

BEFORE THE PUBLIC UTILITIES COMMISSION



PETITION FOR APPROVAL OF)	PAG DOCKET 25-02
AWARD TO BME & SONS, INC.)	
FOR THE MAINTENANCE PROJECT)	ALJ REPORT
AT WAREHOUSE NO. 1 BY PORT)	
AUTHORITY OF GUAM)	

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the April 2, 2025 Petition for approval of the contract award related to the Warehouse No. 1 Maintenance Project (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (hereinafter referred to either “PAG” or the “Port”).

BACKGROUND

On November 25, 2024, PAG published Invitation for Bid No. IFB-PAG-CIP-024-004 (hereinafter referred to as the “IFB”), which sought the services of a contractor to maintain Warehouse No. 1.¹ In response to the IFB, five contractors submitted bids.² According to PAG, BME & Sons, Inc. (“BME & Sons”) was the lowest responsible and responsive bidder with a bid of Four Million Eight Hundred Thirty-Seven Two Hundred Twenty-Three Thousand and 18/100 Dollars (\$4,837,223.18).³ On March 27, 2025, PAG’s Board of Directors issued Resolution No. 2025-10 (“Resolution No. 2025-10”),

¹ Petition, p. 1.

² PAG Board Resolution No. 2025-10, p. 1 (Mar. 27, 2025).

³ Petition, p. 1.

which approved PAG’s contract award to BME & Sons and authorized PAG to petition the PUC for review and approval of the subject contract.⁴

DISCUSSION

A. 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” and “[a]ll externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000, and any use of such funds” “shall require prior PUC approval” Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011). The subject contract is rightfully before the Commission since the contract both exceeds \$1,000,000.00 and will be funded by bond revenues.

B. Scope of Work, Proposed Contract, Cost and Funding

Based on a 2023 Determination of Need, Warehouse No. 1 was constructed in 1968, and is comprised of an area of about 54,000 square feet.⁵ In the Determination of Need, the General Manager indicated that “[c]oncrete cracks and spalls can be seen throughout the building”; and that structural repair work is required to “protect the integrity of the building”, as well as reduce further deterioration” of the building.⁶ The General Manager further noted that the building’s electrical and fire protection systems

⁴ PAG Board Resolution No. 2025-10, p. 1 (Mar. 27, 2025).

⁵ Determination of Need, by Rory Respicio, General Manager, p. 1 (July 26, 2023).

⁶ Determination of Need, by Rory Respicio, General Manager, p. 1.

have become a “safety hazard” owing to the corrosion and deterioration of “vital system components.”⁷ Accordingly, the pipes and sprinkler heads need replacing.

The Determination of Need indicates that Warehouse No. 1 serves as an office and a workspace for PAG employees and tenants.⁸ Therefore, the current structure is in dire need of maintenance to ensure the safety of all personnel occupying the building.⁹ Indeed, PAG has indicated that the purpose of the IFB is to “provide a safe, secure and efficient working environment for all who work in and around Warehouse No. 1 as this building is over 40 years old and exposed to the harsh environmental elements in our industry and in its current location.”¹⁰

1. Scope of Work and Other Contract Provisions

The scope of work is comprised of six areas: (1) architectural; (2) structural; (3) fire protection; (4) plumbing; (5) electrical; and (6) close-out.¹¹ The scope of work involves the structural repair of existing cracks and spalls on the concrete due to salt water, which has affected the overall structural integrity of the building.¹² The project also involves electrical repairs, which include replacing and relocating any corroded and damaged electrical components; and replacing the existing fire protection system so that the building can be safely occupied.¹³

⁷ Determination of Need, by Rory Respicio, General Manager, p. 1.

⁸ Determination of Need, by Rory Respicio, General Manager, p. 1.

⁹ Determination of Need, by Rory Respicio, General Manager, p. 1.

