonstrate experience with regulatory support such as testimony

¹³ Proposed RFP, pp. 22-23.

¹⁴ Proposed RFP, p. 23.

¹⁵ Proposed RFP, p. 21.

¹⁶ Proposed RFP, p. 26.

¹⁷ Proposed RFP, p. 26.

submittals for Public Utilities Commission or other regulatory bodies.¹⁸ The EPCM contractor would additionally be required to demonstrate experience in training program development and execution; and demonstrate experience in other related areas to support permitting and construction activities and evaluation of plant performance.¹⁹

b. Contract Term and Other Provisions

Based the proposed RFP, GPA submits that this contract shall have a three-year initial term with an option to extend the contract for two additional year-long terms.²⁰ Further, the proposed contract includes the requirement that the contractor obtain all relevant insurance required during the course of the work.²¹ The proposed contract also contains an indemnity provision requiring the contractor to indemnify and hold GPA harmless from any claim, lawsuit, or liability related to its services.²² The proposed contract also prohibits the assignment of the contract absent GPA's consent.²³

c. Funding

GPA submits that the funding for this contract will be through its revenue funds.

¹⁸ Proposed RFP, p. 26.

¹⁹ Proposed RFP, p. 26.

²⁰ Proposed RFP, p. 9.

²¹ Proposed RFP, p. 17.

²² Proposed RFP, p. 9.

²³ Proposed RFP, p. 10.

4. Board Approval

In Resolution No. 2021-14, the Consolidated Commission on Utilities (the “CCU”) found that “GPA still requires consulting support for the new power plant contract for Owner’s Engineer support and other technical assistance for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024,” which is beyond the expiration of the current contractor’s term.²⁴ In addition, the CCU further found that GPA also “requires services to assist in developing and supporting the procurement for the infrastructure required to receive Liquefied Natural Gas to Guam and to supply natural gas to the new power plant.”²⁵ Accordingly, the CCU authorized GPA to petition the PUC for approval of the procurement for engineering and technical consulting services related to the commissioning of the Ukudu Power Plant and its use of liquefied natural gas.²⁶

RECOMMENDATION AND CONCLUSION

Based on the record before the Commission, the ALJ finds that the subject procurement is reasonable, prudent, and necessary. Based on the history outlined above, the EPCM seems vital to GPA’s successful commissioning of the new power plant. Indeed, this Commission has previously determined that the work of an experienced EPCM “is extremely important to ensure the commissioning of a safe and efficient plant”; and that “shortchanging the funding for such services would be highly risky.”²⁷

²⁴ Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).

²⁵ Resolution No. 2021-14, p. 2.

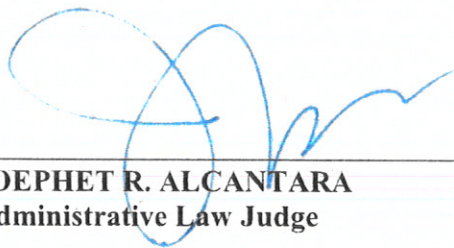
²⁶ Resolution No. 2021-14, p. 2.

²⁷ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

Further, the record reflects that “GPA still requires consulting support for the new power plant contract for Owner’s Engineer support and other technical assistance for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024,” which is beyond the expiration of the current contractor’s term.²⁸ In addition, the CCU further found that GPA also “requires services to assist in developing and supporting the procurement for the infrastructure required to receive Liquefied Natural Gas to Guam and to supply natural gas to the new power plant.”²⁹

Accordingly, based on this record, the ALJ recommends that the PUC approve the Petition and, accordingly, authorize GPA to procure an Engineering Procurement and Construction Management contractor for engineering and technical consulting services related to the commissioning of the Ukudu Power Plant and its use of liquefied natural gas. However, with regard to any provision in the scope of work related to PUC regulatory support, the ALJ recommends the elimination of such work as GPA is able to perform such work itself. A proposed Order is submitted herewith for the Commissioners’ consideration.

Respectfully submitted this 26th day of July, 2021.



JOEPHET R. ALCANTARA
Administrative Law Judge

P213047.JRA

²⁸ Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).

²⁹ Resolution No. 2021-14, p. 2.

REQUEST FOR PROPOSAL

NO.: GPA-RFP-21-____

FOR

ENGINEERING, PROCUREMENT &
CONSTRUCTION MANAGEMENT (EPCM)
CONTRACT



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JULY 2021

P.O. Box 2977
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1 INSTRUCTIONS TO RESPONDENTS

1.1 DEFINITIONS

- PROPONENT:** The individual, partnership, corporation, or joint venture submitting a written or documented response to this subject RFP.
- OWNER:** The Guam Power Authority (GPA) General Manager or designated representative.
- ADDENDA:** Any amendment, modification or addenda issued by OWNER, prior to the opening of the RFP's, for the purpose of changing the intent of the plans and Technical Specifications, clarifying the meaning of the same, or changing any of the provisions of this RFP, shall be binding to the same extent as if written in the Specifications.

1.2 PROPOSALS

The PROPONENT is required to read each and every page of the Request for Proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening.

Proposals shall be filled out in ink or typewritten and signed in black ink. Erasures or other changes in a proposal must be explained or noted over the signature of the PROPONENT. Proposals containing any conditions, omission, unexplained erasure or alterations or items not called for in the Proposal, or irregularities of any kind shall be rejected by the Guam Power Authority as being incomplete.

1.3 PROPRIETARY PORTIONS OF PROPOSALS

The PROPONENT may designate any proprietary portions of the proposal which contain trade secrets or other proprietary data to remain confidential.

1.4 PREPARATION AND SUBMISSION OF PROPOSALS

Envelopes containing proposals shall be sealed and marked on the face with the name and address of the PROPONENT, the Proposal Number and the time and date of submission. Telegraphic proposals will not be considered, nor modification by telegraph of proposals already submitted.

Proposals shall be hand-carried and received at the place of opening on or before the opening date and time. Proposals received through mail will not be accepted if such mail is received at the address showing after the submission date and time. Proposals will not be opened publicly.

All submittals must strictly conform to the Request for Proposal and any addenda.

One (1) bound paper original, five (5) bound paper copies, and one (1) electronic PDF format copy in CD, DVD, and/or USB Flashdrive of each proposal, consisting of technical and

commercial sections, must be submitted, including all addenda, if any. Any and all sample documentation (reports of similar jobs, brochures, etc.) that will assist towards PROPONENT'S evaluation may be furnished with each proposal.

No submittal shall be considered complete unless accompanied by all items specified in these "submittal instructions."

