

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

) GSWA Docket 25-01

)
)
) The Application of the Guam Solid Waste
) Authority for Review and Approval of the
) Award and Contract to EA Engineering,
) Science, and Technology, Inc., for Landfill
) Compliance and Engineering Services
)
_____)

) ALJ REPORT

INTRODUCTION

This matter came before the Guam Public Utilities Commission ["PUC"] pursuant to the Application of the Guam Solid Waste Authority ["GSWA"] for Review and Approval of the Award and Contract to EA Engineering, Science, and Technology, Inc., for Landfill Compliance and Engineering Services.¹

BACKGROUND

On April 24, 2024, GSWA issued a Request for Proposal (RFP), No. GSWA-RFP 004-24, to solicit qualified firms to provide Landfill Compliance and Engineering Consulting Services.² Although there were four (4) prospective proposers that acquired RFP packages, only one (1) bid was submitted by the submission deadline. EA Engineering, Science, and Technology Inc. ["EA"] submitted a proposal to GSWA. The EA proposal was evaluated and determined to be responsive; GSWA determined that the firm

¹ GSWA Petition, GSWA Docket 25-01, dated March 14, 2025.

² GSWA Petition, Exhibit 1 (GSWA Board Resolution No. 2024-015, "Relative to Petitioning the Public Utilities Commission (PUC) for Approval of the Contract to EA Engineering, Science and Technology, Inc. for Landfill, Compliance and Engineering Consulting Services, adopted and approved on October 17, 2024).

possessed the necessary qualifications, experience and capabilities to fulfill the contract requirements.³

The total contract amount for the Landfill Compliance and Engineering Consulting Services for the initial term of three years is \$841,361.50. The estimated breakdown for the three years is as follows: Year One: \$350,000.00; Year Two: \$242,050.00; Year Three: \$249,311.50.⁴ At the sole option of GSWA, the agreement may be renewed for a total of up to two (2) additional years.⁵

On October 17, 2024, the agreement was approved by GSWA Board of Directors in Resolution No. 2024-015.⁶

ANALYSIS

1. GSWA's Contract Review Protocol.

Under the Contract Review Protocol for the Guam Solid Waste Authority, Section 1(d), all professional service contracts in excess of \$750,000, must be approved by the PUC pursuant to 12 GCA § 12105.⁷ All internally financed contracts utilizing O & M funds in excess of \$750,000, whether or not the contract extends over a period of one year or several years, must be approved by the PUC. Section 1(b).⁸ Since the total cost of the

³ Id. at Exhibit 1, p. 2.

⁴ Id.

⁵ GSWA Petition, Exhibit 2 (Agreement for Landfill Compliance and Engineering Consulting Services between EA Engineering, Science, and Technology Inc. and Guam Solid Waste Authority at p. 4).

⁶ GSWA Petition at p. 2.

⁷ Contract Review Protocol for the Guam Solid Waste Authority, GSWA Docket 19-02 & Administrative Docket, Order dated July 25, 2019, at Section 1 (d).

⁸ Id. at Section 1(b).

three-year contract is over \$750,000.00 (i.e. \$841,361.50), the EA Award and Contract must have the prior approval of the PUC.⁹

2. GSWA has demonstrated a Need for the Services that EA will perform under the agreement.

In its Petition, GSWA states: “The EA contract will assist GSWA with its mandate to operate and maintain a solid waste management system and ensure the two solid waste disposal facilities under its jurisdiction are compliant with environmental and health regulations of Guam. See 10 GCA § 51A104(10). GSWA owns two disposal facilities on Guam, Layon and Ordot.”¹⁰

At the Layon municipal solid waste disposal facility, there are currently two cells and GSWA plans to construct a third. GSWA intends to use EA services to assist with permitting for landfill improvements, development of construction plans for the future cell and construction activity, ground water monitoring, and environmental assessments.¹¹

Under the proposed contract EA would also perform work regarding the Ordot Dump. GSWA indicates that under the transition plan approved by Order of the District Court of Guam on October 31, 2024, the services required for work at Ordot include the sampling and monitoring of leachate and ground water to be performed by EA.¹²

GSWA further believes that: “The professional work that EA is contracted to provide GSWA will help ensure environmental compliance at Layon and Ordot. These essential

⁹ Id.

¹⁰ GSWA Petition at p. 3.

¹¹ Id.

