

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
June 29, 2023
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:39 p.m. on June 29, 2023, pursuant to due and lawful notice. **Commissioners Jeffrey C. Johnson, Peter Montinola, Joseph McDonald, Doris Flores-Brooks and Michael Pangelinan** were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Approval of Minutes of June 5, 2023.

The Chairperson announced that the first item of business on the agenda was the approval of the minutes of June 5, 2023. Commissioner Montinola moved to approve the minutes of the June 5, 2023 meeting subject to corrections. The motion passed unanimously.

2. Guam Waterworks Authority.

The Chairperson announced that there will be only one item of business on the agenda to be heard during this meeting, which was Guam Waterworks Authority ("GWA") Docket 23-07, Petition to Approve the Procurement for Design and Construction and Project Construction Management for GWA's Sewage Pump Stations and the Force Main Rehabilitation and Replacements, Legal Counsel Report, and Proposed Order.

Commissioner Pangelinan recused himself in this matter due to an ongoing litigation involving GWA and his law firm, Calvo Fisher & Jacob, LLP.

PUC Legal Counsel Anthony R. Camacho ("PUC Counsel") reported that the U.S. Environmental Protection Agency ("USEPA") is requiring GWA to comply with federal Clean Water Act standards by addressing current and potential operational, structural, and safety deficiencies for GWA's sewage pump stations and force mains in an aggressive time frame.

On May the 30th, 2023, the Guam Consolidated Commission on Utilities ("CCU") issued a Resolution Number 30-FY2023 finding that the procurement of the engineering construction project, construction engineering services for the sewage pumping stations and Force Mains was authorized, and further authorized GWA's management to petition the PUC to authorize GWA to issue a solicitation for the services.

In his analysis, PUC Counsel found that GWA must obtain the PUC's authorization to issue a solicitation for the procurement for engineering, construction, and project construction management services for the repair, rehabilitation, or replacement of GWA's sewage pumping stations and force mains. The PUC's Contract Review

Protocol mandates that GWA obtain PUC approval for solicitations and contracts that exceed the amount of \$1,000,000. Additionally, any financial obligation that involves the use of bond funds must also be reviewed by the PUC.

PUC Counsel continued that GWA estimates that the cost of the engineering services will be approximately Forty-Five Million Four Hundred Twenty-Eight Thousand Dollars (\$45,428,000) to rehabilitate its eighty-two (82) sewage pumping stations and from Seventeen Million Three Hundred Fourteen Thousand Dollars (\$17,314,000) to One Hundred Sixteen Million Four Hundred Thirty-Five Thousand Dollars (\$116,435,000). GWA plans to use bond funds and grant funding to cover these costs. Therefore, GWA must obtain the PUC's approval of the solicitation for the engineering services prior to issuing it.

PUC Counsel found that GWA's estimated cost of the engineering services is reasonable and explained that GWA used its 2018 Water Resources Master Plan Update and estimated that it would cost Five Hundred Fifty-Four Thousand Dollars (\$554,000) to rehabilitate a single sewage pumping station.

Using this base estimated cost, GWA believes that it will cost a total of Forty-Five Million Four Hundred Twenty-Eight Thousand Dollars (\$45,428,000) to rehabilitate its eighty-two (82) sewage pumping stations ($\$554,000 \text{ per sewage pumping station} \times 82 \text{ sewage pumping stations} = \$45,428,000$). GWA estimated cost range of Seventeen Million Three Hundred Fourteen Thousand Dollars (\$17,314,000) to One Hundred Sixteen Million Four Hundred Thirty-Five Thousand Dollars (\$116,435,000) to rehabilitate and repair GWA's force mains, which is also based on GWA's 2018 Water Resources Master Plan.

PUC Counsel further explained that GWA is requesting to issue what's known as an IDIQ bid, which is an Indefinite Delivery, Indefinite Quantity contract. This type of contract is allowed pursuant to 2 GAR Division 4, Section 3119, Subsection Number 2. PUC Counsel found this type of contract to be appropriate because GWA will be relying on bond and grant funding, which GWA might not receive at once to cover the entire costs of rehabilitating the sewage pumping stations and force mains. Additionally, GWA can only use this type of contract twice per fiscal year per supply or service and GWA has confirmed that this will be the first indefinite delivery, indefinite quantity engineering services contract they are soliciting for this fiscal year.