Request for Proposal No.: GPA-RFP-21-XXX must be submitted before 4:00 P.M., XXXXXXXX XX, 2021, in a sealed envelope indicating the RFP number and addressed as follows:

**To: Guam Power Authority
GPWA Procurement Office
Gloria B. Nelson Public Service Building
688 Route 15
1st. Floor, Room 101
Mangilao, Guam 96913**

**Attn: Jamie L.C. Pangelinan
Supply Management Administrator**

Examination of RFP Documents: PROPONENT shall examine the RFP Documents to inform himself of all conditions and requirements for the execution of the proposed work. Ignorance on the part of PROPONENT of any part of the Request for Proposal will in no way relieve him/her of the obligations and responsibilities assumed under the Contract.

Interpretation of the Approximate Quantities: PROPONENT'S attention is called to the fact that any estimate of quantities of work to be done and materials to be furnished under the Contract as shown on the Technical Requirements Section or elsewhere, is approximate only and not guaranteed. OWNER does not assume any responsibility that the final quantities shall remain in strict accordance with the estimated quantities, nor shall PROPONENT plead misunderstanding or deception because of such estimate of quantities or of the character, location of the work or other conditions pertaining thereto.

Familiarity with Laws: PROPONENT is assumed to be familiar with Federal and Local laws, ordinances, rules and regulations that in any manner affect the work. Ignorance on the part of PROPONENT will in no way relieve him/her from responsibility.

The preparation and submission of a proposal will be by and at the expense of the PROPONENT.

1.5 EXPLANATION OF PROPONENTS

No oral explanation in regard to the meaning of the specification will be made and no oral instructions will be given before the award of the proposal. Discrepancies, omissions, or doubts as to the meaning of the specifications must be communicated in writing to the named contact individual of the Guam Power Authority requesting for interpretation. PROPONENT should act promptly and allow sufficient time for a reply to reach them before the submission of their proposals. Interpretation, if required, shall be made in the form of an amendment to the specifications, which will be forwarded to all prospective PROPONENTS, and its receipt by the PROPONENT should be acknowledged on the proposal form.

1.6 CLARIFICATION ON REQUEST FOR PROPOSAL

Each PROPONENT must carefully examine the Request for Proposal and all addenda. If any PROPONENT (a) finds any discrepancies, omissions or ambiguities in the RFP documents, (b) is uncertain as to the intent or meaning of any provision of the request for Proposal, or (c) has any question regarding the Request for Proposal, the PROPONENT must promptly notify GPA in writing no later than (4) four working days prior to the closing date of this RFP thereof in writing at the address specified for submission of proposals. Replies to such notices may be made in the form of addenda, which will be issued simultaneously to all prospective PROPONENT. GPA further reserves the right to respond to any and all inquiries to this RFP, as any amendments issued may impact the project completion schedule.

1.7 ALTERNATE PROPOSAL

GPA reserves the right to withhold its approval of any or all alternates proposed by PROPONENTS and to deny any or all requests for such approvals.

1.8 MODIFICATION OR WITHDRAWAL OF PROPOSAL

A PROPONENT may modify or withdraw its proposal by written request, provided that the request is received by GPA at the address and prior to the time specified for the submission of proposals. Any proposals or submittals received after the time and date set for receipt of proposals or submittals will be considered late. No late modification or withdrawal will be considered unless received before the date of opening. Following withdrawal of its proposal, a PROPONENT may submit a new proposal, provided the new proposal is received by GPA prior to the time specified for the submission of proposals. There shall be no modifications or withdrawals after the opening date.

GPA may modify any provision of the Request for Proposal at any time prior to the time specified for the submission of proposals. Such modifications shall be made in the form of addenda, which will be issued simultaneously to all PROPONENTS.

Any addenda issued will be mailed to all PROPONENTS in duplicate. PROPONENT shall acknowledge receipt of same by his signature on copy, which is to be returned to OWNER. The other copy shall accompany the proposal or submittal. Acknowledgement may also be made in writing or by telex or telegram.

Negligence on the part of the PROPONENTS in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.

1.9 COMPLETE PROPOSALS

PROPOSERS are requested to submit proposals, which are complete and unambiguous without the need for additional explanation or information. GPA may make a final determination as to whether a proposal is acceptable or unacceptable solely on the basis of the proposal as submitted and proceed with proposal evaluation without requesting further information from any PROPONENT. GPA may, in its sole discretion, request from PROPONENTS additional information clarifying or supplementing, but not basically changing any proposal as submitted.

All Proposals shall remain the property of GPA.

Time for Acceptance: All submittals shall be valid for 60 days from date of RFP opening.

Completion Date: PROPONENTS shall realize that satisfactory completion of this work within the period shown on the Contract form is a critical requirement. Failure to do so may cause the imposition of liquidated damages as specified therein.

1.10 POST-PROPOSAL MEETING

After the receipt of proposals, GPA may request additional information over the telephone or in individual meetings (in person or virtual as decided by GPA) with selected PROPONENTS to clarify and discuss their proposals. Failure by a PROPONENT to attend such requested meeting(s) shall be cause for disqualification.

GPA reserves the right to request clarifications from only those PROPONENTS whom it deems in its best interest.

All clarifications shall be documented by PROPONENTS as addenda to the submittals.

1.11 PROPOSAL INCONSISTENCIES

Any provisions in the proposal which are inconsistent with the provisions of this Request for Proposal, unless expressly described as being exceptions or alternates, are deemed waived by the PROPONENTS. In the event the proposal is awarded to PROPONENT, any claim of inconsistency between the proposal and these RFP documents will be resolved in favor of these RFP documents unless otherwise agreed to in writing by GPA.

1.12 SUBCONTRACTOR

If the PROPONENT plans to enter into contracts with subcontractors in order to complete this project, the identification and location of the possible subcontractors with a comprehensive description of their offering shall be submitted with the proposal. GPA reserves the right to disapprove any subcontractor, or a subcontractor's offering proposed by the PROPONENT. This right applies to the original submittal as well as submittals subsequent to the original proposal.

1.13 SUBMITTAL FORMAT

All responses to this subject RFP shall be written in the ENGLISH language.

The submittal information shall be in 8-1/2 inch by 11-inch report binders with the covers identifying the respective PROPONENT. Large sheets or drawings shall be bound in the binder so that they can be unfolded for easy review.

PROponent shall submit its Technical Proposal and Price Proposal on separate, sealed envelopes. The Price Proposal shall only be opened upon completion of evaluation and after the most qualified proponent has been notified.

