

BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE:)	PAG DOCKET 21-05
PETITION FOR APPROVAL)	
OF AWARD TO WSP USA, INC.)	
FOR THE OWNER AGENT)	
ENGINEER TECHNICAL)	ORDER
CONSULTING SERVICES)	
BY PORT AUTHORITY)	
OF GUAM)	



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”) on September 2, 2021, whereby PAG requests review and approval of a contract award to WSP USA Inc. (hereinafter referred to as “WSP”) for PAG’s Owner’s Agent Engineer Contract (the “Petition”), which will provide technical consulting services to the Port.

On September 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

The history of the Owner’s Agent Engineering Services (“OAE”) contract dates back to 2015. The Request for Proposal (“RFP”) for the first OAE contract sought professional services and technical support in the areas of design and engineering, program management, financial consulting and analysis, and other related services for PAG. In particular, the RFP sought services related to: assistance with PAG’s 5-Year Tariff Petition before the PUC;

assistance with PAG's Capital Program, to include assistance with issuance of revenue bonds; implementation of a new Terminal Operating System ("TOS") by assisting with the TOS contract and task order negotiations; assistance with studies related to rate adjustments and PUC petitions; and technical services during the construction phase of the Marine Service Life Extension Project at the Port's wharfs.¹

In addition, that RFP further sought services related to assisting with MARAD/PMT sponsored projects, which include renovations to building spaces, linking all communications infrastructure, automating the Gate Complex, maintenance programs, securing security grants, and various infrastructure projects; as well as other tasks required by the Port.²

According to PAG, "[t]he appointment of an OAE Services Contract is critical to PAG's day-to-day operations."³ "The Port, in collaboration with the Office of the Governor of Guam ("OOG"), and the assistance of the Office of Economic Adjustment ("OEA"), has determined that there is a need for procuring qualified professional maritime services for an OAE for the Port."⁴ According to the Port, "[t]he scale, complexity, and challenges of the [Port Improvement Program] was and continues to be unprecedented for the Port and requires considerable professional and technical expertise, capacity and capability not currently present . . . within the Port's in-house staff and resources."⁵

¹ Petition, PAG Docket 15-05, RFP, "Attachment 1," pp. 1-3 (Aug. 11, 2015).

² Petition, PAG Docket 15-05, RFP, "Attachment 1," pp. 4-5.

³ PAG's Determination of Need, RFP No. PAG-021-003, p. 1 (Apr. 28, 2021); PAG's Memo Re: Determination of Planning, RFP No. PAG-021-003, p. 1.

⁴ PAG's Determination of Need, RFP No. PAG-021-003, p. 1; PAG's Memo Re: Determination of Planning, RFP No. PAG-021-003, p. 1.

⁵ PAG's Determination of Need, RFP No. PAG-021-003, p. 1; PAG's Memo Re: Determination of Planning, RFP No. PAG-021-003, p. 1.

On June 16, 2021 the Port issued RFP No. PAG-021-003, which solicited the services of qualified contractors who could provide PAG with technical consulting services.⁶ While eleven (11) prospective offerors requested an RFP packet, only one vendor submitted a proposal on July 7, 2021.⁷

On July 23, 2021, an evaluation committee evaluated and scored WSP's proposal, giving WSP a score of 489 out of a possible 500 points.⁸ Thereafter, a cost negotiations committee met with WSP to discuss rates, task orders, and deliverables.⁹

On July 29, 2021, PAG's Board of Directors issued Resolution No. 2021-08, which approved the proposed contract and award to WSP, subject to successful cost negotiations between the parties.¹⁰ Cost negotiations concluded on August 16, 2021; and a Letter of Acceptance issued, summarizing the cost negotiations, rates, fees, and terms of the contract.¹¹

A. Regulatory Review

Under 12 G.C.A. §12105, the PUC must expressly approve any contractual agreements or obligations which could increase PAG's rates and charges. In addition, under PAG's Contract Review Protocol, "[a]ll professional service contracts in excess of \$1,000,000" "shall require prior PUC approval"¹²

⁶ Petition, p. 1.

⁷ Petition, p. 1.

⁸ Petition, p. 1.

⁹ Petition, p. 1.

¹⁰ Resolution, p. 1.

¹¹ Petition, p. 2.