PUC Counsel advised that it is unknown how much the rehabilitation will cost per sewage pumping stations or the Force Mains; hence, the need for indefinite quantity.

PUC stated it is important to note that most of GWA's Force Mains were constructed from the 1960s to the 1990s and commonly feature force mains constructed of asbestos cement pipes, and are now in need of repair, rehabilitation, or replacement. Additionally, the USEPA is requiring that GWA rehabilitate and repair its sewage pumping stations and force mains to comply with the Federal Clean Water Act.

Therefore, the engineering services are necessary to ensure GWA's safe, reliable, and regulatory compliant operation of GWA's wastewater infrastructure.

PUC Counsel advised that if violations occur, or any violation of the federal Clean Water Act is found, GWA could incur a fine per violation, per day, which may be costly.

PUC Counsel recommended that the PUC approve GWA's petition to issue a solicitation for indefinite delivery, indefinite quantity engineering services for sewage pump station and force main repair, rehabilitation, and replacement design services and submitted an Order approving such petition for the Commissioners' consideration.

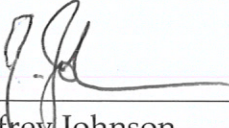
A discussion ensued between the Chairman, Commissioners Montinola, Flores-Brooks, McDonald, and GWA Miguel Bordallo concerning bidding procedures, percentages related to costs, timeline, and anticipated outcomes. Commissioner Montinola moved to approve the order which motion was seconded by Commissioner McDonald, and the motion passed unanimously.

4. Administrative Matters.

The Chairperson announced that the next item of business on the agenda was Administrative matters regarding GPA Filing of Second Quarter Report on Revenue Bond Usages. GPA Docket 10-01 and 14-09. ALJ Horecky explained that the reports were for informational purposes only and are ongoing reports on bond usage, the revenue of bond usages and the Reliability Report.

The Chairperson announced that the next item of business on the agenda was Administrative matters regarding GPA Filing of Second Quarter Report on Revenue Bond Usages. GPA Docket 10-01 and 14-09. ALJ Horecky explained that the reports were for informational purposes only

After review and a brief discussion between the Commissioners and ALJ Horecky regarding clarification on information stated on the reports, and there being no further business, the Commissioners moved to adjourn the meeting.



Jeffrey Johnson
Chairperson

ATTACHMENT A
THE GUAM PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a regular business meeting, commencing at 6:30 p.m. on June 29, 2023, Suite 703, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

1. **Call to Order**
2. **Approval of Minutes of June 5, 2023**
3. **Guam Power Authority**
 - **GPA Docket 23-15, Petition for Approval to Increase the Amount of Award for GPA's Physical Security Proof of Concept, ALJ Report, and Proposed Order**
 - **GPA Docket 23-09, Petition Requesting Approval to Adjust the Power Pole Attachment Rate, ALJ Report, and Proposed Order**
 - **GPA Docket 23-17, Petition to Approve the EPCM, Phase I, Liquefied Natural Gas (LNG) Pre-Development Study, Scope, and Costs, ALJ Report, and Proposed Order**
4. **Guam Waterworks Authority**
 - **GWA Docket 23-06, Petition to Approve the Reallocation of Bond Proceeds, ALJ Report, and Proposed Order**
 - **GWA Docket 23-07, Petition to Approve the Procurement for Design, Design Construction, and Project/Construction Management for GWA Sewage Pump Stations and Force Main Rehabilitation and Replacements, PUC Counsel Report, and Proposed Order**
5. **Administrative Matters**
 - **GPA Filing of 2nd Quarter Report on Revenue Bond Usages (GPA Dockets 10-01 & 14-09, for Informational Purposes only)**
 - **GPA Filing of Quarterly Reliability Report (GPA Docket 13-13, for Informational Purposes only)**
6. **Adjournment**

Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 671-472-1907. Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Ms. Palomo.