1.14 SIGNATURE

The proposals shall be signed by an official authorized to contractually bind the PROPONENT. The proposal shall also provide the following information:

Signature on Proposal: PROPONENT must sign his proposal correctly. If the proposal is made by an individual, his name and post office address must be shown. If made by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by a corporation, the person signing the proposal shall show the name of the State or Territory under the laws of which the corporation was chartered, also the names and business address of its president, secretary and treasurer.

1.15 INQUIRIES

Prospective PROPONENTS should address inquiries, questions or clarifications in writing to:

John M. Benavente, P.E.
General Manager
Guam Power Authority
688 Route 15 – Suite 100
Mangilao, Guam 96913-6203

Attn: Jamie L.C. Pangelinan
Supply Management Administrator
GPA Procurement Division
1st. Floor, Room 101
Telephone No: (671) 648-3054/3055
Facsimile: (671) 648-3165
Email: jpangelinan@gpagwa.com

Note: Cut-Off Date for Receipt of Questions shall be 4:00 P.M., XXXXXXXX XX, 2021.
Inquiries received after the deadline shall not be entertained.

2 GENERAL TERMS AND CONDITIONS

2.1 AUTHORITY INQUIRIES

This Request for Proposals (RFP) solicitation is issued subject to all of the provisions of the Guam Procurement Act (Public Law 16-124) and the Guam Procurement Regulations (copies are available for inspection at the Guam Power Authority). The RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

2.2 GENERAL INTENTION

Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and Conditions for the PROPONENT to provide the Guam Power Authority with specified services.

2.3 STANDARDS FOR DETERMINATION OF MOST QUALIFIED PROPONENT

In determining the most qualified PROPONENT, the Agency/Department shall be guided by the following:

- A. The ability, capacity and skill of the PROPONENT to perform the work specified.
- B. Whether the PROPONENT can perform promptly or within the specified time.
- C. The quality of performance of the PROPONENT with regard to awards previously made to him.
- D. The previous and existing compliance by the PROPONENT with laws and regulations relative to procurement.

2.4 AWARD OR REJECTION OF PROPOSALS

The right is reserved as the interest of the Guam Power Authority may require waiving any minor informalities or irregularities in proposals received. The Guam Power Authority reserves the right and shall have the prerogative to award, amend, or reject proposals in whole or in part. It is the policy of the Guam Power Authority to award proposals to PROPONENTS duly authorized and licensed to conduct business in Guam.

GPA reserves the right to award a CONTRACT for the entire RFP Scope or for subsets of the RFP Scope to one, none, or any PROPONENTS.

Proposals will be opened privately, and GPA reserves the right to keep any or all proposals confidential.

- A. Cancellation of Solicitation, Delays: GPA reserves the right to cancel or to withdraw this RFP, to delay determination on this RFP, or to reject all submittals or any individual submittal in whole or in part at any time prior to the final award. The reasons for the cancellation, delay or rejection shall be made a part of the project file and shall be available for public inspection.

After opening, but prior to award, all proposals may be rejected in whole or in part when the Procurement Authority of GPA determines in writing that such action is in the Territory's best interest for reasons including but not limited to:

- 1) The supplies and services being procured are no longer required;
- 2) Ambiguous or otherwise inadequate Specifications were part of the solicitation;
- 3) The solicitation did not provide consideration of all factors of significance to the Territory;
- 4) Price(s) exceed available funds and it would be appropriate to adjust quantities to come within available funds;
- 5) Inability of the selected PROPONENT and GPA to successfully negotiate contract terms for the scope of services requested.

When a solicitation is cancelled or rejected prior to final award, notice of cancellation or rejection shall be sent to all PROPONENTS. The reasons for cancellation or rejection shall be made a part of the project file and shall be available for public inspection.

B. Rejection of Individual Proposal or Submittal: Any individual proposal or submittal may be rejected in whole or in part when in the best interest of the Authority. Reasons for rejecting a proposal or submittal include but are not limited to:

- 1) PROPONENT is not responsive;
- 2) The proposal or submittal is non-responsive as it does not conform in all respects to the RFP;
- 3) The construction, supply or service offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or technical requirements set forth in the RFP;
- 4) The proposal or submittal does not meet the requirements or criteria set forth in the RFP. Upon request, unsuccessful PROPONENTS shall be advised of the reasons for rejection.

Any or all proposals or submittals will be rejected if there is reason to believe that collusion exists among PROPONENTS and no participants in such collusion will be considered in future projects for the same work.

2.5 EXECUTION OF THE ORDER

The PROPONENT to whom the Order is awarded (the "successful PROPONENT") shall execute and deliver to GPA the Contract prior to performing any services on GPA premises. A written notice will be issued to the most successful PROPONENT indicating commencement of the project.

Award of Contract: The award of the Contract, if awarded, will be to the most responsive PROPONENT whose qualifications indicate that award thereto will be to the best interest of OWNER, and whose proposal shall comply with the requirements of the Contract Documents. In no case will the award be made until all necessary investigations have been made into the responsibility of the PROPONENT, and the OWNER is satisfied that the PROPONENT is qualified to do the work and has the necessary equipment to carry out the provisions of the Contract to the satisfaction of OWNER within the time specified. OWNER may award separate contracts for each project scope or for any combination of project scope.

Execution of Contract: The individual, firm or corporation to which this Contract has been awarded shall sign the necessary agreement entering into Contract with OWNER and return it to OWNER within ten (10) days after date of award.

Failure to Execute Contract: Failure on the part of PROPONENT to execute the Contract as required will be just cause for the annulment of the award. The award may then be made to the next most qualified PROPONENT or the work re-advertised, as OWNER may elect.

2.6 MODIFICATION / ALTERATION

After the receipt and opening of proposals, and at its option, the Guam Power Authority may conduct discussions with the PROPONENT who has submitted a proposal reasonably susceptible of being selected for award with the purpose of clarification to assure full understanding and responsiveness to the Proposal requirements. PROPONENTS shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision to proposals and such revisions shall be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing PROPONENTS.

2.7 CONTACT FOR CONTRACT ADMINISTRATION

If your firm receives a contract as a result of this Proposal, designate a person whom we may contact for prompt administration, showing:

NAME: _____ TITLE: _____

ADDRESS: _____ PHONE: _____

2.8 DETERMINATION OF RESPONSIBILITY OF PROPONENT

The Guam Power Authority reserves the right to secure from PROPONENTS information necessary to determine whether or not they are responsible and to determine their responsibility in accordance with Section 2.3 of the General Terms and Conditions.

