



**BEFORE THE PUBLIC UTILITIES COMMISSION**

**IN RE: REQUEST FOR REVIEW ) PAG DOCKET 24-02**  
**AND APPROVAL OF )**  
**IFB AWARD TO AMERICAN )**  
**MATERIAL HANDLING, INC.) ALJ REPORT**  
**FOR THE PURCHASE OF )**  
**NINE TERMINAL YARD )**  
**TRACTORS BY PORT )**  
**AUTHORITY OF GUAM )**

---

**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the April 26, 2024 Petition for review and approval of the Invitation for Bid and Contract Award to American Material Handling, Inc. (“AMH”) for the purchase of nine Terminal Yard Tractors (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of the bid award to AMH in the amount of One Million Seven Hundred Ninety-One Thousand Three Hundred Twenty-Seven Dollars (\$1,791,327.00).

**BACKGROUND**

Back on April 8, 2022, PAG issued Invitation for Bid No. IFB-PAG-006-22 for the solicitation of Terminal Yard Tractors (“IFB”).<sup>1</sup> That IFB was unsuccessful inasmuch as the submitted bid “far exceeded the budgeted allocation” for the tractors.<sup>2</sup> Subsequently, PAG issued IFB-PAG-010-023, soliciting again for terminal yard tractors.<sup>3</sup> Three bids

---

<sup>1</sup> Petition, p. 1.

<sup>2</sup> Petition, p. 1.

<sup>3</sup> Petition, p. 1.

were received and PAG determined that AMH submitted a qualifying bid and met the requirements of the Build America Buy America Act (“BABAA”) mandates, which generally requires that the product be manufactured in the U.S.<sup>4</sup> Through certain negotiations, PAG was able to have the U.S. Maritime Administration, or “MARAD”, help fund the purchase of the tractors.

### DISCUSSION

#### **1. PAG’s Contract Review Protocol**

Pursuant to 12 G.C.A. §12105, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Accordingly, pursuant to PAG’s current Contract Review Protocol, “[a]ll professional services contracts in excess of \$1,000,000”; “[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000, whether or not the contract extends over a period of one year or several years”; and “[a]ny contract or obligation not specifically referenced . . . which exceeds \$1,000,000, not including individual contracts within an approved capital improvement projects (‘CIP’) or contract”; “shall require prior PUC approval under 12 G.C.A. §12004.” Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

#### **2. April 26, 2024 Petition**

In its Petition, PAG seeks PUC review and approval of its bid award to AMH for the purchase of the nine Terminal Yard Tractors.<sup>5</sup> In particular, PAG has indicated that it

---

<sup>4</sup> Petition, p. 1.

<sup>5</sup> Petition, p. 1.

needs an additional nine (9) terminal yard tractors for its operations.<sup>6</sup> Accordingly, it issued IFB PAG-010-23, which sought the procurement of a particular Kelmar Ottawa tractor. PAG submits that, in its review of the bids and subsequent determination, one bid met the requirements of the BABAA.<sup>7</sup> Further, with the support of MARAD, PAG's acquisition of the tractors can be funded under an American Marine Highway grant.<sup>8</sup> According to PAG, a grant award from MARAD allows for an 80/20 cost share to PAG.<sup>9</sup>

### **3. Invitation for Bid No. PAG-010-23 and Bid Specifications**

Based on the Bid Specifications, the IFB sought nine (9) terminal yard tractors, specifically for Kalmar Ottawa T2 4X2 DOT/EPA Certified tractors. These tractors shall have a minimum of 200 horsepower, with turbo diesel engines, fueled by Ultra Low Sulfur diesel. These tractors will also come with a 6-speed automatic transmission, push-button shifter, with power steering. The Bid Specifications also request certain warranties, for instance a manufacturers' warranty.

### **4. AMH's Submission**

Based on its offer, AMH's unit price for a Kalmar Ottawa T2 4X2 Tractor Trailer is \$194,699.00 per tractor, which includes \$28,840.00 for door-to-door delivery. The offer further includes a 2% discount on the tractors' base price per unit, which amounts to a discount of \$29,862.00 off the cost of all nine (9) tractors. After all applicable taxes and fees, the total cost for all nine (9) tractors is \$1,791,327.00.

---

<sup>6</sup> Resolution No. 2024-04, issued by PAG's Board of Directors, p. 1 (Apr 25, 2024).

<sup>7</sup> Petition, p. 2.

<sup>8</sup> Petition, p. 1.

<sup>9</sup> Petition, p. 1.

## **5. Proposed Contract**

The proposed contract for the AMH Kalmar Ottawa T2 tractors contains provisions guaranteeing that the tractors will be free from manufacturing defects and will be subject to any applicable warranty period.<sup>10</sup> The contract also contains requirements on licensing, termination provisions, and a liquidated damages clause, among other standard contract provisions that protect PAG and ratepayers in the event of non-performance. The contract further contains several provisions containing federal requirements, such as compliance with certain federal Clean Air Act requirements, prohibitions on lobbying, and whistleblower protections, among others.<sup>11</sup>

## **6. Funding**

PAG submits that the purchase of the nine (9) terminal yard tractors is subject to an 80/20 cost share through a MARAD grant.<sup>12</sup> Accordingly, this purchase may only cost PAG \$358,265.40, with the rest of the cost paid by MARAD.

## **7. Board Approval**

The Petition is supported by Resolution No. 2024-04, issued by PAG's Board of Directors on April 25, 2024. In the Resolution, the board approved the purchase of nine Terminal Yard Tractors from AMH, and at total cost of \$1,791,327.<sup>13</sup> The Resolution

---

<sup>10</sup> Agreement for Purchase of Terminal Yard Tractors, p. 4-5.

<sup>11</sup> Agreement for Purchase of Terminal Yard Tractors, pp. 30-33.

<sup>12</sup> Petition, p. 1.

<sup>13</sup> Resolution No. 2024-04, p. 1 (Apr. 25, 2024).

further authorized PAG management to petition the PUC for approval of the contract award to AMH.<sup>14</sup>

**RECOMMENDATION AND CONCLUSION**

Based on the record before the Commission, the procurement of the Terminal Yard Tractors and subsequent award to AMH appear proper and reasonable based on the circumstances described by PAG.<sup>15</sup> Accordingly, the contract for the purchase of these tractors appears reasonable, prudent, and necessary. Terminal yard tractors are indisputably an integral component of PAG's operations. And since the subject purchase of the tractors is subject to an 80/20 cost share with MARAD, PAG has prudently utilized this opportunity to further improve its operations. Indeed, the purchase of additional terminal yard tractors will improve PAG's cargo handling capabilities.

Therefore, based on this record, the ALJ recommends that the PUC approve the bid award to American Material Handling, Inc., for nine Terminal Yard Tractors at a total cost of \$1,791,327.00. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 28<sup>th</sup> day of May, 2024.

  
\_\_\_\_\_  
**JOEPHET R. ALCANTARA**  
**Administrative Law Judge**

P243019.JRA

<sup>14</sup> Resolution No. 2024-04, p. 1.

<sup>15</sup> See Petition, p. 1.