This Notice is paid for by the Guam Public Utilities Commission

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

PETITION TO AUTHORIZE THE
GUAM WATERWORKS AUTHORITY
TO SOLICIT FOR SEWAGE PUMP
STATION AND FORCE MAIN REPAIR,
REHABILITATION, AND
REPLACEMENT

GWA DOCKET 23-07

ORDER



INTRODUCTION

1. This matter comes before the Public Utilities Commission ["PUC"] pursuant to the Guam Waterworks Authority's ["GWA"] Petition to Authorize GWA to Solicit for Sewage Pump Station and Force Main Repair, Rehabilitation, and Replacement.¹
2. The U.S. Environmental Protection Agency [USEPA] is requiring GWA to comply with federal Clean Water Act standards by addressing current and potential operational, structural, and safety deficiencies for GWA's sewage pump stations and force mains in an aggressive time frame.²
3. GWA is requesting the PUC to authorize GWA to issue a solicitation to procure indefinite delivery, indefinite quantity engineering services for sewage pump station and force main repair, rehabilitation, and replacement design services.³

BACKGROUND

4. GWA relies on eighty-two (82) sewage pump stations and about forty-three (43) miles of force main to provide wastewater services to approximately thirty-thousand (30,000) customers and the sewage pump stations, and force mains require repair, rehabilitation, or replacement to operate within the federal Clean Water Act Standards.⁴

¹Petition to Authorize GWA to Solicit for Sewage Pump Station and Force Main Repair, Rehabilitation, and Replacement, GWA Docket 23-07, dated June 22, 2023 [GWA Petition].

² GWA Petition at 1. NOTE: The page numbers in GWA's Petition and its exhibits are not continuous, and the page numbers cited herein refer to the page number of the PDF version of the Petition which is continuous.

³ Id.

⁴ Id., at 1-2.

5. USEPA is requiring GWA to address current and potential operational, structural and safety deficiencies in GWA's sewage pumping stations and for force mains in an aggressive timeframe.⁵
6. On May 30, 2023, the Guam Consolidated Commission on Utilities ["CCU"] issued GWA Resolution No. 30-FY2023 finding that the procurement for engineering, construction, and project construction management services for the repair, rehabilitation, or replacement of GWA's sewage pumping stations and force mains and it authorized GWA's management to petition the PUC authorize GWA to issue a solicitation for those services.⁶
7. On June 26, 2023 PUC Legal Counsel issued his report recommending that the PUC approve GWA's petition.

DETERMINATIONS

8. GWA must obtain the PUC's authorization to issue a solicitation for the procurement for engineering, construction, and project construction management services for the repair, rehabilitation, or replacement of GWA's sewage pumping stations and force mains. The PUC's Contract Review Protocol mandates that GWA obtain PUC approval for solicitations and contracts that exceed the amount of \$1,000,000.⁷ Additionally, any financial obligation that involves the use of bond funds must also be reviewed by the PUC.⁸ Here, GWA estimates that the cost of the engineering services will be approximately forty-five-million-four-hundred-twenty-eight-thousand-dollars (\$45,428,000) to rehabilitate its eighty-two (82) sewage pumping stations and from seventeen-million-three-hundred-fourteen-thousand-dollars (\$17,314,000) to one-hundred-sixteen-million-four-hundred-thirty-five-thousand-dollars (\$116,435,000).⁹ GWA plans to use bond funds and grant funding

⁵ Id., at 2.

⁶ Id., at 8.

⁷ Contract Review Protocol for GWA, Administrative Docket 00-04 dated October 27, 2005 at Par.1(c).

⁸ Id., at Par.1(d).

⁹ GWA Petition at 2-3.

to cover these costs.¹⁰ Therefore, GWA must obtain the PUC's approval of the solicitation for the engineering services prior to issuing it.

9. GPA's estimated cost of the engineering services is reasonable. GWA used its 2018 Water Resources Master Plan Update estimated that it would cost five-hundred fifty-four-thousand-dollars (\$554,000) to rehabilitate a single sewage pumping station and using this base estimated cost, GWA believes that it will cost a total of forty-five-million-four-hundred-twenty-eight-thousand-dollars (\$45,428,000) to rehabilitate its eighty-two (82) sewage pumping stations (\$554,000 per sewage pumping station x 82 sewage pumping stations = \$45,428,000).¹¹ GWA estimated cost range of seventeen million-three-hundred-fourteen-thousand-dollars (\$17,314,000) to one-hundred-sixteen-million-four-hundred-thirty-five-thousand-dollars (\$116,435,000) to rehabilitate and repair GWA's force mains is also based on GWA's 2018 Water Resources Master Plan.¹² Hence, GWA's forty-five-million-four hundred-twenty-eight-thousand-dollars (\$45,428,000) is reasonable based on GWA's 2018 Water Resources Master Plan and its Update.
10. GWA's solicitation for the engineering services is prudent. GWA plans on using this solicitation to procure engineering design and project/construction management services on an indefinite delivery and indefinite quantity contract basis, and it plans to procure construction services through multiple invitations for bids with each invitation for bid covering the rehabilitation and repair of multiple sewage pumping stations and force mains.¹³ Generally, Guam Procurement Regulations authorize GWA to procure an indefinite delivery and indefinite quantity contract which is a contract for an indefinite amount of supplies or services to be furnished as ordered instead of at specified times. 2 G.A.R., Div. 4, §3119(i)(2). Here, this type of contract is appropriate because GWA will be relying on bond and grant funding which GWA might not receive at once to cover the entire costs of rehabilitating the sewage pumping stations and force mains. Additionally, GWA can only use this type of contract twice per fiscal year per supply or service and GWA has confirmed that this will be the first indefinite delivery, indefinite quantity engineering services contract they are soliciting for this fiscal year.¹⁴ *Id.* Thus,