2.9 LIMITATIONS

This RFP does not commit GPA to award a contract, to pay any costs incurred in the preparation of a proposal by the PROPONENT under this request, or to procure a contract for services. GPA reserves the right to reject any and all proposals received under this request, to negotiate with all qualified sources, or to cancel the whole or any part of this RFP at any time.

2.10 ACCEPTANCE OF PROPOSAL CONTENTS

The contents of the Proposal of the successful firm will become contractual obligations if a contract ensues. Failure of the successful firm to accept these obligations will result in a disqualification of the Proposal.

2.11 CONTROL

The successful PROPONENT will carry out this assignment under the direction and control of the General Manager of the Guam Power Authority or his/her designee(s).

2.12 REQUIRED FORMS

All PROPONENTS are required to submit current affidavits as required below.

- A. Major Shareholders Disclosure Affidavit
- B. Non-Collusion Affidavit
- C. No Gratuities or Kickbacks Affidavit
- D. Ethical Standards Affidavit
- E. Declaration Re-Compliance with U.S. DOL Wage Determination
- F. Restriction Against Convicted Sex Offenders

2.13 CONTRACT TERM

GPA intends for this contract to be a minimum of three years with an option for contract extension for two additional two-year periods.

2.14 INDEMNIFICATION

The Contractor agrees to indemnify, defend, and hold harmless the GPA, its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by an act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. GPA shall not provide such indemnification to the Contractor.

2.15 JUSTIFICATION OF DELAY

The PROPONENT who is awarded the proposal guarantees that the services will be completed within the agreed upon completion date. If, however, the PROPONENT cannot comply with the completion requirement, it is the PROPONENT's responsibility to advise the Guam Power Authority in writing explaining the cause and reasons for the delay. Section 6-101.09.1 of the Guam Procurement Regulations, "Liquidated Damages", will be in effect if the PROPONENT fails to meet the completion requirement.

2.16 INVOICING AND PAYMENT TERMS & CONDITIONS

All invoices shall include supporting documents (i.e. timesheets, shipping invoices, consumable listings, etc.). All supporting documents must be reviewed and approved by the GPA Project Manager prior to invoice submittal. All invoices will be paid net 30 days from the date the invoice is received at the GPA Accounting Department. Payment shall be made using a method mutually agreed upon by GPA and the successful PROPONENT.

2.17 TAXES

PROponent shall be liable for Guam Gross Receipt Taxes and all other applicable taxes and duties. The Guam Power Authority shall have no tax liability under this order. Specific information on taxes may be obtained from the Director of Revenue and Taxation.

GPA is a government agency exempted from all government taxes as stipulated in the Guam Code Annotated.

2.18 LICENSING

PROPOSERS are reminded that GPA will not consider for award any offer submitted by a PROPOSER who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.

2.19 COVENANT AGAINST CONTINGENT FEES

The PROPOSER warrants that he has not employed any person to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Guam Power Authority the right to terminate the contractor, or in its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through, bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

2.20 ASSIGNMENTS

Contractor may not assign this CONTRACT or any sum becoming due under the provisions of this CONTRACT without the prior written consent of the Guam Power Authority.

2.21 EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01 of the Executive Order 10935 dated March 07, 1965 requires the PROPOSER not to discriminate against an employee or applicant for employment because of race, creed, color or national origin. The PROPOSER will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to race, creed, color or national origin.

2.22 AMERICAN DISABILITIES ACT

If requested, the PROPOSER must meet all ADA regulations and requirements.

2.23 PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY

All PROPOSERS are required to submit a current No Gratuities of Kickbacks Affidavit. Failure to do so will mean disqualification and rejection of the proposal. Pursuant to GCA 5 section 5630 (c), this clause is conspicuously set forth to alert all parties in this procurement that Guam Public Law Title 5 §5630. Gratuities and Kickbacks, prohibits against gratuities, kickbacks, and favors to the Territory.

2.24 RESTRICTION AGAINST CONVICTED SEX OFFENDERS

All PROPOSERS are required to submit a current Restriction against Sex Offenders Affidavit. Failure to do so will mean disqualification and rejection of the proposal. GCA 5 §5253(b)

restricts the PROPONENT against employing convicted sex offenders from working at Government of Guam venues. It states:

(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

2.25 MAJOR SHAREHOLDERS DISCLOSURE AND NON-COLLUSION

All PROPONENTS are required to submit a current Major Shareholders Disclosure Affidavit as required below. Failure to do so will mean disqualification and rejection of the proposal.

5 GCA §5233 (Title 5, Section 5233) states:

“Section 5233 Disclosure of Major Shareholders. As a condition of submitting a bid or offer, any partnership, sole proprietorship or corporation doing business with the Government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid, or, that it is a not for profit organization that qualifies for tax exemption under the Internal Revenue Code of the United States or the Business Privilege Tax law of Guam, Title 12, Guam Code Annotated, Section 26203©. With the exception of not for profit organizations, the affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have been held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or offer and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying.”

1. If the affidavit is a copy, indicate the RFP number and where it is filed.
2. Affidavits must be signed within 60 days of the date the proposals are due.

2.26 NON-COLLUSION

All PROPONENTS are required to submit a current Non-Collusion Affidavit. Failure to do so will mean disqualification and rejection of the proposal.

2.27 ETHICAL STANDARDS

All PROPOENTS are required to submit a current Ethical Standards Affidavit. Failure to do so will mean disqualification and rejection of the proposal.

2.28 COMPLIANCE WITH U.S. DOL WAGE DETERMINATION

All PROPONENTS are required to submit a Declaration Re-Compliance with U.S. DOL Wage Determination. Failure to do so will mean disqualification and rejection of the proposal.

3 FORM OF CONTRACT

CONTRACT FOR ENGINEERING, PROCUREMENT, AND CONSTRUCTION MANAGEMENT (EPCM)

This CONTRACT is made and entered into on the day of _____, 202_, by _____, hereinafter called the CONSULTANT, and the Guam Power Authority, hereinafter called GPA.

GPA engages the CONSULTANT to perform technical services for a project known and described as **ENGINEERING, PROCUREMENT, AND CONSTRUCTION MANAGEMENT (EPCM) CONTRACT, GPA-RFP-21-XXX**, hereinafter called the "Project".

