

FELIXBERTO ALFRED DUENAS

66B NIMITZ DR.

PITI, GUAM 96915

(671) 685-4757



March 30, 2022

Mr. Jeffrey C. Johnson

Chairman, Guam Public Utilities Commission

Suite 207 GCIC Building

414 West Soledad Avenue

Hagatna, Guam 96910

Buenas yan Hafa Adai Chairman Johnson,

My name is Felixberto Alfred Duenas, I am currently employed by the Thirty Sixth Guam Legislature, Office of Senator Joanne MS Brown as a Chief Policy Analyst. Prior to my reemployment with the Guam Legislature, I was the Deputy General Manager, Finance and Administration. I organized the PAG team to prepare and finalize the Port's bond financing package. I am familiar with Capital Improvement Projects funded by bond proceeds, projects to be funded by 100% federal funds, projects funded by federal funds requiring a Port match, and projects to be funded by Port revenue. This list is part of the Final-2018 Consulting Engineer's Report which is part of the Official Statement (OS). Among the information contained in the Official Statement are the PAG's covenants for the benefit and protection of the Port and the Bond investors.

PAG Docket 22-03, Petition of the Port Authority for PUC Review and Approval of the Procurement Contract Award to JJ Global Services for the Construction to Repair and Upgrade the EQMR Building IFB-PAG-CIP_021-010.

I recommend the Petition be disapproved because it is more than the Project Cost authorized by the Official Statement (OS). The total Project Cost to be funded by 2018 Bonds as listed in the OS is \$3,629,000, this cost includes a 12-17

percent contingency. The PAG Board of Directors on February 24, 2022, adopted Board Resolution No. 2022-05 which identified the lowest bid amount of \$3,980,000. This lowest bid, combined with the cost of Macario & Associates services and any other cost associated in finalizing the Bid Package should be the Total Cost of the Project based on the OS.

A review of the Bid documents provided by PAG Procurement listed 6 same Firms attending both the Pre-Bid Conference and Site Visit. The PAG Board Resolution 2022-05 stated 2 firms submitted their proposal. Port Procurement should have rejected the bids due to High Price and schedule a re-bid. The BOS does not provide any provision for cost overrun other than the built-in contingency.

A google search on JJ Global Services identifies its business type as Construction (20%); Service (80%). The search also revealed 2 separate GSA Bids were rejected due to High Price. These red flags should have been sufficient to trigger a re-bid.

IMPLEMENTATION PLAN

BOND FUNDED CIP's

Hotel Wharf was the first Bond Project on our timeline for implementation of Projects. MS. Dora Perez was the Lead Staff who worked on the Tiger Grant Application. She and WSP along with USEPA staff determined the studies and reports required for USEPA to approve the Permit application. WSP assured PAG that all requirements have been met and the project is shovel ready. This status and PAG's willingness to cost share the project led to the project's approval.

Ms. Dora Perez was tasked to reach out to both USEPA and GEPA and initiate the formal Permit Application. Ms. JoyJean Arceo was to dialogue with Department of Labor to have Hotel Wharf listed as a Defense related project to qualify for alien labor visa waiver program. PAG's Engineering Division was to prepare the Scope of Work for Contract Manager for the Bond Project.

SUBSEQUENT EVENTS

WSP's assurance that the project is shovel ready was not substantiated. USEPA stated that they gave WSP a list of additional studies which had to be performed before the issuance of a Permit. WSP admitted that they somehow failed relay this information to PAG. This led to substantial delays and additional cost to the

project. Refer to PUC Docket 20-03. This would have been sufficient to disqualify WSP's proposal for RFP-PAG-021-003 due to not meeting the requirement of its then existing contract and deceptive practice.

JoyJean Arceo who is the Chief Procurement Officer for PAG was released from her duties as Chief Procurement Officer and assigned to GSA to handle Line Agencies procurement needs. There is a huge gap between Ms. Arceo's procurement knowledge and experience as compared to the Port's remaining procurement staff, (see attachment). I firmly believe that her non-involvement played a major role in the inability of PAG prepare a successful RFP.

