

**BEFORE THE PUBLIC UTILITIES COMMISSION**

**IN RE: PETITION FOR APPROVAL )  
OF EPCM CONTRACT WITH )  
STANLEY CONSULTANTS, )  
INC. BY GUAM POWER )  
AUTHORITY )**

**GPA DOCKET 23-02**

**ORDER**



**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the November 4, 2022 Petition (the “Petition”) for approval of the contract for Engineering, Procurement and Construction Management (“EPCM”) with Stanley Consultants, Inc. (“Stanley”), filed by the Guam Power Authority (hereinafter referred to as “GPA”).

On November 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**

The PUC is very much familiar with the “history of involvement with the EPCM contract.”<sup>1</sup> Back in GPA Docket 15-05, the PUC authorized GPA to “procure an Engineering, Procurement and Construction Management contractor for a new combined cycle plant, and authorized the expenditure . . . for such engineering and consulting

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<sup>1</sup> PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).



services . . . .”<sup>2</sup> In GPA Docket 18-09, the PUC highlighted the depth of the contractor’s work, which included preparing the procurement of a 180MW power plant, assistance with the land acquisition for the new plant, including rezoning efforts.<sup>3</sup> As a result, the PUC approved a two-year extension on the EPCM contract, to include work related to the “project management” for the new power plant during the term of the construction, plus all regulatory support, which included the preparation of a rate impact study.<sup>4</sup> In GPA Docket 21-01, the PUC again highlighted that such work “is extremely important to ensure the commissioning of a safe and efficient plant”; and that “shortchanging the funding for such services would be highly risky.”<sup>5</sup>

In June 2021, GPA petitioned the PUC for approval to procure a new EPCM that would provide consulting services related to the construction and commissioning of the new power plant, and develop procurement for the infrastructure required to receive liquefied natural gas (“LNG”) at the new power plant.<sup>6</sup> On July 29, 2021, in GPA Docket 21-13, the PUC approved GPA’s request.

Subsequently, GPA issued RFP 21-010, which solicited proposals for a new EPCM contract.<sup>7</sup> However, the RFP was canceled due to a lack of “open competition”; and so the RFP was issued again in March of 2022. Thereafter, GPA’s procurement personnel ranked

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<sup>2</sup> PUC Order, GPA Docket 15-05, p. 9 (Oct. 27, 2016).

<sup>3</sup> PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

<sup>4</sup> PUC Order, GPA Docket 18-09, pp. 5-6 (Nov. 29, 2018).

<sup>5</sup> PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

<sup>6</sup> PUC Order, GPA Docket 21-13, p. 3 (July 29, 2021).

<sup>7</sup> Resolution No. FY2023-01, p. 1.



Stanley highest out of four proposals submitted.<sup>8</sup> In Resolution No. FY2023-01, issued by the Consolidated Commission on Utilities (the “CCU”), the CCU authorized GPA to petition the PUC for approval of the proposed contract with Stanley for engineering and technical consulting services related to the construction and commissioning of the Ukudu Power Plant at an estimated total cost of \$6,241,727.00.<sup>9</sup>

## **DISCUSSION**

### **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. Accordingly, 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.”<sup>10</sup>

### **2. Scope of Work and Proposed Contract**

#### **a. Scope of Work**

Based on the proposed contract submitted by GPA, the parties have made it clear that this is a “task-based contract” where “GPA will call upon a task and negotiate a price, scope and schedule” with Stanley.<sup>11</sup> Further, based on the Scope of Work attached to CCU Resolution No. FY2023-01, Stanley will provide technical review of the power plant and pipeline documents, which include construction drawings, equipment and technical

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<sup>8</sup> Resolution No. FY2023-01, p. 1.

<sup>9</sup> Resolution No. FY2023-01, p. 2.

