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BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

The Application of the Guam Solid
Waste Authority for Review and
Approval of the Award and Contract
to Pacific Human Resource Services
for Temporary Staffing Services

GSWA DOCKET NO. 23-02

**PETITION FOR CONTRACT
REVIEW AND APPROVAL**

INTRODUCTION

COMES NOW the **GUAM SOLID WASTE AUTHORITY (GSWA)** and respectfully petitions the **GUAM PUBLIC UTILITIES COMMISSION (PUC)** to review and approve the contract entered into between GSWA and Pacific Human Resource Services, Inc. (PHRS) for temporary staffing services.

BACKGROUND

PHRS is a private company that connects job seekers to businesses for temporary or contract work. On or about October 8, 2009, Gershman Brickner & Bratton Inc. (GBB), in its capacity as the federal Receiver for GSWA, entered into a written contract with PHRS to provide temporary workers to supplement the agency's permanent staff and to fill a number of open positions for Sanitation Workers, Equipment Operators, Heavy Equipment Mechanic Leader, Administrative Assistants, and Customer Service Representatives.

Although the temporary workers filled roles at GSWA and did their work at and on behalf of GSWA, they were not government employees. Rather they remained the private employees of PHRS and did not acquire any of the benefits or civil service status that are afforded to employees of the government of Guam. Nevertheless, the positions filled by the temporary workers were, and still are, essential to the day-to-day operations of GSWA.

Over the years since 2009, the contract with PHRS was extended and renewed several times, each time with the approval of the District Court of Guam. The most recent contract renewal expired on September 30, 2022.

Earlier this summer on June 20, 2022, and prior to the contract expiration date of September 30, GSWA issued **Invitation to Bid (ITB) No. GSWA-005-22 for Temporary Staffing Services**. Although six prospective bidders expressed interest in the solicitation, only two bids were received by the submission deadline of August 1, 2022. The two bidders were PHRS and Allied Human Resources.

The bids were publicly opened on the same date of August 1, and PHRS was determined to be the lowest responsive and responsible bidder. On September 14, 2022, GSWA issued a Notice of Intent to Award the contract to PHRS.

Based upon PHRS's bid, GSWA has determined that the contract award will be for a term of three (3) years beginning October 1, 2022 and ending on September 30, 2025. Subject to the availability of funds, the contract shall be paid the GSWA Operations Fund at a cost of \$2,002,000.00 broken down as follows:

Year 1: \$1,100,000.00;
Year 2: \$451,000.00; and
Year 3: \$451,00.00.

On November 17, 2022, the award to PHRS was approved by the GSWA Board of Directors in its **Resolution No. 2023-005**. A true and correct copy of said resolution is attached herein as **Exhibit 1** and incorporated in full by this reference. Resolution No. 2023-005 amends and supersedes Resolution No. 2022-013 which was approved by the Board on or about September 22, 2022, and which provided for a more expensive contract with a longer term and scope of work.

Supporting the Resolution No. 2023-005 is a draft Purchase Order of \$1,100,000.000 which covers Year 1 of the contract (FY2022 to FY2023). A true and correct copy of the draft Purchase Order is attached as **Exhibit 2** and incorporated in full by this reference.

Since the opening of the bids on August 1, and the giving of a notice of intent to award the contract to PHRS on September 14, 2022, no procurement protest has been filed and the 14-day period for under 5 GCA § 5425(a) has long since passed.

DISCUSSION

The PUC has jurisdiction and authority to hear this Petition pursuant to 12 GCA § 12105 and the Order establishing a *Contract Review Protocol for GSWA*. See, GSWA DOCKET 19-02 & ADMINISTRATIVE DOCKET dated July 25, 2019.

Pursuant to 10 GCA § 51A104(10), it is a core function of the GSWA to control and operate Guam's solid waste management system and to ensure that it is compliant with all environmental

and health regulations¹ Carrying out this function requires personnel to operate specialized equipment such as different types of refuse trucks and other heavy machinery.