¹⁰ Notification of Procurement Over \$500,000 for IFB-PAG-CIP-024-004 Warehouse 1 Maintenance Project, addressed to the Attorney General of Guam, p. 4. (Apr. 19, 2024).

¹¹ IFB, p. 40.

¹² IFB, pp. 3, 93.

¹³ IFB, pp. 4, 93.

Particularly, with respect to architectural work, the contractor must remove and replace two roof top access hatch assemblies, and apply epoxy coating to the new roof hatch.¹⁴ Other work includes the removal and replacement of all metal downspouts, metal straps, and roof drains; the demolition and replacement of walls along “grid line A”, between “grid line 3 and 5”; and the removal and refurbishing of roof vents located over Bay 1, Bay 3, and Bay 14.¹⁵ The contractor will also be required to paint all the exterior and interior walls, including beams, columns, and ceilings; and apply silicone roof coating and provide treatment for all roof joints; and apply two coats of epoxy primer and two coats of epoxy finish paint on all roof vents.¹⁶

With respect to structural work, the contractor must repair cracks and spalls along the walls, roof slabs, beams, columns, and other reinforced concrete members of the building.¹⁷ In addition, it must demolish and replace existing walls along “grid line A”; and repair the concrete around the roof vent openings as required.¹⁸

Plumbing work will include the removal and disposal of the emergency eye wash and shower area; the installation of new eye wash and showers; the removal and disposal of the 6-inch diameter downspout and siphonic-type roof drain; and the installation of a new 6-inch diameter downspout and siphonic-type roof drain.¹⁹

The fire protection work involves the removal and replacement of the existing fire sprinkler system, including piping, fittings, pipe supports and other appurtenances, for a

¹⁴ Scope of Work, p. 4.

¹⁵ Scope of Work, p. 4.

¹⁶ Scope of Work, p. 4.

¹⁷ Scope of Work, pp. 3-4.

¹⁸ Scope of Work, pp. 3-4.

¹⁹ Scope of Work, p. 5.

complete usable system.²⁰ The contractor will also be required to provide a new fire alarm system, and obtain any required permits for this new fire protection system.²¹

With respect to electrical work, the contractor must remove and replace all electrical panels, transformers, switches, conduits, feeders, power supply, lighting and appurtenances identified in the electrical plans; and provide a new supply of power, complete with cables and conduits for the main feeder, lighting for the interior and exterior of the building.²² While it completes this work, the contractor must also provide any backup power to minimize any downtime during the construction.²³ Work for closing-out the project will include the disposal of all debris and trash to appropriate disposal sites.²⁴

As is regularly the case, the contractor will be subject to liquidated damages (of \$1,000.00) for each calendar day the work remains incomplete after five hundred and forty (540) days from the date of the Notice to Proceed.²⁵ In addition, the agreement contains the usual termination for convenience provision in favor of PAG, whereby the contract may be terminated at the convenience of either PAG or the Government of Guam.²⁶

2. Cost Breakdown

Based on the bid submitted by BME & Sons, the contractor provided the following pricing:

²⁰ Scope of Work, p. 4.

²¹ Scope of Work, p. 5.

²² Scope of Work, p. 5.

²³ Scope of Work, p. 5.

²⁴ Scope of Work, pp. 5-6.

²⁵ IFB, p. 71.

²⁶ IFB, p. 72.

Project Title: Warehouse 1 Building Maintenance Project

Bid Schedule					
Item	Description	Quantity	Unit	Unit Cost	Extended Cost
1	Administrative Works	1	LS	561,300.19	561,300.19
2	Structural Works	1	LS	117,322.51	117,322.51
	Spall Repair	1,513.57	CF	292.92	443,357.37
	Crack Repair	2,007.72	LF	55.18	110,789.08
3	Architectural Works	1	LS	257,212.10	257,212.10
4	Electrical Works	1	LS	1,666,355.01	1,666,355.01
5	Plumbing Works	1	LS	26,580.73	26,580.73
6	Fire Protection Works	1	LS	1,107,348.57	1,107,348.57
7	Exterior & Interior Painting	1	LS	222,173.52	222,173.52
8	Silicone Roof Coating	1	LS	324,784.09	324,784.09
	Total				4,837,223.18

All amounts include the costs associated with materials, tools, equipment, overhead, profit, and tax.

