

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-14
)
The Application of the Guam Power)
Authority ("GPA") for Reviewing and) **ALJ REPORT**
Approving the Contract for GPA's Fuel)
Bulk Storage Facility)
_____)



INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] for Review and Approval of the Contract for GPA's Fuel Bulk Storage Facility.¹

BACKGROUND

On August 31, 2017, the PUC approved GPA's award of the Performance Management Contract to IP&E Guam LLC for the management, operation and maintenance of the GPA Fuel Farm Bulk Storage Facility.² That Contract was in effect from 2017 through September 30, 2022.³ In GPA Docket 22-02, the PUC approved GPA's Request for Approval of the Procurement of a Performance Management Contract for the GPA Fuel Farm Bulk Storage Facility.⁴

¹ GPA Petition for Reviewing and Approving the Contract for GPA's Fuel Bulk Storage Facility, dated April 20, 2023.

² PUC Order, GPA Docket 17-04, dated August 31, 2017, at p. 3.

³ PUC Order, GPA Docket 22-18, dated September 29, 2022, at p. 2.

⁴ GPA Petition for Approval of the Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility, GPA Docket 22-02, filed November 8, 2021.

GPA issued a Multi-Step Invitation for Bid under IFB GPA-015-22 for the Management, Operation and Maintenance of the Fuel Bulk Storage Facility; however, the IFB was cancelled in May 2022 due to non-compliance by all proponents with a requested affidavit submittal document.⁵ On June 2, 2022, GPA issued a Re-Bid for Multi-Step IFB GPA 015-22. Due to the delay in the bid, the PUC approved a 1-year extension of the contract between GPA and IP&E Guam for the management, operation and maintenance of the GPA Fuel Farm Bulk Storage Facility, from October 1, 2022 to September 30, 2023.⁶ The contract extension will expire on September 30, 2023.

Following the Re-Bid procurement technical phase, GPA received price proposals from two bidders: IP&E Guam LLC and Supreme Group Guam LLC. Of the two bidders, Supreme Group Guam LLC ["Supreme"] offered the lowest price, and was the most responsive and responsible bidder.⁷ On April 3, 2023, the Guam Consolidated Commission on Utilities approved GPA Resolution FY2023-14, which authorized GPA to petition the PUC for approval of a contract with Supreme Group Guam LLC.⁸

GPA now petitions the PUC to approve GPA's contract with Supreme Group Guam LLC for the management, operation and maintenance of GPA's Fuel Bulk Storage Facility for a total contract amount of Two Million Seven Hundred Twenty-Eight

⁵ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2022-26, Authorizing the Management of the Guam Power Authority to Petition the Public Utilities Commission for the Extension of the Existing Contract for the Management, Operation and Maintenance of the Guam Power Authority's Fuel Bulk Storage Facility with Isla Petroleum & Energy, LLC (IP&E), adopted and approved on July 26, 2022, at p. 1.

⁶ PUC Order, GPA Docket 22-18, dated September 29, 2022, at p. 7 (Ordering Provision No. 1).

⁷ GPA Petition at p. 2.

⁸ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2023-14, Authorizing the Guam Power Authority to Petition the PUC for Approval to Enter into Contract for the Management, Operation and Maintenance of the Guam Power Authority's Fuel Bulk Storage Facility, adopted and approved on April 3, 2023.

Thousand Three Hundred Twenty-One dollars (\$2,728,321.00). The contract would be for a 3-year base period beginning October 1, 2023 with two 1-year option periods.⁹

ANALYSIS

A. Contract Review

PUC must review any GPA contract or obligation which exceeds \$1,500,000. For multi-year contracts, whether the contract exceeds the \$1,500,000 threshold for PUC review is determined by the total estimated cost for the entire term(s) of the contract.¹⁰ The total cost for the three-year term of this contract, from October 1, 2023, through September 30, 2026 term, will be \$2,728,321.00.¹¹ The PUC must review and approve the requested GPA's Fuel Bulk Storage Facility Contract.¹²

B. GPA's Retention of a Performance Management Contractor for the Fuel Farm Bulk Storage Facility is essential to the continued functioning and operation of the power system.

Over the years, the PUC has repeatedly determined that the management, operation and maintenance services which the PMC contractor performs for GPA regarding the Fuel Farm Bulk Storage Facility are essential to the functioning of the plants in the island wide power system.¹³ In its initial consideration of a Performance Management Contractor for the GPA Fuel Bulk Storage Facility in 2010, the PUC held:

⁹ GPA Petition at p. 2.

¹⁰ Contract Review Protocol for Guam Power Authority, Administrative Docket, §§1.e and 4.b.

¹¹ Exhibit A to Guam Consolidated Commission on Utilities GPA Resolution No. FY2023-14.

¹² Contract Review Protocol for Guam Power Authority, Administrative Docket, §§1.e and 4.b.

¹³ PUC Order, GPA Docket 10-08, dated April 30, 2015, at p. 2 ["The Management, Operation, and Maintenance services which Vital Energy Inc. performs for GPA with regard to the Fuel Farm Bulk Storage Facility are **essential to the efficient operation of the Cabras Power Plants.**"] (Emphasis added).