When ITB No. GSWA-005-22 was originally issued on June 20, 2022, GSWA contemplated that a five-year contract would be awarded and that the positions covered would include the temporary employment of Administrative Assistants, Customer Service Representatives and a Heavy Equipment Mechanic Leader, *in addition* to Sanitation Workers and Equipment Operators. After considering all circumstances, however, GSWA has now determined that effective January 2, 2023, it will phase out and remove from the contract the positions of Customer Service Representatives and Administrative Assistants. A permanent employee has already been hired to fill the position of Heavy Equipment Mechanic Leader.

Thus beginning in 2023, and based upon the rates in PHRS's bid, the contract will only cover the positions of Sanitation Workers and Equipment Operators. These particular positions are especially critical due to the laborious and hazardous nature of the work. Despite continuously posting open job announcements on its website,² GSWA has found it challenging to attract and recruit interested personnel. The Department of Administration recognized the lack of available personnel and approved the issuance of ITB No. GSWA-005-22 because of these reasons. *See, Exhibit 3*, incorporated herein by reference in full.

¹ 10 GCA § 51A104(10) (GSWA shall have and exercise the power to “control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of Guam;”).

² <https://gswa.guamjobfinder.com/>

CONCLUSION

The contract with PHRS for temporary staffing services seeks services that are essential to the operations of GSWA, most specifically the collection the island's trash and the management of the solid waste system. These services are critical to maintaining the health, safety and welfare of the public.

The terms and cost of the contract are fair and reasonable to all concerned, and the procurement was made in compliance with Guam law and with the approval of the Department of Administration.

For all the foregoing reasons, GSWA submits that the instant petition for the PUC to review and approve the award to PHRS of the Temporary Staffing Services contract should be GRANTED.

Respectfully submitted this 21st day of November, 2022.

OFFICE OF THE ATTORNEY GENERAL
Leevin Taitano Camacho, Attorney General

By:



SANDRA C. MILLER

Assistant Attorney General

smiller@oagguam.org

EXHIBIT 1

GSWA Board Resolution No. 2023-005

**Relative to Amending the Petition to
the Public Utilities Commission (PUC) for Approval
of the Award to Pacific Human Resource Services Inc.
for Temporary Staffing Services**



GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lt. Governor of Guam

IRVIN L. SLIKE
General Manager



GSWA BOARD RESOLUTION NO 2023-005

GSWA Board Resolution No. 2023-005 RELATIVE TO AMENDING THE PETITION TO THE PUBLIC UTILITIES COMMISSION (PUC) FOR APPROVAL OF THE AWARD TO PACIFIC HUMAN RESOURCE SERVICES INC. FOR TEMPORARY STAFFING SERVICES

WHEREAS, in 2009, the federal Receiver acquired the services of a temporary staffing agency to fulfill essential job positions. Due to the Nature of work, GSWA experiences high employment turnover rates for the laborious positions and finds the constant need to replace personnel. In 2021, turnover rate for Sanitation Workers was approximately 38%; and

WHEREAS, on January 2, 2022 GSWA opened several continuous job announcements to create a pool of applicants for the positions of Sanitation Worker, Equipment Operator, Customer Service Representative, and Administrative Assistant. To date, GSWA has not received an acceptable number of qualified applicants to fill essential positions currently contracted through the temporary staffing agency; and

WHEREAS, the Authority began the recruitment process for those positions that have a decent pool of applicants and is looking to hire the qualified applicants to fill classified positions within the Authority. Additionally, the Authority has advertised on the GSWA website and Newspapers of public circulation such as Pacific Daily News and Guam Daily Post on December 3, 2021, January 2, 2022, and February 25, 2022; and

WHEREAS, on February 23, 2022, pursuant to 5 GCA §5249(e) and 2 GARR §3114(c), GSWA submitted a reasonable inquiry to the Department of Administration on the availability of personnel and/or resources to perform the services required; and

WHEREAS, on Monday, June 20, 2022, the Guam Solid Waste Authority (GSWA) issued an Invitation for Bid (IFB) No. GSWA005-22 to solicit qualified companies to provide Temporary Staffing Services for GSWA; and

WHEREAS, the Authority had six (6) prospective bidders that acquired bid documents, but only two (2) were submitted by the submission deadline of August 1, 2022 at 3:00 p.m.; and

WHEREAS, bids were publicly opened on Monday, August 1, 2022 at the GSWA Conference room; and

