

BEFORE THE PUBLIC UTILITIES COMMISSION

**PETITION REQUESTING APPROVAL)
OF THE CONTRACT AMENDMENT)
FOR BULK STORAGE FUEL TANKS)
INSPECTION AND REFURBISHMENT)
WITH TRISTAR TERMINALS)
GUAM, INC. BY GUAM POWER)
AUTHORITY)**

GPA DOCKET 22-11

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the May 3, 2022 Petition (hereinafter referred to as the “Petition”) for review and approval of the Tristar Terminals Guam, Inc. (“Tristar”) contract amendment for Bulk Storage Fuel Tanks Inspection and Refurbishment, filed by the Guam Power Authority (“GPA”). GPA seeks PUC review and approval of the amendment to this professional services contract with Tristar.

On May 23, 2022, 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

GPA currently maintains and operates bulk storage fuel tanks, which are managed by Isla Petroleum and Energy Holdings, LLC (IP&E), and which are used to supply fuel to GPA’s base load units. According to GPA, it is required by the United States Environmental Protection Agency (“U.S. E.P.A.”) to ensure that the tanks comply with certain federal regulatory requirements.

The Fuel Farm Bulk Storage Facility was designed and built for bulk fuel storage and to distribute fuel to the baseload plants in order to meet the island’s electric power utility needs.

The tanks and associated infrastructure were constructed in 1976 by the United States Military and generally have been in service continually since that time.

On December 2, 2019, GPA awarded the out-of-service inspection and refurbishment contract to Tristar,¹ which was approved by the PUC on August 29, 2019. On April 20, 2022, Tristar submitted a Change Order for Tank 1935, stating that additional repairs were needed based on a February 14, 2022 report by Island Certs, wherein it detailed its findings and recommendations for Tank 1935.

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. Furthermore, GPA's Contract Review Protocol requires that "[a]ll professional service procurements in excess of \$1,500,000" require "prior PUC approval . . . which shall be obtained before the procurement process is begun."²

2. 2019 Tristar Contract

Based on the original contract, GPA sought inspection and refurbishment services for its Bulk Storage Fuel Tanks 1934 and 1935, with all labor, equipment and materials included, to prepare these tanks for receiving ultralow sulfur diesel (ULSD) fuel. Significantly, one of the provisions of the contract requires that a Certified API 653 Inspector assess the tanks' overall conditions by performing out-of-service non-destructive tank integrity testing inspection; and that based on the technical recommendations of the API inspector, any significant defects would be repaired by the contractor, Tristar.

¹ GPA Resolution No. FY2022-16, p. 1 (Apr. 26, 2022).

² GPA's Contract Review Protocol ("GPA CRP"), Administrative Docket 00-04, p. 1 (Feb. 15, 2008).

In particular, the contract requires out-of-service, nondestructive tank integrity testing inspection in accordance with industry inspection standards, including the applicable American Petroleum Institute (API) standards, with certain repairs performed pursuant to an assessment and recommendations by a certified API 653 Inspector. The contract further indicates that Tank 1935 would be the first to be taken out of service, with Tank 1934 to follow, after the inspection and refurbishment work on Tank 1935 is completed.

According to Tristar, the work identified by Island Certs includes repairs to the tank's bottom plate, shell plates, roof, and appurtenances; and that such repairs are estimated to cost an additional \$3,140,489.35.³ GPA has requested PUC approval of this Change Order and authorization for this expense, including a twenty percent (20%) contingency "for other unforeseen work and circumstances," which it will fund by its own revenues.⁴ GPA has indicated that these repairs are necessary in order to meet certain U.S. E.P.A. requirements and comply with certain API 635 standards. Once this project is completed, the tanks will be utilized to store ULSD fuel to supply Piti 7, 8, and 9, as well as the new 180MW power plant.⁵

3. Change Order and Costs

As discussed above, the Change Order is based on the report concerning Tank 1935 provided by the API 653 Inspector. According to the report, Island Certs determined that a total of thirteen (13) bottom plates are "in dire need" of replacing; 397 patch plates are "necessary"; and there are 14 "through-and-through holes" that require repair, among other various recommendations.⁶ In addition, there were other "significant" issues that were identified as

³ GPA Resolution No. FY2022-16, p. 1 (Apr. 26, 2022).

