

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:

GPA Docket 22-02

The Application of the Guam Power Authority Requesting Approval of the Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility

## ORDER



## INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [PUC] upon the Request of Guam Power Authority ["GPA"] for Approval of the Procurement of a Performance Management Contract ["PMC"] for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility.<sup>1</sup>

## BACKGROUND

2. On August 31, 2017, the PUC approved the Performance Management Contract between GPA and IP&E Guam LLC for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility.<sup>2</sup>
3. The PMC with IP&E had an initial two (2) year term which expired on September 30, 2019. However, prior to expiration of the Contract, the PUC extended the PMC for the first of three one-year extensions.<sup>3</sup>

<sup>1</sup> GPA Petition for Approval of the Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility, GPA Docket 22-02, filed November 8, 2021.

<sup>2</sup> PUC Order, GPA Docket 17-04, dated August 31, 2017, at p. 3.

<sup>3</sup> PUC Order, GPA Docket 19-08, dated March 28, 2019, at p. 2.



4. On February 27, 2020, the PUC authorized GPA to exercise the second and third one-year options to extend the Performance Management Contract with IP&E Guam LLC. The current IP&E PMC will now expire on September 30, 2022.<sup>4</sup>
5. In its current Petition, GPA requests that the PUC authorize it to procure a new Performance Management Contract for the GPA Fuel Farm Bulk Storage Facility.<sup>5</sup> GPA seeks to begin the process now so that there will be sufficient time to carry out the procurement.
6. After the procurement is completed and an award is made, GPA anticipates that the new PMC would commence for a three (3) year period on or about October 1, 2022 and continue until midnight on September 30, 2025. GPA would then be able to extend the Contract for two (2) additional one-year (1-year) terms, with the mutual consent of both parties. The PMC could possibly extend until September 30, 2027.<sup>6</sup>
7. Along with its procurement request, GPA has submitted a draft Invitation for Multi-Step Bid for the Management, Operation and Maintenance of the GPA Fuel Bulk Storage Facility. The IFB contains four Volumes:

Volume I, Commercial Terms and Conditions

Volume II, Technical and Functional Requirements

Volume III, Facility Technical Description

Volume IV, Performance Management Contract.<sup>7</sup>

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<sup>4</sup> PUC Order, GPA Docket 20-08, dated February 27, 2020, at p. 3.

<sup>5</sup> GPA Petition for Approval of the Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility, GPA Docket 22-02, filed November 8, 2021, at p. 2.

<sup>6</sup> Invitation for Multi-Step Bid, No. GPA-\_\_\_\_-21, Performance Management Contract, Volume IV, §5.1.

<sup>7</sup> On November 8, 2021, GPA submitted copies of the four volumes of the IFB to the PUC.



8. The procurement documents set forth, in detail, a description of the Fuel Farm Facility, the technical requirements for the bid, the duties of the Performance Management Contractor, and a draft of the proposed Contract.
9. The extensive obligations of the Performance Management Contractor are indicated in Section 9 of the Performance Management Contract, a true and correct copy of which is attached to the ALJ Report as Exhibit "1".
10. In Guam Consolidated Commission on Utilities Resolution No. FY2022-02, the CCU authorized the GPA General Manager to proceed with the solicitation for a Contract for the Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility.<sup>8</sup>
11. The CCU approved the solicitation of a contract with a base period of three (3) years with an option to extend for up to two (2) additional one-year terms.<sup>9</sup>
12. The ALJ filed his Report herein dated November 26, 2021<sup>10</sup>. The PUC adopts the conclusions and recommendations set forth therein.

### **DETERMINATIONS**

13. GPA has submitted a draft PMC that the selected bidder would be required to enter into. This form of contract has been used for many years for the PMC for the Fuel Bulk Storage Facility, since at least 2012. In form, the proposed PMC should be

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<sup>8</sup> Guam Consolidated Commission on Utilities Resolution No. FY2022-02, Authorizing Management of the Guam Power Authority to Solicit a Contract for the Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility, adopted and approved on October 26, 2021.

<sup>9</sup> Id.

<sup>10</sup> ALJ Report, GPA Docket 22-02, dated November 26, 2021.



adequate to require proper performance by the Contractor, and to protect the interests of GPA and the ratepayers.

14. The Contract describes the obligations of the Performance Management Contractor in detail, including its broad scope of responsibility. Contract provisions include contractor warranty, remediation of defective work, default, termination for convenience, insurance, and indemnity provisions.<sup>11</sup>
15. The PUC previously determined that the PMC for the Fuel Bulk Storage Facility should be adequate to require proper performance by the Contractor, and that a PMC for that facility is reasonable, prudent, and necessary.<sup>12</sup>
16. Actual expenditures over the five years of the current PMC have increased considerably, from \$765,464 in FY2018 to \$799,958 in FY2021. The anticipated expenditure for FY2022 is higher again, with an approved budget of \$917,493.<sup>13</sup>
17. It appears likely that GPA wishes to test the market to determine whether it can obtain competitive price bids in the proposed procurement.

### **ORDERING PROVISIONS**

After review of the record herein, GPA's Petition for Approval of Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility, and the ALJ Report, for good cause shown, on motion duly made, seconded, and carried by the undersigned

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<sup>11</sup> Invitation for Multi-Step Bid No. GPA-\_\_\_\_-21, Performance Management Contract, filed November 8, 2021.

<sup>12</sup> PUC Order, GPA Docket 20-08, dated February 27, 2020, at p. 3.

<sup>13</sup> See Exhibit "2" attached to the ALJ Report, which are Contract Breakdown costs and History, submitted with the GPA Petition.



Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GPA's Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility is approved.
2. However, since the cost for such a PMC is presently unknown, GPA is required to seek PUC approval of its final PMC Contract.
3. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

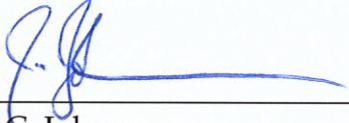
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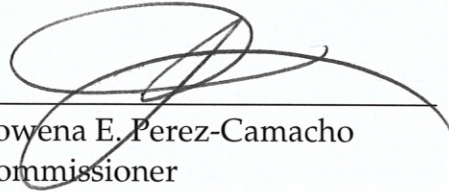
Order  
Request for approval of  
A PMC for Fuel Farm  
GPA Docket 22-02  
December 2, 2021

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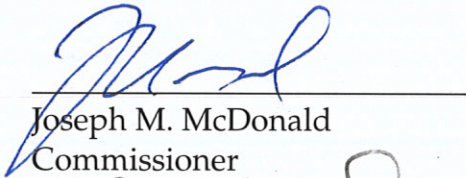
Dated this 2nd day of December 2021.



Jeffrey C. Johnson  
Chairman

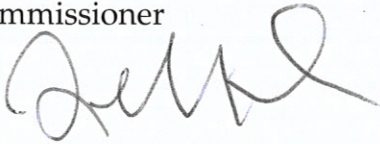


Rowena E. Perez-Camacho  
Commissioner

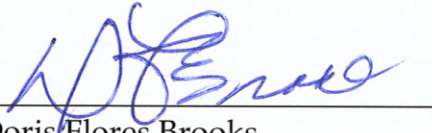


Joseph M. McDonald  
Commissioner

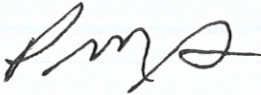
Michael A. Pangelinan  
Commissioner



Peter Montinola  
Commissioner



Doris Flores Brooks  
Commissioner



Pedro S.N. Guerrero  
Commissioner