¹² Id. at p. 4.

services are instrumental in maintaining the safety and welfare of the Island.... The contract with EA for engineering services is essential to the operations of GSWA, most specifically to Layon and Ordot. These services are critical to maintaining the health, safety and welfare of the public.”¹³

3. Scope of services under the EA contract.

For the Commissioners to understand the full scope of services to be performed by EA under the contract, attached hereto, as Exhibits A and B respectively, are the Scope of Services in the Request for Proposals No. GSWA-RFP 004-24, and Section 7, Scope of Services, in the Agreement for Landfill Compliance and Engineering Consulting Services between EA and GSWA.¹⁴

4. The Agreement contains provisions that appear to protect the interest of GSWA and its Ratepayers.

To facilitate responsible contract review, the ALJ has examined the proposed Agreement to determine if it adequately protects the interests of GSWA and its Ratepayers. The Agreement does appear to do so. The contractor provides a warranty of deliverables, equipment, and systems against defects from the use of inferior materials, equipment, or workmanship during the term of the contract and any extensions, and for one (1) year after the exercise of any option to purchase the system by GSWA (“Equipment Warranty”).¹⁵ The contractor is required to repair any materials,

¹³ Id.

¹⁴ Exhibits “A” and “B” attached hereto.

¹⁵ GSWA Petition, Exhibit 2 (Agreement for Landfill Compliance and Engineering Consulting Services between EA Engineering, Science, and Technology Inc. and Guam Solid Waste Authority at Guarantee/Warranty of Deliverables, Equipment and Systems, at p. 10.

equipment or workmanship which were inferior, defective or not in accordance with the terms of the Agreement.¹⁶

The GSWA project manager may withhold payments for defective services not remedied, and for other reasons.¹⁷ The contractor must, without additional cost to GSWA, correct or revise all errors or deficiencies in its performance.¹⁸

The contract may be terminated for default, nonperformance or delay, damages for delay, and time extensions.¹⁹ The contract may also be terminated for the convenience of GSWA.²⁰

The contractor indemnifies and holds harmless GSWA and its employees from any claims, damages, losses, expenses, actions, recoveries, etc. to the extent caused by or resulting from contractor's performance of the services.²¹ The contract cannot be assigned or subcontracted without the express prior written consent of GSWA.²²

RECOMMENDATION

For the reasons set forth herein, the Administrative Law Judge recommends that the PUC approve the award and contract to EA Engineering, Science and Technology, Inc. for Landfill Compliance and Engineering Services. GSWA should be authorized to expend a 3-year total under the contract of an amount up to \$841,361.50. The

¹⁶ Id. at pgs. 10-11.

¹⁷ Id. at pgs. 13.

¹⁸ Id. at p. 18.

¹⁹ Id. at p. 29.

²⁰ Id. at p. 30.

²¹ Id. at p. 33-34.

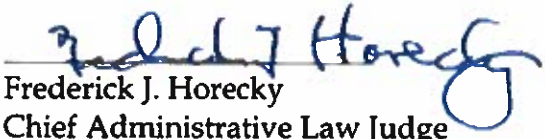
²² Id. at p. 36.

ALJ Report
Approval of Award and Contract to EA
for Landfill Compliance and Engineering
Services
GSWA Docket 25-01
March 21, 2025

Agreement for EA Services is essential to enable GSWA to perform its duties and obligations with regard to the Leyon solid waste disposal facility and the Ordot Dump.

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

Respectfully submitted this 21st day of March 2025.


Frederick J. Horecky
Chief Administrative Law Judge



RFP COVER SHEET

**REQUEST FOR PROPOSALS (RFP)
GUAM SOLID WASTE AUTHORITY**

**LANDFILL COMPLIANCE & ENGINEERING
CONSULTING SERVICES**

ISSUED BY: Guam Solid Waste Authority
546 N. Marine Corps Dr.
Tamuning, Guam 96913

PROPOSAL NO: GSWA-RFP004-24

ISSUE DATE: Wednesday, April 24, 2024

DEADLINE: Tuesday, May 14, 2024, 4:00PM CHST

NAME AND LOCATION OF PROJECT(S):
Guam Solid Waste Authority
546 N. Marine Corps Dr.
Tamuning, Guam 96913

Section III.

SCOPE OF SERVICES

PURPOSE

GSWA is soliciting proposals to provide Indefinite Delivery-Indefinite Quantity (IDIQ) professional Landfill Engineering Consulting Services for various matters relating to landfill improvements, construction plans and phase services, procurement processes, and environmental compliance. Completed work must be in compliance with the attached exhibits.