Ms. Arceo was with the Department of Public Works Federal Highway Program. This Division is responsible for Federal Highway Funds awarded for construction and rehabilitation of Guam's major roadway. Based on her experience, she was hired by the Port to be the over-all Professional Staff to oversee the Bond Projects. She had hands-on participation starting with Port's meetings with Bond Counsel, Bond Rating Agencies and culminating with meetings with potential Bond investors.

PAG's Board of Director's reliance on Public Law 35-44 which could be considered fraudulent because GEDA and the 35th Guam Legislature could not in unison reprogram the bond proceeds. The Official Statement provides the mechanism to allow reprogramming. The Public Law process is not the mechanism.

I will commend PAG for successfully contracting GHD, INC. to provide Construction Management Service for Hotel Wharf. We extrapolated the project cost of the various waterfront projects at Big Navy to derive at the project cost for Hotel Wharf.

Thank you for taking time to read this letter. Although I work for Senator Joanne MS Brown, I did not solicit, nor did we discuss the content of this letter. It would be in the best interest for PAG to re-bid this project.

Regards,



Felixberto Alfred Duenas

Attachment

submit a counteroffer. On May 18, 2021, the Port submitted a counteroffer to Ledge Light Technologies Pacific. On May 20, 2021, Ledge Light Technologies Pacific officially accepted the Port's counteroffer.

Before the Port took further action on the procurement, it was revealed that the Port had previously been provided a list of deliverables and assessments from its prior contractor, information unknown, prior to soliciting the above referenced RFP. While it is true that there is much work to be done in order for the Port to improve its cybersecurity requirements, consummating a contract at this time would not be in the best interest of the Port as it does not specifically address the deliverables to help the Port meet its objectives at this time. Consequently, as a contract for duplicative services would not be in the best interest of the Port, the Port must cancel the award of the contract for the above referenced RFP. The Port, however, intends on re-soliciting a revised RFP once it can properly build a scope of work to address its specific shortcomings and an infrastructure in support of the Port's Operations and Cyber Security. Therefore, for the reasons set forth above, it is determined that in the best interest of the Port to not move forward with the award of the contract to Ledge Light Technologies Pacific, and Board approval is being requested to cancel and disapprove such contract for the above referenced RFP.

Director Harris made motion to cancel the notice of intent to award to Ledge Light Technologies Pacific pursuant to RFP-PAG-021-001 for Information Technology Consulting Services, seconded by Director Koki. Motion was unanimously approved.

3. **Resolution No. 2021-07 Authorization for General Manager to Use Port Funds to Supplement the Funding of Revenue Bond Projects.** Director Koki made motion to approve Resolution No. 2021-07 relative to authorizing the General Manager to use port revenues, port unrestricted funds and/or other revenues and federal grants to supplement the funding of revenue bond projects, all of which shall remain subjected to procurement and Public Utilities statutory requirements. Motion was seconded by the Vice Chairman and unanimously approved.

4. **Relative to Rescinding Board of Directors Policy Memorandum No. 2009-02.** The General Manager mentioned that the Port Authority of Guam Board of Directors Policy Memorandum No. 2009-02 Subject: Designation of Emergency First Responders and On-Call Emergency Management Personnel, allows certain employees within the Port Authority of Guam to utilize Port vehicles on a twenty-four (24) hour basis. However, a recent legal review reveals a prohibition from allowing any employee to take home a vehicle.

Title 4 GCA §1103, governing Government Vehicles and Use, is quite clear: "No such vehicles shall be used for the transportation of any government officer or employee between his place of abode and place of employment ..." and further states that this restriction does not apply to any vehicle assigned for the use of *I Maga'lahaen Guahan*, *I Segundu na Maga'lahaen Guahan*, the Speaker of *I Liheslaturan Guahan*, the Presiding Judge of the Superior Court of Guam, and the Chief Justice of the Supreme Court of Guam. The law also provides a narrow exception for

Attachment