¹² Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

B. Scope of Work

According to the Scope of Work, the OAE will provide Program Management Support and Capital Improvement Program construction technical services, which shall include projects such as the Hotel Wharf and Access Road Maintenance and Repair; Golf Pier Structural Repair; Warehouse #1; Water Line Repair and Replacement; and the Administration Building Renovation and Annex Construction, just to name a few.¹³ The OAE will also provide support to PAG's operations and any Program Management Contractor related to the maintenance, repair and replacement of PAG's Ship-To-Shore Gantry Cranes.¹⁴

The OAE is also tasked with providing the Port with Information Technology ("IT") support. These responsibilities include advising PAG on strategic issues related to cargo operations and IT; providing support for the upgrade of the Terminal Operating System and other modules; providing support for PAG's Financial Management System upgrade project and integration of the Terminal Operating System; providing support for cyber security; providing assistance for the procurement of a Gate Operating System, to name a few.¹⁵

The OAE will also provide PAG with support to continue to develop and maintain PAG's Environmental, Health, and Safety Program. These tasks will include providing PAG employees with health and safety training; and reviewing the health and safety components of PAG's construction projects.¹⁶ Finally, the OAE will provide technical support related to the

¹³ Scope of Work, PAG RFP No. 021-003, p. 2.

¹⁴ Scope of Work, PAG RFP No. 021-003, pp. 2-3.

¹⁵ Scope of Work, PAG RFP No. 021-003, p. 3.

¹⁶ Scope of Work, PAG RFP No. 021-003, p. 3.

rehabilitation and safe use of the Port's marine structures, under the Port's Wharf Service Life Extension program.¹⁷

The contract is for a term of two years, with three year-long options for renewal. The contract will be mostly funded by a federal grant, issued by the Office of Local Defense Community Cooperation, of \$1,500,000.00, with the remaining \$100,000.00 to be supplemented by the Port's funds.¹⁸

C. Other Supporting Documents

In March of this year, PAG and the Office of the Governor prepared a Memorandum of Agreement ("MOA") outlining PAG's use of the \$1,500,000.00 federal grant, issued by the Office of Local Defense Community Cooperation, for the subject OAE contract. Pursuant to the terms of this MOA, PAG agrees to use the funding for the work indicated in the grant application, namely for the projects listed under the Scope of Work for the OAE. In addition, in the Notice of Award for the federal grant issued by the Office of Local Defense Community Cooperation, PAG is required to use these funds for the projects described in the application, namely the Scope of Work for the OAE.

D. Board Resolution

On July 29, 2021, PAG's Board of Directors issued Resolution No. 2021-08. In the Resolution, the Board approved the contract award to WSP, at a cost of \$1,600,000.00, conditioned on the successful cost negotiations between the parties. The Board further authorized PAG to petition the PUC for approval of the OAW contract to WSP.¹⁹

¹⁷ Scope of Work, PAG RFP No. 021-003, p. 3.

¹⁸ PAG's Determination of Need, RFP No. PAG-021-003, p. 1 (Apr. 28, 2021)

¹⁹ PAG Board Resolution No. 2020-03, p. 1 (June 9, 2020).

CONCLUSION AND RECOMMENDATION

In its grant application materials, PAG has indicated that “[t]he scale, complexity, and challenges of the [Port Improvement Program] was and continues to be unprecedented for the Port and requires considerable professional and technical expertise, capacity and capability not currently present . . . within the Port’s in-house staff and resources.” The Port has expressed that “[i]t is paramount for the PAG to continue to engage the services of a professional maritime consultant as its OAE to build upon what has been accomplished and to maintain continuity and momentum in the modernization efforts of the PAG”

The federal funding for this contract relieves ratepayers a little bit of the impact related to PAG’s modernization efforts. Accordingly, based on the record before the Commission in the instant docket, and for the other reasons set forth herein, the ALJ found that the contract award to WSP, as outlined in the Petition, procurement, and supporting documents, is reasonable, prudent, and necessary. The ALJ recommended that the PUC approve PAG’s OAE contract with WSP at a cost of \$1,600,000.00.

The Commission hereby adopts the findings in the September 27, 2021 ALJ Report and therefore issued 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.
2. PAG is authorized to enter into the proposed OAE contract with WSP USA Inc. at a cost of \$1,600,000.00.


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 30th day of September, 2021.

JEFFREY C. JOHNSON
Chairman

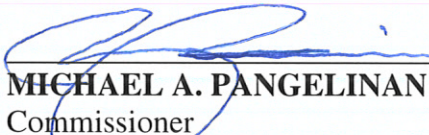
ROWENA E. PEREZ-CAMACHO
Commissioner



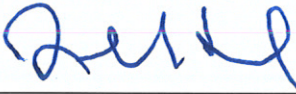
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Commissioner



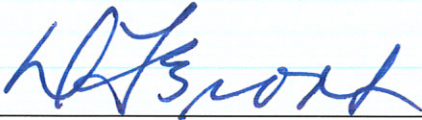
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Commissioner



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Commissioner



PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

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