3. Contract Term and Funding

Pursuant to the terms of the agreement, the contractor is required to complete the project within five hundred and forty (540) calendar days from the issuance of a Notice to Proceed by the Port.²⁷ The project will be funded by PAG's Bond Funding Program. Indeed, this project was one specifically identified in PAG's bond financing portfolio as a capital improvement project to be funded by bond revenues.²⁸ According to PAG, installment payments shall be made in phases of project completion for the duration of the contract.

4. Resolution No. FY2025-12

The instant Petition is supported by Resolution No. 2025-10 issued by PAG's Board of Directors. The Board found that all the necessary requirements for the procurement had been met; that BME was properly determined to be the lowest

²⁷ IFB, p. 71.

²⁸ Notification of Procurement Over \$500,000 for IFB-PAG-CIP-024-004 Warehouse 1 Maintenance Project, addressed to the Attorney General of Guam, p. 4. (Apr. 19, 2024).

responsible and responsive bidder at \$4,837,223.18; and that PAG's estimate for the project was \$4.215 million, a difference of about \$622,000. The Board therefore authorized the award to BME & Sons and directed that PAG transmit the contract to the PUC for review and approval.

RECOMMENDATION AND CONCLUSION

As the record indicates, Warehouse No. 1 was constructed in 1968, and as a result of age and salt damage, "[c]oncrete cracks and spalls can be seen throughout the building."²⁹ It is clear that structural repair work is required to "protect the integrity of the building", as well as reduce further deterioration".³⁰ In addition, the building's electrical and fire protection systems have become a "safety hazard" owing to the corrosion and deterioration of "vital system components",³¹ requiring replacement of the pipes and sprinkler heads. Since Warehouse No. 1 serves as an office and a workspace for PAG employees and tenants, the current structure is in dire need of immediate maintenance to ensure the safety of all personnel occupying the building.³²

This contract is therefore prudent and necessary to prevent further deterioration of the building and eradicate the risk of concrete shedding and falling from its structures; and to ensure a safe working environment for the Port's personnel, as well as its tenants and users.

The use of bond revenue is appropriate since this particular project was expressly identified as a bond-funded project, which was approved by the PUC and the Guam

²⁹ Determination of Need, by Rory Respicio, General Manager, p. 1.

³⁰ Determination of Need, by Rory Respicio, General Manager, p. 1.

³¹ Determination of Need, by Rory Respicio, General Manager, p. 1.

³² Determination of Need, by Rory Respicio, General Manager, p. 1.

Legislature. Indeed, the Guam Legislature expressly found that in order for the Port to “transform” into a “world-class terminal” for the region, the Port must “increase capacity, execute infrastructure development, and undertake Port expansion to meet the community’s needs.” P.L. 34-70, p. 2 (Dec. 5, 2017) Accordingly, to achieve this vision, the Guam Legislature authorized the issuance of system revenue bonds to fund certain capital improvement projects, which include the repair of the Warehouse 1 building. *See* P.L. 34-70, p. 2 (Dec. 5, 2017).

Based on the record before the Commission, the ALJ finds that the subject contract has undergone a thorough competitive bidding process; and therefore the resulting cost is reasonable based on higher pricing submitted by other bidders; and that the contract is necessary to the Port’s expansion and modernization. Accordingly, the ALJ recommends that the PUC approve the proposed contract with BME & Sons, at a cost of \$4,837,223.18. A proposed Order is submitted herewith for the Commissioners’ consideration.

Respectfully submitted this 21st day of April, 2025.



JOEPHET R. ALCANTARA
Administrative Law Judge

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