The contract will provide for the issuance of Work Authorizations (WA) requiring a variety of Landfill Consulting Services as needed and determined by GSWA. Each WA will be negotiated with the selected firm. The contract, as noted, is an indefinite delivery indefinite quantity (IDIQ) type contract and GSWA does not guarantee any number of WA to be issued. GSWA also does not guarantee a minimum or maximum dollar value of WA's placed with any firm. WA will be assigned as necessary, which may include, but not be limited to:

1. LAYON LANDFILL:

a. LANDFILL ENGINEERING TASKS

- I. Permitting for landfill improvements including, but not limited to, the following activities:
 - i. Revisions to operations manuals;
 - ii. Revisions to Solid Waste Acceptance of Materials;
 - iii. Air and Water regulations as may apply to the landfill design to include, but not limited to, review, permit revisions, and recommendations.
- II. Preparation of preliminary and final construction plans and contract documents as may be required from time to time with activities including, but not limited to:
 - i. Contract documents shall include bid forms, notice to bidders, instructions to bidders, advertisements, bid proposal, contract forms, bonding and insurance requirements, and technical specifications for projects less than \$400,000 in cost;
 - ii. Opinions of Probable Construction Costs based on final construction plans;
 - iii. Prepare and submit documents for regulatory review;
 - iv. Assist the GSWA in obtaining approvals and permits as necessary to comply with applicable federal, state and local regulations;
 - v. Provide environmental site assessment, wetland determination, etc., as appropriate or required for each project.
- III. Bidding services as may be required from time to time with activities including, but not limited to:
 - i. Preparation of final bidding documents;
 - ii. Assistance with bidding process;
 - iii. Evaluation of bids and recommendation to award;
 - iv. Other activities as required by procurement or project financing.

- IV. Construction Phase Services as may be required from time to time with activities, but not limited to:
 - i. Provision of construction staking and/or CQA surveying in support of requirements of project.
 - ii. Provision of geotechnical services in support of CQA requirements for project.
 - iii. Coordination and oversight of construction including meetings, payment review, RFIs, etc.
 - iv. Review and approval of shop drawings and samples.
 - v. Prepare certification documents for regulatory submittals.
 - vi. Prepare Operations and Maintenance Manuals as may be required
 - vii. Preparation of record drawings, as-builts, plats, etc., as may be required.
- V. Environmental services including, but not limited to:
 - i. Groundwater compliance in accordance with the facility permit and applicable
 - ii. RCRA Title 40 Chapter 1, Subchapter 1, Part 258 Subpart E.
 - iii. Leachate control compliance in compliance with facility permit and applicable
 - iv. RCRA Title 40 CFR 265.301
 - v. Post closure care in accordance with facility permit and applicable 40 CFR Part 258 Subpart F Stormwater Management Regulations.
 - vi. Stormwater management in accordance with Title 40 Part 445 Subpart B 445.20
 - vii. Any other regulatory requirements
 - viii. Title V Section 302 support activities as may be required
 - ix. Greenhouse gas reporting activities as may be required
- b. LANDFILL GROUNDWATER TASKS**
 - I. Provide routine monitoring in accordance with RCRA Title 40 Chapter 1, Subchapter 1, Part 258 Subpart E and consultation activities relate to groundwater and gas migration.
 - II. Contract directly with a qualified laboratory in accordance with RCRA Title 40 Chapter 1, Subchapter 1, part 258 Subpart E to perform analytical work. Laboratory must maintain EPA certificate throughout term of contract. Contractor will provide certified laboratory at no additional cost.
 - III. Perform statistical analysis, report preparation, and any other reporting required.
 - IV. Install additional groundwater monitoring well (as needed).

2. ORDOT DUMP FACILITY

- I. Quarterly leachate sampling and monitoring to be in accordance with Sampling and Analysis Plan for Ordot Leachate Monitoring (Exhibit A).
- II. Groundwater sampling and monitoring to be in accordance with Sampling and Analysis Plan Post-Closure Monitoring at Ordot Dump Post-Closure Facility (Exhibit B).
 - i. Collect leachate samples and associated quality control (QC) samples from the leachate tank(s).
 - ii. Analyze the leachate samples for the identified parameters of

- concern.
- iii. Perform assessment of the collected data and data management and validation.
 - iv. Prepare quarterly monitoring memoranda to report leachate sample results at Ordot Dump.

ORIGINAL

Contractor's Proposal, and until the expiration, cancellation, or termination of this Agreement or any extension or renewal thereof. There is no right or expectation of renewal or extension and any renewal or extension will be exercised solely at the discretion of GSWA.

C. **Initial Term.** The initial term of the contract shall be for three (3) years and shall begin upon the date that the Governor executes the Agreement. After the Governor has executed the Agreement, the GSWA will issue the NTP to notify the Contractor that services may begin.