¹⁰ *Id.*, at 5.

¹¹ *Id.*, at 5.

¹² *Id.*

¹³ *Id.*

¹⁴ Telephone conference with GWA Attorney Theresa G. Rojas dated June 26, 2023.

GWA's solicitation for an indefinite delivery indefinite quantity engineering services contract is prudent.

11. GWA's solicitation for engineering services to rehabilitate and repair its sewage pumping stations and force mains is necessary. GWA relies on its eighty-two (82) sewage pumping stations and forty-three (43) miles of force mains to provide wastewater services to approximately thirty-thousand customers throughout Guam.¹⁵ GWA's 2018 Water Resource Master Plan Update identified capacity and condition issues requiring improvements to GWA's sewage pumping stations.¹⁶ Most of GWA's force mains were constructed from the 1960s to the 1990s and commonly feature force mains constructed of asbestos cement pipes, and are now in need of repair, rehabilitation, or replacement.¹⁷ Additionally, as stated above, the USEPA is requiring that GWA rehabilitate and repair its sewage pumping stations and force mains to comply with the Federal Clean Water Act. Therefore, the engineering services are necessary to ensure GWA's safe, reliable, and regulatory compliant operation of GWA's wastewater infrastructure.
12. Based on the foregoing, GWA's request to issue a solicitation for indefinite delivery, indefinite quantity engineering services for sewage pumping stations and force main repair, rehabilitation, and replacement design services is reasonable, prudent, and necessary.

ORDERING PROVISIONS

After review of the record herein, GWA's Petition to Authorize GWA to Solicit for Sewage Pump Station and Force Main Repair, Rehabilitation, and Replacement, and the PUC Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GWA's Petition to Authorize GWA to Solicit for Sewage Pump Station and Force Main Repair, Rehabilitation, and Replacement is hereby approved.

¹⁵ Id., at 1-2.

¹⁶ Id., at 2.

¹⁷ Id.

2. GWA is authorized to issue a solicitation to procure engineering design and project/construction management services on an indefinite delivery and indefinite quantity contract basis for sewage pump station and force main repair, rehabilitation, and replacement.
3. In accordance with the PUC's Contract Review Protocol for GWA, GWA must submit all contracts approved for prior PUC Approval that arise from the aforementioned solicitation which exceed the amount of \$1,000,000 or contracts arising under the aforementioned solicitation that will be funded using Bond Funds.
4. GWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

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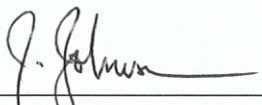
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Order
Petition to Authorize GWA to
Solicit for Sewage Pump Station
and Force Main Repair,
Rehabilitation, and Replacement
GWA Docket 23-07
June 29, 2023

Dated this 29th day of June, 2023.



Jeffrey C. Johnson
Chairman

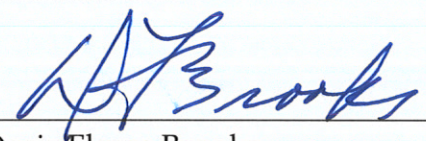
Rowena E. Perez-Camacho
Commissioner

Michael A. Pangelinan
Commissioner

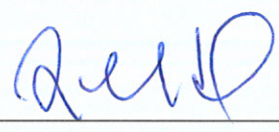
Pete Guerrero
Commissioner



Joseph M. McDonald
Commissioner



Doris Flores Brooks
Commissioner



Peter Montinola
Commissioner