RECITALS

WHEREAS, GPA has entered into an agreement for a Build, Operate and Transfer (BOT) for a 198MW power plant with Guam Ukudu Power, LLC; and

WHEREAS, GPA issued RFP-21-XXX for Engineering, Procurement and Construction Management (EPCM) services to support the design review, permitting and construction monitoring as GPA's Owners Engineer; and

WHEREAS, the Consolidated Commission on Utilities has authorized GPA to enter into a contract with the CONSULTANT.

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledged, GPA and CONSULTANT the Guam Power Authority and the _____ hereby agree as follows:

SECTION I - SERVICES OF THE CONSULTANT

The CONSULTANT shall perform the following technical services in accordance with the degree of care and skill that a registered professional in Guam would exercise under similar conditions:

- A. GPA and the CONSULTANT have entered into a task-based contract wherein, GPA will call upon a task and negotiate price, scope and schedule with the CONSULTANT. The CONSULTANT shall provide services as described in the task list provided in Exhibit A. This list is not all inclusive; GPA can negotiate tasks that are similar in scope.
- B. The CONSULTANT has assigned _____ as the Project Manager for this CONTRACT. Prior written approval is required in the event the CONSULTANT needs to change the Project Manager. The CONSULTANT shall submit the qualifications of the proposed substituted personnel to GPA for approval.

As GPA intends for CONSULTANT to provide service for design review and construction management of new power plant(s), GPA requires CONSULTANT to have local (Guam) presence for this task and may require this for other tasks.

- C. The CONSULTANT shall submit all final documents in both hard copy and electronic format. All documents shall be in compatible format of GPA existing programs. The software version used shall be compatible to current GPA standards.

SECTION II – CONTRACT PERIOD

GPA and the CONSULTANT have agreed that this CONTRACT will be effective _____, 2022 for a base contract period of **three years**. Upon mutual agreement, the CONTRACT may be extended **for two additional two-year periods** beyond the base contract term. GPA shall, at its sole discretion, determine task completion.

SECTION III - CONSULTANT'S COMPENSATION

- A. The method of payment for this CONTRACT is to be negotiated. Payment options are lump sum or not to exceed payment.
- B. GPA shall pay the CONSULTANT installments based upon monthly progress reports and detailed invoices submitted by the CONSULTANT. Such payments shall be made as specified in SECTION VI.

SECTION IV – CONSULTANT'S STATUS

The CONSULTANT agrees that there shall be no employee benefits occurring from this CONTRACT, such as:

- A. Insurance coverage provided by GPA;
- B. Participation in the Government of Guam retirement system;
- C. Accumulation of vacation or sick leave;
- D. There shall be no withholding of taxes by GPA;
- E. That it is expressly understood and agreed that, in the performance of services under this CONTRACT, the CONSULTANT and its employees shall at all times act as independent contractors with respect to GPA, and not as an employee or agent of GPA. Further, it is expressly understood and agreed by the parties that nothing contained in this CONTRACT shall be construed to create a joint venture, partnership, association, or other affiliation or like relationship and shall remain that of independent parties to a contractual relationship set forth in this CONTRACT.

SECTION V – GUAM POWER AUTHORITY'S RESPONSIBILITIES

- A. GPA shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by GPA on any aspect of the work shall be directed to the project manager.
- B. GPA shall review submittals by the CONSULTANT and provide prompt response to questions and rendering of decisions pertaining thereto, to minimize delay in the progress of the CONSULTANT'S work. GPA will keep the CONSULTANT advised concerning the progress of GPA's review of the work. The CONSULTANT agrees that GPA's inspection, review, acceptance or approval of CONSULTANT'S work shall not relieve CONSULTANT'S responsibility for errors or omissions of the CONSULTANT or its sub-consultant(s).

C. Unless included in the CONSULTANT'S Services as identified in Section I, GPA shall furnish the CONSULTANT gratis, the following information or services for this Project:

1. Available GPA data relative to policies, regulations, standards, criteria, studies, etc., relevant to the Project.

SECTION VI – INVOICING AND PAYMENT TERMS & CONDITIONS

All invoices shall include supporting documents (i.e. timesheets, shipping invoices, consumable listings). All supporting documents must be reviewed and approved by the GPA Project Manager prior to invoice submittal for charges. All invoices will be paid net 30 days from date invoice is received at the GPA Accounting Department. Payment shall be made using a method mutually agreed upon by GPA and the CONSULTANT.

SECTION VII - TERMINATION

The Procurement Officer may, when the interest of GPA or the Territory so require, terminate this contract in whole or in part, for the Convenience of the Territory. The Procurement Officer shall give written notice of the termination to the CONSULTANT specifying the part of the contract terminated and when termination becomes effective. **[GSA Procurement Regulations 6-101.10.]**

Immediately after receiving such notice, the CONSULTANT shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The CONSULTANT shall appraise the services it has completed and submit an appraisal to GPA for evaluation. GPA shall have the right to inspect the CONSULTANT'S work to appraise the services completed.

CONSULTANT shall deliver to GPA all drawings, special provisions, field survey notes, reports, estimates and any and all other documents or work product generated by the CONSULTANT under the CONTRACT, entirely or partially completed, together with all unused materials supplied by GPA.

In the event of such termination or abandonment, the CONSULTANT shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

If the remuneration scheduled hereunder is based upon a fixed fee or definitely ascertainable sum, the portion of such sum payable shall be proportionate to the percentage of services completed by the CONSULTANT based upon the scope of work set forth in Exhibit A, and shall be agreed upon mutually by the CONSULTANT and GPA. However, in no event shall the fee exceed that set forth in Section III.

GPA shall make final payment within thirty (30) days after the CONSULTANT has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event this CONTRACT is terminated, GPA shall have the option of completing the work, or entering into a contract with another party for the completion of the work according to the provisions and agreements herein.

SECTION VIII – CHANGES

GPA may at any time, by written order, make any changes or deletions in the services to be performed hereunder. If such changes or deletions cause an increase or decrease in the costs of doing work under this CONTRACT, or in the time required for this performance, an equitable adjustment shall be made as agreed to by the parties and the CONTRACT shall be modified in writing accordingly.

SECTION IX – ASSIGNMENT OF AGREEMENT

The CONSULTANT may not assign this CONTRACT, or any sum becoming due to under the provisions of this CONTRACT, without the prior written consent of GPA.

SECTION X – FORCE MAJEURE

Neither party shall be liable for any delay in meeting or failure to meet its obligations under this CONTRACT due to a force majeure.

SECTION XI - TAXES

The CONSULTANT shall be liable for Guam Gross Receipt Taxes and all other applicable taxes and duties. GPA shall have no tax liability under this order. Specific information on taxes may be obtained from the Director of Revenue and Taxation.

