

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION TO AUTHORIZE THE)
GUAM WATERWORKS AUTHORITY)
TO ISSUE AN INVITATION FOR BID)
(IFB) TO PROCURE PROPERTY,)
GENERAL LIABILITY AND OTHER)
INSURANCE SERVICES)
_____)

GWA DOCKET 22-06

ALJ REPORT



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the February 11, 2022 Petition to Issue an Invitation for Bid (IFB) to Procure Property, General Liability and Other Insurance Services for the Guam Waterworks Authority (hereinafter referred to as the “Petition”), filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of its procurement of property, general liability and other forms of insurance coverage.

DISCUSSION

A. GWA’s Petition to Issue Procurement

In its Petition, GWA requests that the PUC approve GWA’s issuance of an Invitation for Bid for the purchase of property insurance, as well as other types of insurance, itemized in the Petition on the basis that such insurance is required under its revenue bond indentures.¹ According to GWA, its current insurance coverage is set to expire on May 1st of this year.

GWA submits that Section 6.06 of its 2005 Water and Wastewater System Revenue Bonds General Indenture requires GWA to maintain insurance on the system with

¹ Petition, p. 1.

responsible insurers “in such amounts and against risks as are usually maintained by prudent operators of systems similar and similarly situated.”²

Accordingly, GWA’s draft procurement documents seek sealed bids for property insurance, general liability insurance, directors and officers liability insurance, automobile insurance, cyber liability, and crime insurance to cover GWA’s system, assets, management, and personnel, much like GWA’s current insurance coverage.

B. GWA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s Contract Review Protocol, “[a]ll professional service procurements in excess of \$1,000,000” and “[a]ny contract or obligation not specifically referenced above which exceeds \$1,000,000” “shall require prior PUC approval under 12 G.C.A. Section 12004.”³ With regard to multi-year contracts, “the test to determine whether a procurement exceeds the \$1,000,000.00 threshold for PUC review and approval is the total estimated cost of the procurement, including cost incurred in any renewal options.”⁴

In this instance, GWA requests PUC review and approval of its procurement of insurance because it anticipates that the contract for insurance will exceed \$1 million per year based on its current insurance premiums.⁵ According to GWA, the premiums for its

² Petition, p. 1.

³ Contract Review Protocol, GWA Docket 00-04, p. 1 (Oct. 27, 2005).

⁴ Contract Review Protocol, GWA Docket 00-04, p. 2.

⁵ Petition, p. 2.

current contract for insurance is about \$969,000.00 per year.⁶ A three-year contract, therefore, will require PUC review and approval.⁷

3. Section 6.06 of GWA's Revenue Bond Indenture

Indeed, pursuant to Section 6.06 of GWA's 2005 Series Bond Indenture, GWA must maintain insurance on its system "in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated to the System and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners . . ." ⁸

RECOMMENDATION

This Commission has previously found that GWA is required to maintain "insurance on the System with responsible insurers in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated . . . to protect its interests and the interests of the Bondowners" pursuant to provisions of its bond indentures.⁹ Accordingly, this Commission has historically determined that GWA's 2005 Series Bond Indenture, along with its supplemental indentures, require GWA to maintain insurance on the system in amounts and against risks normally maintained by other water and wastewater authorities.

⁶ Petition, p. 2.

⁷ Petition, p. 2.

⁸ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

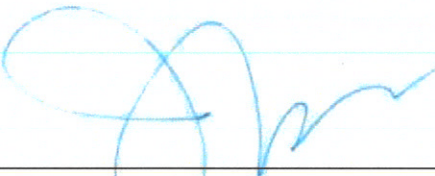
⁹ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

Further, the need for GWA to procure property insurance is clear: while property insurance is required by GWA's 2005 Bond Series Indenture, "the availability of property insurance will potentially benefit rate payers with regard to the protection of system assets" since "[i]nsurance proceeds can assist recovery efforts after natural disasters such as typhoons or earthquakes."¹⁰ Accordingly, the ALJ therefore recommends that the PUC approve GWA's procurement of property, general liability and other forms of insurance coverage.

CONCLUSION

Based on the record established in this docket, and for the reasons set forth herein, the ALJ recommends that the PUC approve GWA's procurement of a contract for insurance as indicated in GWA's Petition. A proposed Order for the PUC is attached hereto for the PUC's consideration.

Dated this 21st day of February, 2022.



JOEPHET R. ALCANTARA
Administrative Law Judge

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¹⁰ ALJ Report, GWA Docket 12-02, p. 3 (*quoting* PUC Counsel Report, GWA Docket 10-02, p. 2 (Oct. 6, 2010)).