WHEREAS, Pacific Human Resource Services Inc. and Allied Human Resources submitted bids for GSWA consideration; and

WHEREAS, Pacific Human Resource Services Inc. (PHRS) was determined to be the lowest responsive bidder meeting the requirements of the bid solicitation; and



GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lt. Governor of Guam

IRVIN L. SLIKE
General Manager



GSWA BOARD RESOLUTION NO. 2023-005

WHEREAS, on September 14, 2022, GSWA issued a Notice of Intent to Award to Pacific Human Resources Services Inc.; and

WHEREAS, the contract award to PHRS shall be for a term of three (3) years beginning October 1, 2022 and ending September 30, 2025; and

WHEREAS, effective January 2, 2023, the positions of Customer Service Representatives and other administrative employees shall be ended and removed; and thereafter the positions covered by the contract shall be limited until the remainder of the term to the employment of temporary Sanitation Workers and Equipment Operators; and

WHEREAS, subject to the availability of funds, the total cost of the three (3) year contract is \$2,002,000.00 broken down as follows:

Year 1: \$1,100,000.00;
Year 2: \$451,000.00;
Year 3: \$451,00.00; and

WHEREAS, funding for this contract shall be from GSWA Operations Fund; and

WHEREAS, this Resolution No. 2023-005 amends, restates, supersedes, and replaces Resolution No. 2022-013 that was previously approved by the GSWA Board of Directors on or about September 22, 2022.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Board of Directors as the Governing Body of the Guam Solid Waste Authority that Management is authorized to petition the Public Utilities Commission (PUC) to review and approve the award to Pacific Human Resource Services Inc. for Temporary Staffing Services, in accordance with the Contract Review Protocol for the Guam Solid Waste Authority.

Ayes: 5

Nays: 0

Absent: 0

Abstain: 0



GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lt. Governor of Guam

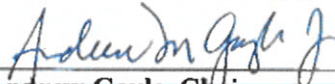
IRVIN L. SLIKE
General Manager



GSWA BOARD RESOLUTION NO 2023-005

Upon said roll call, the text of the foregoing was duly enacted as a Resolution of the Board of Guam Solid Waste Authority, Guam, on the 17th day of November, 2022.

**GUAM SOLID WASTE AUTHORITY
BOARD OF DIRECTORS**


Andrew Gayle, Chairman



Margaret Denney, Secretary

**ATTEST:
ALICIA FEJERAN, CLERK**

BY: 

EXHIBIT 2

Draft GSWA Purchase Order No. P236R00064
to Pacific Human Resource Services
for FY2022 to FY2023 (\$1,100,000.00)

		PURCHASE ORDER GUAM SOLID WASTE AUTHORITY 546 NORTH MARINE CORPS DRIVE TAMUNING, GUAM 96913 Tel: (671) 646-3111 Fax: (671) 649-3777		TRAN CODE THIS PURCHASE ORDER NUMBER No. P236R00064 MUST APPEAR ON ALL INVOICES, PACKING SLIPS, PACKAGES, B/L, ETC.	
F.O.B.	AIR FREIGHT TEL. CONTACT	SHIP VIA:		DATE 10/1/22	JOB ORDER NO. 5416A239910GA201 5416C229910GA207 OBJ CL 230

TO: (VENDOR INFO) PACIFIC HUMAN RESOURCE SERVICES 414 WEST SOLEDAD AVE STE 807, GCIC BLDG. HAGATNA, GUAM 96910		VENDOR NO. P0096101	SHIP TO: (CONSIGNEE, DESTINATION & MARKING) GUAM SOLID WASTE AUTHORITY 546 N MARINE CORPS DR TAMUNING, GUAM 96913		
AUTHORITY 3121C	INVITATION NO.	CONTRACT NO. GSWA-005-22	TIME FOR DELIVERY AS NEEDED	EXPIRING 09/30/23	DISCOUNT TERMS:

ITEM	ARTICLES OF SERVICES	QTY	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NO.	FAC
1	<p>Temporary staffing services for GSWA to include recruitment, retention, processing and releasing services for the term of the contract, including, at minimum (a) Advertising, recruiting, and processing employees; (b) Background screening, drug testing, and other applicable evaluation; (c) Comply with requirements of local and Federal Drug Free workplace; (d) Comply with Federal and local laws as an equal opportunity employer; (e) Pay employees and administer and maintain all employment and payroll records, payroll processing, tax withholding, worker's compensation, remittance of payroll and taxes, including the provision for the distribution of payroll time-sheets and checks; (f) Administration, maintenance of, and compliance with all employee eligibility verification.</p> <p>Provide the services required: (a) Assign sufficient personnel to meet GSWA needs; (b) Maintain the flexibility to expand, reduce, or shift staffing categories; (c) Require employees to comply with GSWA policies and procedures; (d) Take disciplinary actions involving any misconduct of any employee; (e) Remit invoices to GSWA for services rendered; (f) Collect, maintain, retain, and make available all documentation with providing the services.</p> <p>Period to cover October 1, 2022 through September 30, 2023 (Year 1 of 3 - Contract GSWA-005-22 shall be for three (3) years beginning October 1, 2022 through September 30, 2025)</p> <p>AUTHORIZED PERSONNEL: IRVIN SLIKE, ALICIA FEJERAN, JOANNE FLORES, ROMAN PEREZ, KEILANI MESA, NELSON BELTRAN</p>	1	LOT	\$ 1,100,000.00	\$ 1,100,000.00	Q239910-064	

SPECIAL INSTRUCTIONS TO VENDOR: B. <u>SEND</u> CERTIFIED ORGINIAL AND THREE (3) COPIES OF <u>INVOICE</u> TO GUAM SOLID WASTE AUTHORITY. C. <u>PAYMENT</u> IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.		\$ 1,100,000.00 TOTAL	A. <u>DO NOT</u> FILL THIS ORDER IF YOUR TOTAL EXCEEDS THIS TOTAL. ← INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT.						
CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE.		ADVANCE PAYMENT AUTHORIZATION PAYMENT ENCLOSED <input type="checkbox"/>	<table><tr><td>NAME</td><td>TITLE</td></tr><tr><td>IRVIN L. SLIKE</td><td>GENERAL MANAGER</td></tr><tr><td colspan="2">MASTER COPY</td></tr></table>	NAME	TITLE	IRVIN L. SLIKE	GENERAL MANAGER	MASTER COPY	
NAME	TITLE								
IRVIN L. SLIKE	GENERAL MANAGER								
MASTER COPY									

SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.

THIS ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- 1 Acknowledgment copy of this order must be signed and returned advising approximate or definite shipping date.
- 2 No variation in any of the terms, conditions, deliveries, prices, quantity, quality or specification of this order, irrespective of the wording of the seller's acceptance will be effective without buyer's written consent.
- 3 Packing list must accompany each shipment, showing our order number, description, and part/serial number for each item.
- 4 Shipments must be identified as "PARTIAL" or "COMPLETE".
- 5 Material is subject to buyer's inspection and approval within a reasonable time after delivery; if specifications are not met, material shall be returned at seller's expense.
- 6 In connection with any prompt payment discount offered, time will be computed from date of delivery and acceptance at destination, or from the date the correct invoice or voucher is received in the office specified by the Government of Guam, if the latter is later than date of delivery and acceptance. Payment is deemed to be made, for the purpose of earning discount, on the date of mailing of the check.
- 7 Overshipments, unless specifically authorized, will not be accepted.
- 8 In connection with bid awards and contracts, this purchase order shall be governed by the Special Provisions and Bid General Terms and Conditions as specified.

EXHIBIT 3

(a) Memo from GSWA to Department of Administration dated February 22, 2022;

and

**(b) Memo from Department of Administration to GSWA
dated April 13, 2022**



GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO
IRVIN SLIKE
Governor of Guam
General Manager

JOSHUA F. TENORIO
Lt. Governor of Guam



February 23, 2022

To: Director, Department of Administration
From: Assistant General Manager, Guam Solid Waste Authority
Subject: Request for Availability of Temporary Staffing Services

Hafa Adai Director Birn,

Since 2009, GSWA has acquired the services of a temporary staffing agency to fulfill essential job positions. Due to the nature of our work, GSWA experiences high employment turnover rates for the laborious positions and finds the constant need to replace personnel. In 2021, turnover rate for Sanitation Workers was at 38%.