GPA is a government agency exempted from ALL government taxes as stipulated in the Guam Code Annotated.

SECTION XII – NOTICES

Any notice, demand or other document required or permitted to be delivered hereunder shall be in writing and may be delivered personally (not to include facsimile transmission) or shall be deemed to be delivered when received postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at their respective address as specified herein:

TO: Name and Address
COPY: If Applicable, Name and Address
FAX: Fax Number

TO: Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932-2977
ATTN: General Manager
FAX: (671) 649-6942

SECTION XIII – GOVERNING LAW

The validity of this CONTRACT and any of its terms or provisions, as well as the rights and duties of the parties to this CONTRACT, shall be governed by the laws of Guam.

SECTION XIV - SUPPLEMENTAL CONTRACT PROVISIONS

The supplemental contract provisions to this CONTRACT are attached hereto and incorporated herein by reference as if fully set forth.

SECTION XV – INDEMNIFICATION

The CONSULTANT shall indemnify and hold GPA harmless from any claim, liability or product liability, loss, damage, demand, cause of action or suit, expense, or reasonable fee of legal counsel arising out of or in connection with the goods or services the CONSULTANT provides.

SECTION XVI – DISPUTES

All controversies between GPA and the CONSULTANT which arise under, or are by virtue of, this CONTRACT and which are not resolved by mutual agreement, shall be resolved under Guam Procurement Law and the Government Claims Act, and pursuant to the laws of Guam.

SECTION XVII – RELEASE OF INFORMATION

The CONSULTANT shall not release any information, including the contract price, concerning this project or any part thereof in any form, including advertising, news releases, or professional articles, without written permission from GPA.

SECTION XVIII – INSURANCE

The CONSULTANT shall not commence work under this CONTRACT until he has obtained reasonable insurance for Auto Liability and Worker's Compensation and Employer's Liability up to the statutory limits. The CONSULTANT shall maintain all insurance required during the course of the work. GPA requires proof of insurance to be provided prior to commencing any tasks.

SECTION XIX – LICENSING

CONSULTANTS are reminded that GPA will not consider for award any offer submitted by a CONSULTANT who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.

SECTION XX – COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that he has not employed any person to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Guam Power Authority the right to terminate the CONSULTANT, or in its discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through, bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business.

SECTION XXI – EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01 of the Executive Order 10935 dated March 07, 1965 requires the CONSULTANT not to discriminate against an employee or applicant for employment because of race, creed, color or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to race, creed, color or national origin.

SECTION XXII – AMERICAN DISABILITIES ACT

If requested, the CONSULTANT must meet all ADA regulations and requirements.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this day _____. The CONSULTANT warrants that the person who is signing this CONTRACT on behalf of the CONSULTANT is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.

CONSULTANT
(Authorized Name/Title)

DATE

JOHN M. BENAVENTE, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

DATE

APPROVED AS TO FORM:

D. GRAHAM BOTHA, ESQ.
STAFF ATTORNEY
GUAM POWER AUTHORITY

DATE

EXHIBIT A (refer to Table 4-1 of RFP document to be finalized)

SCOPE	TASK DELIVERABLE DESCRIPTIONS
1. New Generation Contract & Owner's Engineer Support	New Generation Contract Execution
	Owner's Engineer for Construction Phase
	Project Management
	Post-Construction and Commissioning Support
	Regulatory and Stakeholder Outreach Support
	New Generation Contract Execution
2. LNG Pre-Development	Business Model Development
	Industry Outreach
	Preliminary Conceptual Site Selections and LNG Receiving Terminal, LNG Storage, and Regasification Facility Functional Designs
	Environmental, Cultural and Construction Permits Survey
	Project Execution Plan and Work Breakdown Structure Development
	Regulatory Support for PUC
	Regulatory and Stakeholder Outreach Support
3. LNG Storage & Regasification Procurement Development	Procurement Model Development (Procurement Plan)
	Procurement Document Development
	Procurement Execution
	Proponent Outreach
	Procurement Announcement
	Procurement Evaluation Support
	Contract Negotiations Support
	Contract Execution
	Owner's Engineer for Construction Phase
	Project Management
4. LNG/CNG Transshipment Infrastructure	Post-Construction and Commissioning Support
	Regulatory and Stakeholder Outreach Support
	Business Franchise Model Development
	Procurement Model Development (Procurement Plan)
	Procurement Document Development
	Procurement Execution
	Proponent Outreach
	Procurement Announcement
	Procurement Evaluation Support
	Contract Negotiations Support
	Contract Execution
	Regulatory and Stakeholder Outreach Support

4 SCOPE OF WORK

4.1 INTRODUCTION

The Guam Power Authority (GPA) is soliciting services from a firm or consortium of firms to provide Engineering, Procurement and Construction Management (EPCM) listed in the scopes and deliverables in [Table 4-1](#). In particular, these services must have wide and deep experience in, but not limited to, the following areas:

- Program and Portfolio Management
- Power Generation
- Petroleum fuel pipelines and storage infrastructure
- Transmission and substation infrastructure
- Construction Management
- Power Infrastructure Project and Procurement Development
- Power, petroleum storage and distribution, LNG infrastructure design (optional/future scope), development, planning, and construction

4.2 ENGINEERING, PROCUREMENT AND CONSTRUCTION MANAGEMENT (EPCM) AS REQUIRED BY GPA

EPCM stands for Engineering, Procurement and Construction Management. An EPCM contract is a professional services contract. Broadly speaking, an EPCM contractor is not contractually obliged to provide GPA with a completed project “on time and on budget”, nor does it take responsibility for the construction or quality of the facility.

Rather, an EPCM contractor:

1. Takes responsibility for the provision of engineering and design services;
2. Procures contracts with suppliers and contractors as GPA’s agent; and
3. Manages the construction phase of the project – that is, manages, supervises and co-ordinates all of the suppliers, construction contractors and other contractors as GPA’s representative (the “CM”).

Figure 4-1 below shows the basic structure for an EPCM delivery model (where the EPCM contractor has in-house engineering capability).

4.3 KEY CHARACTERISTICS

Some of the key characteristics of an EPCM contract discussed herein include:

1. Points of responsibility
2. Time
3. Contract price
4. Procurement
5. Quality / Performance guarantees
6. GPA's involvement
7. Defective Works / Services

4.3.1 Points of Responsibility

The EPCM contract requires the GPA to have multiple points of responsibility for delivery of the facility. While the EPCM contractor is responsible for the design component, it will not be responsible for the construction. Rather, GPA must separately contract with contractors and suppliers, and responsibility for those goods and services lies with the relevant contractor or supplier. The EPCM contractor's responsibility will generally be limited to the managing of those contractors and suppliers on GPA's behalf. That is, the EPCM contractor will not generally assume time, cost and quality risk for the project.