"...given the success that GPA has experienced with the Performance Management Contracts for the power plants, it is reasonable to believe that GPA may be able to successfully utilize the PMC model with regard to operation and maintenance of its Fuel Farm Bulk Storage Facility."¹⁴ The Fuel Farm PMC contributes to the efficient operation of the Cabras Power Plants and is "reasonable, prudent, and necessary."¹⁵ Retention of a Performance Management Contractor for the Fuel Farm "is responsible, prudent and necessary."¹⁶

It is not always fully recognized how vital the Fuel Farm Bulk Storage Facility is to the operation of the Island Wide Power System. The PMC has full responsibility for the management and operation of the facility, the pipelines to and from the plants, and the Tristar tie-in. The PMC is responsible for the fuel transfer to and from oil tankers/vessels, from the Facility to the various GPA Power Plants, and to and from off-site GPA-leased tanks.¹⁷ The PMC ensures that the products in GPA's tanks meet Fuel specifications required by GPA. The PMC also has many other duties and functions, including maintenance and repair activities.¹⁸ If there were no performance manager to operate the facility, the IWPS could not function.

C. The 3-year cost of the Contract with Supreme Group Guam LLC is reasonable.

The projected expenditures for the three-year base period are \$873,547 in year 1, \$895,074 in year 2, and \$959,699 for year 3, a total of \$2,728,321.00. Costs included are management and administration [staffing, office maintenance, utilities, transportation, communications, management fees and administration fees], Uniform Security

¹⁴ PUC Order, GPA Docket 10-08, dated November 29, 2010, at p. 2.

¹⁵ Id.

¹⁶ PUC Order, GPA Docket 17-04, dated August 31, 2017, at p. 2.

¹⁷ ALJ Report, GPA Docket 22-02, dated December 2, 2021, at Exhibit 1.

¹⁸ Id.

Contractor, Spill Response Company Membership Fees, Insurance, Inventory-Environmental/Oil Spill Equipment etc., and Operation and Maintenance Budget (reimbursable).¹⁹

The actual annual expenditures over the last 5 years for the PMC have increased considerably, from \$765,464 in FY2018 to \$799,958 in FY2021. The anticipated expenditure for FY2022 was \$917,493.00.²⁰ The 3-year base period prices proposed by Supreme Group Guam LLC are clearly in line with the actual expenditures for the Fuel Farm Bulk Storage Facility PMC in recent years. The pricing is appropriate.

D. PUC approval of the Performance Management Contract with Supreme Group Guam LLC for the management, operation and maintenance of GPA's Fuel Bulk Storage Facility is reasonable, prudent and necessary.

Supreme Group Guam LLC was selected as the Performance Management Contractor for the GPA Fuel Bulk Storage Facility after a competitive bid in which Supreme offered the lowest price, and was determined to be the most responsive and responsible bidder. Review of Exhibit A to GPA Resolution No. FY2023-14 indicates that Supreme's bid was over \$1.7M less than the bid of IP&E LLC.²¹

The PUC has previously reviewed the bid documents and the Performance Management Contract for Supreme Group LLC in GPA Docket 22-02. The PUC found that "the procurement documents set forth, in detail, a description of the Fuel Farm Facility, the technical requirements for the bid, the duties of the Performance

¹⁹ Exhibit A to Guam Consolidated Commission on Utilities GPA Resolution No. FY2023-14.

²⁰ PUC Order, GPA Docket 22-02, dated December 2, 2021, at p. 4.

²¹ GPA Resolution NO. FY2023-14, Exhibit A attached thereto.

Management Contractor, and a draft of the proposed contract.”²² The extensive obligations of the PMC were also set forth in the performance management contract.²³

The PUC further determined that the form of the contract for the PMC for the Fuel Bulk Storage Facility had been utilized since at least 2012, and that the form of the proposed Performance Management Contract should be “adequate to require proper performance by the Contractor, and to protect the interests of GPA and the ratepayers.”²⁴ The PUC noted numerous contract provisions which protected such interests, including warranty, remediation of defective work, default, termination for convenience, insurance and indemnity provisions.²⁵

RECOMMENDATION

Based on the record before the Commission, the Administrative Law Judge [the “ALJ”] recommends that the PUC approve the 3-year base period contract between GPA and Supreme Group Guam LLC for the management, operation and maintenance of GPA’s Fuel Bulk Storage Facility, to take effect October 1, 2023. For the potential contract option years, GPA will seek further approval from the PUC. GPA should be authorized to expend up to the amount of \$2,728,321.00 for the 3-year base period of the contract with Supreme Group Guam LLC.

A Proposed Order is submitted herewith for the Commissioners’ consideration.

²² PUC Order, GPA Docket 22-02, dated December 2, 2021, at p. 3.


²³ Id.

²⁴ Id., at pgs. 3-4.

²⁵ Id., at p. 4.

ALJ Report
Contract for GPA's Fuel Bulk Storage Facility
GPA Docket 23-14
April 24, 2023

Respectfully submitted this 24th day of April, 2023.


Frederick J. Horecky
Chief Administrative Law Judge