Additionally, GSWA has found little success in its attempts to recruit for these important positions through the current recruitment process which has proven to be inefficient. This, if continued, will be a detriment to operations.

On October 25, 2021, GSWA opened and advertised for a Heavy Equipment Mechanic Leader and, to date, has not received any applications. On January 2, 2022, GSWA had opened several job announcements to create a pool of applicants for the positions of Sanitation Worker, Equipment Operator, Heavy Equipment Mechanic Leader, Customer Service Representative, and Administrative Assistant.

The job announcements were advertised on the GSWA Website and in Newspapers of public circulation such as the Pacific Daily News and Guam Daily Post on December 3, 2021, January 2, 2022, and February 25, 2022.

As of February 22, 2022, GSWA has received the following responses to the job announcements which we believe to be an insufficient amount to replace the current 33 temporary positions.

Job Title	Applications Received	Qualified Applicants	Unqualified Applicants	Incomplete Submissions
Sanitation Worker	4	2	2	0
Equipment Operator	5	2	2	1
Heavy Equipment Mechanic Leader	0	0	0	0
Administrative Assistant	11	4	4	3
Customer Service Representative	13	7	4	2

We will seek to hire the seven identified qualified candidates; however, potentially only a fifth of our labor needs would have been met in 90 days of advertising and more time with selection.



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Governor of Guam
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JOSHUA F. TENORIO
Lt. Governor of Guam



With the current contract ending in May 2022 and future projects in mind, GSWA plans to solicit proposals from qualified, responsible, and responsive firms to provide GSWA with the following services:

1. Provide employees based on the specific skill sets required when needed:
 - a. Knowledge of administrative and clerical procedures
 - b. Knowledge of systems such as Microsoft Word and Excel spreadsheets
 - c. Knowledge of business and management principles involved in strategic planning, resource allocation, human resource modeling, leadership technique, production methods and coordination of people and resources
 - d. Proficient in stenography and transcription
 - e. Process contract and Personnel Action Forms, maintain and audit employee time work/time missed records, analyze payroll data and prepare journal entries
 - f. Ability to design forms
 - g. Ability to manage files and records
2. Provide Staffing Services for temporary employees
 - a. Accommodate payroll services
 - i. Employer of record
 - ii. Time cards
 - iii. Payment to employee
 - iv. Tax withholding
 - v. Worker's compensation
 - vi. And all other activities associated with employee management to comply with local and Federal laws
3. Provide human resource and business consulting services
 - a. Conducting outreach and orientation in the community and each district
 - b. Facilitate meetings and strategic planning
 - c. Provide additional services as required

Therefore, pursuant to 5GCA § 5249 (e) and 2 GAR, Div. 4 § 3114 (c), GSWA is hereby submitting a reasonable inquiry on the availability of personnel and/or resources to perform the services required under the proposed contract.

We kindly request your expeditious review and response. If there is any additional information that GSWA needs to provide to assist with our request, please do not hesitate to contact me at 671-646-3239 or email at irvin.slike@gswa.guam.gov. We look forward to hearing from you soon.

Sincerely,

Irvin Slike
GSWA General Manager



EDWARD M. BIRN
Director (Direktot)
BERNADINE C. GINES
Deputy Director (Sigundo Direktot)

**DEPARTMENT OF
ADMINISTRATION**
DIPATTAMENTON ATMENESTRASION

DIRECTOR'S OFFICE
(Ufisinan Direktot)
Telephone (Telifon): (671) 475-1101/1250



LOURDES A. LEON GUERRERO
Governor (Maga'håga)
JOSHUA F. TENORIO
Lt. Governor (Sigundo Maga'idhi)

April 13, 2022

Memorandum

To: General Manager, Guam Solid Waste Authority

From: Director of Administration

Subject: **Extension of Temporary Staffing Services Contract**

Hafa Adai Mr. Slike:

Thank you for your memorandum of March 31, 2022.

Department of Administration has no objection to an extension of the current contract with the assurance that GSWA will follow procurement statutes and regulations.

Since this matter has been an issue reported in the Single Audit, GSWA should respond to the Finding accordingly, with this correspondence.

Si Yu'os Ma'ase!

EDWARD M. BIRN