Under the EPCM contract GPA may, if required, seek recourse from a number of contractors and suppliers, depending on the nature of the defect or dispute.

4.3.2 Time

The EPCM contractor will not have to guarantee that the project will be completed within a fixed period; rather, it will generally only commit to using its best efforts to meet GPA's desired schedule.

4.3.3 Contract Price

The EPCM contract will be performed on a schedule of rates or cost-reimbursable basis. As an EPCM contractor, the EPCM is not expected to assume time, cost or quality risk in providing the facilities requested.

4.3.4 Procurement

The EPCM contractor will generally procure contracts with suppliers and contractors as GPA's agent. The contractual relationship is between the supplier/contractor and GPA not the EPCM contractor. GPA may obtain EPCM support in developing procurement documents, proposal reviews and contract negotiations of GPA contracts.

4.3.5 Quality / Performance Guarantees

Because the EPCM contractor will not take construction quality risk and therefore does not provide GPA with performance guarantees similar to those provided by an EPC contractor, the EPCM contractor will only provide warranties relating to the standard to which it will perform its professional services.

4.3.6 GPA's Involvement

GPA will require greater involvement in, and control over, the design and construction of the facility, procurement of equipment and selection of contractors.

4.3.7 Defective Works / Services

The EPCM contractor is liable to re-perform any defective engineering or design services that it has provided. The EPCM contractor's role is limited to assisting GPA in managing the rectification of defects caused by contractors engaged by GPA.

4.4 NEW GENERATION CONTRACT & OWNER'S ENGINEER SUPPORT

GPA has contracted for the construction and operation of a 198MW dual-fired Combined Cycle Combustion Turbine baseload plant and a 45MW diesel generator reserve facility with Guam Ukudu Power, LLC. The Generation plant must use both ultralow sulfur diesel (ULSD) and natural gas as a fuel.

The EPCM Contractor shall assist GPA in evaluating and managing contract requirements which includes but not limited to design review for compliance of the new power plants, new supply fuel pipelines and electrical interconnections; project schedule review; construction inspections and monitoring; commissioning support and performance evaluation.

4.5 LNG INFRASTRUCTURE

The EPCM shall assist GPA to develop the business model and procurement specifications for LNG infrastructure to support fuel supply to the new generation facility and for other uses that GPA determines. GPA will be the sole off take for services and fuel provided by and at these facilities.

GPA's initial thoughts are that the party or parties contracted to provide LNG infrastructure and associated services must perform the following items at a minimum:

- Provide complete initial funding for the project
- Fund the acquisition of the property for the facility
- Pay for right-of-way, if necessary
- Construct the required LNG infrastructure facilities
- Agree for GPA to take an equity stake in the project after the initial commissioning of the new facilities
- Transfer the ownership of any fuel storage and distribution facilities to GPA
- Operate and Maintain the facilities
- Deliver natural gas to GPA's grid as required by GPA.

The EPCM Contractor will work with GPA to develop more fully the business model to be used for this contractual relationship. GPA will be the sole off taker for all services and fuel supply provided by and at these facilities.

4.6 LNG SUPPLY

The EPCM shall assist GPA to in developing fuel contract and procurement for fuel supply.

Table 4-1 List of Deliverables

SCOPE	TASK DELIVERABLE DESCRIPTIONS
1. New Generation Contract & Owner's Engineer Support	New Generation Contract Execution
	Owner's Engineer for Construction Phase
	Project Management
	Post-Construction and Commissioning Support
	Regulatory and Stakeholder Outreach Support
	New Generation Contract Execution
2. LNG Pre-Development	Business Model Development
	Industry Outreach
	Preliminary Conceptual Site Selections and LNG Receiving Terminal, LNG Storage, and Regasification Facility Functional Designs
	Environmental, Cultural and Construction Permits Survey
	Project Execution Plan and Work Breakdown Structure Development
	Regulatory Support for PUC
	Regulatory and Stakeholder Outreach Support
3. LNG Storage & Regasification Procurement Development	Procurement Model Development (Procurement Plan)
	Procurement Document Development
	Procurement Execution
	Proponent Outreach
	Procurement Announcement
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	Contract Negotiations Support
	Contract Execution
	Owner's Engineer for Construction Phase
	Project Management
	Post-Construction and Commissioning Support
	Regulatory and Stakeholder Outreach Support
4. LNG/CNG Transshipment Infrastructure	Business Franchise Model Development
	Procurement Model Development (Procurement Plan)
	Procurement Document Development
	Procurement Execution
	Proponent Outreach
	Procurement Announcement
	Procurement Evaluation Support
	Contract Negotiations Support
	Contract Execution
	Regulatory and Stakeholder Outreach Support

4.7 PRICE PROPOSAL

Upon selection of the most qualified firm, GPA will request an hourly rate schedule for initial negotiations. Task proposals will be requested thereafter.

4.8 CONTRACT TERMS

GPA intends for this contract to be a minimum of three years with an option for contract extension for two additional two-year periods.

4.9 EXCEPTION PETITION PROCEDURE

The EPCM Contractor or GPA may at times wish to petition for special exceptions to the standard implementation of the agreed upon compensation structure. Such petitions would generally be made where there is a belief that extraordinary circumstances beyond the control of either party have led to extreme positive or negative variations in actual measured performance.

A procedure will need to be developed to provide for the resolution of such petitions. At a minimum, the process should require the petitioner to perform a root cause analysis, of the alleged extraordinary event, prior to and in support of its petition. If the petition procedure fails to achieve a resolution that is satisfactory to both parties, then the petitioning party may choose to enter into a dispute resolution in accordance with the Dispute Resolution Procedure discussed elsewhere. All face-to-face negotiations shall be conducted on Guam and in accordance with Guam Law.

4.10 PROJECT REFERENCES

PROPOSER should identify at least three client references for projects in each scope area within the last five years. PROPOSER should provide these references in an organized Table(s) with project name, project manager, project description, client name, client contact information including email, website, telephone, and fax numbers.

4.11 PROJECT TEAM

Each PROPOSER must identify the project management team that they will assign to each scope area for the duration of its CONTRACT with GPA. GPA will need to agree to any replacements made for the project team. The PROPOSER must provide the curriculum vitae, publications list, and project experience for each team member. The PROPOSER must provide an organizational chart for this project team.