D. **Renewal Terms.** At the sole option of the GSWA, and upon satisfactory performance by the Contractor, the Agreement may be renewed for any number of time period(s) determined to be in the best interests of the government of Guam, for a total of up to two (2) additional years (each being a "Renewal Term"). Any Renewal Term shall not be subject to negotiation, but shall be a continuation of the Agreement on the same terms, conditions, and pricing as in effect under the existing Agreement. All Renewal Terms are subject to the availability of additional funds.

All Renewal Terms are subject to the availability of funds. In no case shall any extension or renewal extend the total of the terms of the contract beyond five (5) years. Unless cancelled for lack of funds, terminated, renewed, or extended prior to expiration, this Agreement shall expire at the end of the Initial term or at the end of any subsequent Renewal Term exercised by the GSWA.

SECTION 6 CONTRACTOR'S SCHEDULE OF SERVICES.

A. The Contractor, promptly after execution of this Agreement and no later than 10 days after issuance of a Notice to Proceed ("NTP"), shall prepare and submit for GSWA's approval, Contractor's Schedule of Services. The schedule shall not exceed time limits current under this Agreement, shall be revised at appropriate intervals as required by the conditions of the Services, shall be related to the Services to the extent required by this Agreement, and shall provide for expeditious and practicable execution of the Services. The Contractor agrees to provide the Services in the Scope of Services for one year from receipt of the NTP from GSWA, and as provided in any extensions or renewals agreed to in writing by the Parties.

B. The Contractor shall perform the Services in accordance with the most recent schedules approved by GSWA.

SECTION 7 SCOPE OF SERVICES

All Services under this Agreement shall be performed by Contractor in accordance with all applicable federal and local codes, standards, and guidelines, including current or updated standards as those updates become effective, and any applicable Guam codes. The Scope of Services includes the following:

A. CONTRACTOR RESPONSIBILITIES

1. Contractor shall conduct research and inspections to determine working conditions and any special needs/requirements for execution of the Project.

ORIGINAL

2. Contractor shall be responsible for any mobilization and site preparation required for the services/work involved.
3. Contractor shall be responsible for providing appropriate personnel for all stages of the Project
4. Contractor shall be responsible for providing and maintaining all necessary tools, equipment, systems, hardware, software, and the operation of these tools, equipment, systems, hardware, and software throughout the duration of the Project.
5. Contractor shall be responsible for making any minor modifications required to allow proper execution of the Project.
6. Contractor shall furnish at its own expense, all proper and adequate equipment, materials, labor, personnel, and supplies necessary to perform the Scope of Services in a safe, professional, workmanlike and diligent manner, and shall provide and have available at all times for use by its employees engaged in the performance of such services all safety equipment and appliances needed for maximum protection of its employees and other persons against injuries.

B. SERVICES

- 1 Consulting services may include various matters relating to landfill improvements, construction plans and phase services, procurement processes, and environmental compliance. Completed work must be in compliance with the attached exhibits.
- 2 The contract will provide for the issuance of Work Authorizations (WA) requiring a variety of Landfill Compliance and Engineering Consulting services as needed and determined by GSWA. Each WA will be negotiated with the selected firm. The contract, as noted, is an indefinite delivery indefinite quantity (IDIQ) type contract and GSWA does not guarantee any number of WA to be issued. GSWA also does not guarantee a minimum or maximum dollar value of WA's placed with any firm. WA will be assigned as necessary, which may include, but not be limited to:

The Scope of Services includes but is not limited to:

A. LAYON LANDFILL:

i. LANDFILL ENGINEERING TASKS – To include, but not limited to, the following:

- a) Permitting for landfill improvements including, but not limited to, the following activities:
 1. Revisions to operations manuals;
 2. Revisions to Solid Waste Acceptance of Materials;
 3. Air and Water regulations as may apply to the landfill design to include, but not limited to review, permit revisions, recommendations

ORIGINAL

- h) Preparation of preliminary and final construction plans and contract documents as may be required from time to time with activities including, but not limited to:**

 - 1. Contract documents shall include bid forms, notice to bidders, instructions to bidders, advertisements, bid proposal, contract forms, bonding and insurance requirements, and technical specifications for projects less than \$400,000 in cost;**
 - 2. Opinions of Probable Construction Costs based on final construction plans;**
 - 3. Prepare and submit documents for regulatory review;**
 - 4. Assist the GSWA in obtaining approvals and permits as necessary to comply with applicable federal, state and local regulations;**
 - 5. Provide environmental site assessment, wetland determination, etc., as appropriate or required for each project.**
- c) Bidding services as may be required from time to time with activities including, but not limited to:**