<sup>10</sup> GPA’s Contract Review Protocol (“GPA CRP”), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

<sup>11</sup> Proposed Contract, p. 1.



specifications, designs criteria, and construction plans. During construction of the power plant, Stanley will further provide regular site inspections to confirm project progress and performance of contract obligations. Stanley will also monitor the construction of the pipelines; and will management the projects through weekly and monthly meetings.

Moreover, as indicated in the RFP, Stanley will be responsible for the provision of engineering and design services; shall procure contracts with suppliers and contractors as GPA's agent; and shall manage the construction phase of the project, serving as GPA's Construction Manager, inasmuch as it shall supervise and coordinate all of the suppliers, construction contractors and other contractors.<sup>12</sup>

**b. Contract Term and Other Provisions, and Funding**

Based on the proposed contract submitted by GPA, this contract will have a three-year initial term with an option to extend the contract for two additional two-year terms.<sup>13</sup> In addition, the proposed contract contains a termination provision that allows GPA to terminate the contract for convenience by giving Stanley written notice of such termination.<sup>14</sup>

The proposed contract contains a standard indemnity provision requiring Stanley to indemnify and hold GPA harmless from any claim, lawsuit, or liability related to its services.<sup>15</sup> The proposed contract also prohibits the assignment of the contract absent

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<sup>12</sup> Proposed Contract, p. 2.

<sup>13</sup> Proposed Contract, p. 2.

<sup>14</sup> Proposed Contract, p. 3.

<sup>15</sup> Proposed Contract, p. 4.



GPA's consent.<sup>16</sup> In addition, the proposed contract requires Stanley to carry appropriate insurance and licenses to do business in Guam.<sup>17</sup>

**c. Cost and Funding**

According to GPA, it estimates the budget for the contract as follows: \$2,198,121.00 for FY2023; \$2,848,030.00 for FY2024; and \$1,095,576.00 for FY2025; for a total cost of \$6,241,727.00.<sup>18</sup> GPA has indicated that this contract will be funded internally through its revenues.

**RECOMMENDATION AND CONCLUSION**

Based on the record before the Commission, the ALJ finds that the subject contract is reasonable, prudent, and necessary. Based on the history outlined above, an EPCM is vital to GPA's successful commissioning of the new power plant. This Commission has consistently determined that the work of an experienced EPCM "is extremely important to ensure the commissioning of a safe and efficient plant"; and that "shortchanging the funding for such services would be highly risky."<sup>19</sup> As indicated in GPA Docket 21-13, GPA needs "consulting support for the new power plant contract for Owner's Engineer support and other technical assistance for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024 . . . ."<sup>20</sup> Accordingly, based on this record, the ALJ recommends that the PUC approve the Petition

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<sup>16</sup> Proposed Contract, p. 3.

<sup>17</sup> Proposed Contract, p. 5.

<sup>18</sup> Resolution No. FY2023-01, p. 1.

<sup>19</sup> PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

<sup>20</sup> Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).



and, accordingly, authorize GPA to enter into an Engineering Procurement and Construction Management contract with Stanley for engineering and technical consulting services related to the commissioning of the new Ukudu Power Plant.

The Commission hereby adopts the findings in the November 23, 2022 ALJ Report and therefore issues the following.

### **ORDERING PROVISIONS**


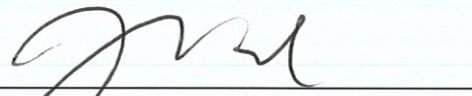

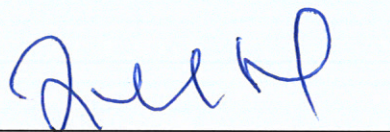

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. That the instant Petition is hereby APPROVED.
2. GPA is authorized to enter into an Engineering Procurement and Construction Management contract with Stanley for engineering and technical consulting services related to the commissioning of the new Ukudu Power Plant for a total cost of \$6,241,727.00.
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]



**SO ORDERED** this 29<sup>th</sup> day of November, 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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