As GPA intends for the selected PROPOSER to provide service for design review and construction management of new power plant(s), PROPOSERS shall incorporate local (Guam) presence for this contract.

5 TECHNICAL PROPOSAL CONTENT

PROPOSERS must submit non-priced proposals that include:

1. Detailed description of PROPOSER'S qualifications to deliver on the scope of work and projects addressed in this RFP. This description should be organized in the following format:
 - a. **New Generation** - Provide or demonstrate experience to support the new Ukudu Power Plant project
 - i. **Plant Technology Experience** - Provide or demonstrate experience design, evaluation, permitting, and construction of combined cycle combustion turbine and diesel generator technologies to support construction of the Ukudu Power Plant and its reserve facility. should include operations, maintenance, design review, grid studies, etc.
 - ii. **ULSD Storage and Pipeline Infrastructure** – Provide or demonstrate experience in design, evaluation, permitting, and construction of fuel systems including piping, supply and treatment system and storage.
 - iii. **Contract Management** – Provide or demonstrate experience in developing, negotiating and managing energy conversion agreements and similar agreements to support construction and operation of power generation projects.
 - iv. **Procurement and Construction Execution** – Provide or demonstrate experience in successful procurement and construction of power generation projects.
 - b. **LNG** – GPA may pursue natural gas as future alternative fuel.
 - i. Pre-Development – Provide or demonstrate experience in LNG infrastructure and gas piping, fuel sourcing, and feasibility studies.
 - c. **Contract Development & Negotiations** – Provide or demonstrate experience in contracting and negotiating for energy or power capacity to include development, review, monitoring, auditing, and other technical support for Independent Power Producer, Power Purchase Agreement or other related contracts.
 - d. **Regulatory Support** – Provide or demonstrate experience with regulatory support such as testimony submittals for Public Utilities Commission or other regulatory bodies.
 - e. **Training Program** – Provide or demonstrate experience in training program development and execution. These should be related to tools to support deliverables on [Table 4-1](#) in Section 4.
 - f. **Other Environmental Engineering, Modeling, and Technical and Economic Feasibility Studies** – Provide or demonstrate experience in other related areas to support permitting and construction activities and evaluation of plant performance.
2. Three client references on projects completed within the last five years related to the projects

and scope of work addressed in this RFP. (Section 4.10).

3. Detailed description of the processes and services that the PROPONENT will use to deliver on the scope of work and projects addressed in this RFP. (Table 4-1 in Section 4)
4. Describe in detail the team and organizational structure that the PROPONENT will use for this project including curriculum vitae. Describe what each team member is responsible for and how they will provide value (Section 4.11).

Provision of this information in the proposal means that the individuals identified will be assigned to perform the scope and projects addressed in this RFP. GPA reserves the right to approve substitutions.

5. Technical Proposal must be free of any price information.
6. Executed Major Shareholder Disclosure Affidavit. (Form provided in Appendix A)
7. Completed Non-Collusion Affidavit. (Form provided in Appendix B)
8. Completed No Gratuities and Kickbacks Affidavit. (Form provided in Appendix C)
9. Completed Ethical Standards Affidavit (Form provided in Appendix D)
10. Completed DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION form. (Form provided in Appendix E)
11. Completed Restriction Against Sex Offenders Affidavit. (Form provided in Appendix F) and any additional forms required in this proposal.

6 PROPOSAL EVALUATION

The evaluation format is a two-step process. In the first step, GPA evaluates each PROPONENT'S qualifications and non-priced proposal for quality, reasonableness, completeness and applicability towards GPA's business needs and goals. During the evaluation process, GPA shall score each PROPONENT'S submittal and rank each from most acceptable to least acceptable. GPA may choose to select one, any or none of the PROPONENTS for the second step in the procurement process: contract negotiations.

GPA reserves the right to select one or more or none of these PROPONENTS to negotiate a contract for communication services, installation and operations and maintenance services for GPA's internal communication and network infrastructure.

GPA will begin negotiations with the PROPONENT having the most acceptable proposal for the work scope under consideration. If it fails to successfully conclude negotiations with this PROPONENT, it may terminate negotiations with this PROPONENT and begin negotiations with the PROPONENT having the next most acceptable proposal. GPA may continue in this fashion until it awards a contract or runs out of PROPONENTS to negotiate with.

6.1 Evaluation Criteria and Proposal Scoring

The Technical Proposal Worksheet attached below lists the evaluation criteria and proposal scoring information. GPA will convene a committee of no less than three people. These people will elect a committee chairperson.

Scoring and evaluation shall occur in three steps:

Step 1: Individual Committee Member Evaluation and Scoring of Proposal

Each committee member will score each PROPONENT'S proposal using the *Step One Evaluation Forms*.

Proposals that score greater than or equal to 70% of total maximum points are deemed acceptable. Proposals that score between 65% and 70% of total maximum points, are deemed potentially acceptable. Proposals scoring below 65% of total maximum points, are deemed unacceptable.

If an evaluator determines that a proposal is not acceptable, then that proposal cannot be evaluated in step 2. If an evaluator determines that a proposal is potentially acceptable, then that proposal cannot be evaluated in step 2 unless that evaluator finds (or such less than three acceptable proposal received). No unacceptable proposals will be scored beyond Step One.

Step 2: Committee-Wide Evaluation and Scoring of Proposal

After all the proposals have been scored under Step One, the Committee Chair will request the Committee whether they would like to evaluate Step 2 under Total Scope or Individual Scope Scoring. If the Committee deems that one or more PROPONENTS are especially strong in a given scope area, the Committee may revert to scoring based on the individual scope evaluation form. The Committee may evaluate one or more scope areas for individual scoring.

After all the proposals have been scored, each committee member will rank each proposal from highest scoring to lowest scoring using the *Step Two Evaluation Form*. Five points will be awarded to the highest ranking. Three points will be awarded to the second highest ranking. One point will be awarded the third highest ranking. The committee will then total up all the points for each proposal from each evaluator and scope and rank each proposal in step two using the *Step Two Committee-Wide Evaluation Form*. In the event of ties, the Chairman breaks the tie.

Step 3: Negotiation and Award

The committee will negotiate with the top scoring proponent(s) from Step 2.

If negotiations fail with the top scoring proposal, the committee will negotiate price with the next highest scoring proponent from Step 2. If there are no next proposals from Step 2, the committee may repeat Steps 2 and 3 or terminate the procurement.