 - 1. Preparation of final bidding documents;**
 - 2. Assistance with bidding process;**
 - 3. Evaluation of bids and recommendation to award;**
 - 4. Other activities as required by procurement or project financing.**
- d) Construction Phase Services as may be required from time to time with activities including, but not limited to:**

 - 1. Provision of construction staking and/or CQA surveying in support of requirements of project**
 - 2. Provision of geotechnical services in support of CQA requirements for project**
 - 3. Coordination and oversight of construction including meetings, payment review, RFIs, etc.**
 - 4. Review and approval of shop drawings and samples**
 - 5. Prepare certification documents for regulatory submittals**
 - 6. Prepare Operations and Maintenance Manuals as may be required**
 - 7. Preparation of record drawings, as-builts, plats, etc., as may be required**

II. ENVIRONMENTAL TASKS COMPLIANCE – To Include, But Not Limited To:

1. Compliance in accordance with the facility permit and applicable
2. RCRA Title 40 Chapter I, Subchapter I, Part 258 Subpart E.

ORIGINAL

3. Leachate control compliance in compliance with facility permit and applicable
4. RCRA Title 40 CFR 265.301.
5. Post closure care in accordance with facility permit and applicable 40 CFR Part 258 Subpart F Stormwater Management Regulations.
6. Stormwater management in accordance with Title 40 Part 445 Subpart B 445.20
7. any other regulatory requirements
8. Title V section 302 support activities as may be required
9. Greenhouse gas reporting activities as may be required
10. Landfill Groundwater Tasks
 - a. Provide routine monitoring in accordance with RCRA Title 40 Chapter I, Subchapter I, Part 258 Subpart E and consultation activities related to groundwater and gas migration.
 - b. Contract directly with a qualified laboratory in accordance with RCRA Title 40 Chapter I, Subchapter I, Part 258 Subpart E to perform analytical work. Laboratory must maintain EPA certificate throughout term of contract. Contractor will provide certified laboratory at no additional cost.
 - c. Perform statistical analysis, report preparation, and any other reporting required.
 - d. Install additional ground water monitoring wells (as needed).

B. ORDOT DUMP FACILITY:

i. ENVIRONMENTAL TASKS - To include, but not limited to, the following:

1. Groundwater and Surface Water Monitoring System Operations, Maintenance, and Monitoring Services
2. Landfill Gas Monitoring System Operations, Maintenance and Monitoring Services
3. Gas Collection and Control System
4. Settlement Survey and Monitoring
5. Surface Water Drainage System Monitoring and Maintenance
6. Leachate Collection and Removal System Operations, Monitoring, and Maintenance
7. Quarterly and Annual Consolidation Report Preparation
8. Permitting

ii. ENGINEERING SERVICES - To include, but not limited to, the following:

1. Subcontractor Oversight
2. Permitting for facility improvements
3. Preparation of preliminary and final construction plans and contract

ORIGINAL

4. Documents as may be required
5. Bidding services as may be required
6. Construction Phase Services as may be required
7. Preparation of Operation and Maintenance Manuals as may be required

3. Laws, Permits and Regulation

- a. The Contractor shall obtain all required permits required for the Services. GSWA agrees to facilitate Contractor's acquisition of permits; however, Contractor is ultimately responsible for obtaining permits and any action or inaction by GSWA shall not relieve Contractor of this responsibility.
- b. Contractor shall pay all fees and charges for connection to outside services, utilities, and use of property other than the site of the services for storage of materials or other purposes.
- c. Contractor shall comply with all federal and local laws, ordinances, regulations and building code requirements applicable to services hereunder unless in conflict with contract requirements. If Contractor ascertains at any time that any requirement of this contract is at variance with applicable laws, ordinances, regulations, or building code requirements, Contractor shall promptly notify the GSWA Procurement Officer.

4. Contractor's Obligations

- a. Contractor shall, in good professional and workmanlike manner, do and perform all services and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the services required by this Agreement, the RFP, and the Contract Documents within the time herein specified in strict accordance with the plans and proposals of the services covered by this contract and any and all supplemental plans and drawings, and in accordance with the directions of the GSWA Procurement Officer as given from time to time during the progress of the services.
- b. Contractor alone shall be responsible for the safety, efficiency and adequacy of his plant, worksite, appliances and methods, and for any harm or damage, which may result from their failure or their improper installation, maintenance or operations.
- c. Contractor shall observe, comply with and be subject to all terms, conditions, requirements, and limitations of the Request for Proposals, Agreement, plans, and specifications and shall perform and complete the entire services per approved plans and specifications, whichever is more stringent.