⁴ GPA Resolution No. FY2022-16, p. 1 (Apr. 26, 2022).

⁵ GPA Resolution No. FY2022-16, p. 1 (Apr. 26, 2022).

⁶ GPA Resolution No. FY2022-16, p. 2 (Apr. 26, 2022).

requiring work, such as: replacing all roof manholes and cover; replacing corroded roof plants and damaged joints; repairing shell plates in various areas; replacing certain overflow pipes; and replacing what was described as a “severely corroded stair landing.”⁷

Specifically, the inspector determined that certain sections of the roof require refurbishment, which include repairing weld defects on plates; installing new roof railings; removing existing dilapidated and severely corroded manholes and installing new ones; replacing severely corroded covers; tightening loose nuts and bolts; replacing nuts and bolts; replacing missing lateral supports; and replacing a severely corroded outer rafter, among others.⁸

Regarding the tank’s shell, the inspector recommended repairing several corroded weld defects, and performing patch repair on certain through-and-through holes along the wind girder.⁹ Regarding the tank’s bottom plates, the inspector recommended the following work: replacing thirteen (13) bottom plates completely; completing 397 patch repairs; and repairing 245 weld defects, just to name a few.¹⁰ And with regard to the tank’s foundation, the inspector recommended that the contractor install a plinth seal around the tank periphery to prevent water from entering the tank bottom plates.¹¹

Tristar has indicated that the cost of this Change Order is estimated at \$3,140,489.35, which includes the cost of materials, tools and equipment, and labor. Based on Tristar’s estimate, the biggest costs are \$1.5 million for the repair of the interior bottom plate and shell; and \$515,882 for repairing the exterior surface of the roof.

⁷ GPA Resolution No. FY2022-16, p. 2 (Apr. 26, 2022).

⁸ GPA Resolution No. FY2022-16, p. 6 (Apr. 26, 2022).

⁹ GPA Resolution No. FY2022-16, pp. 6-7 (Apr. 26, 2022).

¹⁰ GPA Resolution No. FY2022-16, p. 8 (Apr. 26, 2022).

¹¹ GPA Resolution No. FY2022-16, p. 9 (Apr. 26, 2022).

RECOMMENDATION AND CONCLUSION

Based on the documentation provided, the ALJ found that the subject contract is reasonable and necessary. Without question, these tanks are old and are in very serious need of repair. Indeed, according to the reports, Tank 1935 has been deemed as unsuitable for service.¹² Island Certs has independently identified significant structural defects that were not contemplated at the inception of the contract. Tristar's ongoing work in repairing such defects would certainly extend the life of the fuel tanks and allow them to be safely and fully utilized by GPA. Accordingly, based on this record, the ALJ recommended that the PUC approve the Change Order, for a cost of up to \$3,140,489.35,¹³ subject to the regular contingency allowable under GPA's Contract Review Protocol.

The Commission hereby adopts the findings in the May 23, 2022 ALJ Report and therefore issues 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. GPA is authorized to enter into the subject change order and any corresponding amendment with Tristar Terminals, Inc. for Bulk Storage Fuel Tanks Inspection and Refurbishment; and for a cost of up to \$3,140,489.35, subject to the regular contingency allowable under GPA's Contract Review Protocol.

¹² Resolution FY2022-16, Exhibit A (Change Order/Variation Request submitted by Tristar), p. 1 (Apr. 20, 2022).

¹³ SPPC Bid, p. 37.

3. GPA 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. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

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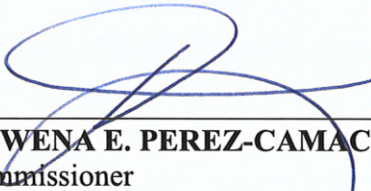

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SO ORDERED this 26th day of May, 2022.


JEFFREY C. JOHNSON
Chairman
ROWENA E. PEREZ-CAMACHO
Commissioner
JOSEPH M. MCDONALD
Commissioner
PEDRO GUERRERO
Commissioner
MICHAEL A. PANGELINAN
Commissioner
PETER MONTINOLA
Commissioner
DORIS FLORES BROOKS
Commissioner

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