



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

)
) GPA DOCKET 25-21
)

PETITION OF THE GUAM POWER
AUTHORITY TO APPROVE
CONSTRUCTION CHANGE ORDER
TO PERFORM LEAD ABATEMENT
AND ADDITIONAL REPAIRS ON
TANK 1934

)
) PUC COUNSEL REPORT
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INTRODUCTION

1. This matter comes before the Public Utilities Commission ["PUC"] pursuant to the Guam Power Authority's ["GPA"] Petition to Approve Construction Change Order to Perform Lead Abatement and Additional Repairs on Tank 1934.¹
2. GPA contracted Tristar Agility [Tristar] to inspect and refurbish bulk storage fuel tanks 1934 and 1935 for a total contract price of \$8,969,510.² Subsequent contract change orders increased the contract cost by \$6,177,147.91 for a total contract cost of \$15,146,657.91.³
3. GPA requests that the PUC approve a change order to the GPA/Tristar Contract [Contract] for lead abatement and additional repairs on Tank 1934 in the amount of \$4,147,691.85 which would increase the total contract cost to \$19,294,349.76.⁴

BACKGROUND

4. GPA operates and maintains bulk storage fuel tanks 1934 and 1935 which are located in Piti, Guam which were constructed in 1976 by the U.S. Military and they have been in service continually since that time.⁵ These tanks must be periodically assessed, recalibrated, and refurbished to comply with U.S. Environmental Protection Agency [USEPA] regulations. The last such inspection and

¹ GPA Petition to Approve Construction Change Order to Perform Lead Abatement and Additional Repairs on Tank 1934, GPA Docket 25-21, dated September 5, 2025 [GPA Petition].

² PUC Order dated August 29, 2019 in GPA Docket No. 19-01 at 1.

³ GPA Petition at 2. NOTE: The page numbers in GPA'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.

⁴ Id.

⁵ PUC Order dated May 26, 2022, GPA Docket No. 22-11 at 1-2.

refurbishment occurred in 2007, and they are currently due for such inspection and refurbishment to keep them in compliance with USEPA regulations. After the refurbishment of the bulk storage fuel tanks, GPA plans on using them to store Ultra Low Sulphur Diesel [ULSD] Fuel to supply Piti Power Plant 7, 8, and 9, and to supply ULSD Fuel to GPA's new 180 MW power plant.⁶

5. On October 25, 2018, in GPA Docket No. 19-1, the PUC approved GPA's solicitation for bids for the Bulk Storage Fuel Tanks Inspection and Refurbishment.⁷ On December 2, 2019, GPA issued GPA-IFB-028-19 (Bulk Storage Fuel Tanks Inspection and Refurbishment) [IFB] and awarded the contract to Tristar, who submitted the sole bid for the amount of \$8,969,510 in response to the solicitation, and on August 29, 2019, the PUC approved the contract.⁸
6. GPA executed four change orders without the PUC's approval, which were Change Order No. 1 for \$29,387, Change Order 2 for \$543,813, Change Order 3 for \$1,200,010 and Change Order No. 5 for \$1,263,448 for a total amount of \$3,036,658 which increased the total contract price to \$12,006,168.⁹
7. On May 26, 2022, in GPA Docket 22-11, the PUC approved Change Order 4 for the amount of \$3,140,489.35 for correcting defects on Tank 1935 which increased the total contract price to \$15,146,657.35.¹⁰ The work on Tank 1935 has been completed, it now holds and supplies ULSD Fuel to GPA's new 180 MW power plant.¹¹
8. On January 16, 2025, a American Petroleum Institute [API] Report recommended the repair of various defects on Tank 1934 that are estimated to cost \$2,422,572.54 and on August 13, 2025, Tristar informed GPA that lead-based paint was detected on the exterior shell of Tank 1934, and the abatement of the lead based paint is estimated to cost an additional \$1,725,119.31 for a total change order cost of \$4,147,691.85 which would increase to total contract cost to \$19,294,349.76.¹²

⁶ PUC Order dated August 29, 2019, GPA Docket 19-01 at 1-2.

⁷ PUC Order dated May 26, 2022, GPA Docket No. 22-11 at 5.

⁸ *Id.*, at 4.

⁹ GPA Petition at 6.

¹⁰ *Id.*

¹¹ *Id.*, at 2.

¹² *Id.*

9. On August 26, 2025, the Guam Consolidated Commission on Utilities [CCU] issued GPA Resolution No. FY2025-26 which authorized GPA's General Manager to expend on additional \$4,147,691.85 for a change order to perform lead abatement and additional repairs on Tank 1934 subject to the PUC's approval.¹³
10. On October 24, 2025, PUC Legal Counsel issued his first report in this matter that recommended that the PUC approve the \$2,422,572.54 cost to correct Tank 1934's defects of the proposed change order, that the PUC require GPA to submit a revised estimate and full explanation for the additional \$1,263,448 cost of Change Order No. 5 for the PUC's review and ratification, and that the PUC require GPA to conduct an independent test to confirm that Tank 1934 has lead based paint to justify the \$1,725,119.31 cost to abate such condition if it exists. Since that date, PUC Counsel has requested additional information from GPA and GPA has provided that information and said responses were filed in this matter as GPA Responses to PUC Counsel Information Requests [GPA Responses].

ANALYSIS

11. GPA failed to obtain the PUC's prior approval for Change Order 5. GPA shall not incur expenses for PUC approved contracts and obligations in excess of 20% over the amount authorized by the PUC without prior PUC approval, and in the event that GPA estimates it will exceed that threshold, it shall submit to the PUC the revised estimate and full explanation for the additional cost.¹⁴ GPA alleges that the amount the PUC authorized was \$13.8 million and that Change Order 5's cost was within 20% of this amount.¹⁵ However, this is not supported by the facts. Here, the initial contract cost was \$8,969,510 and 20% of that amount is \$1,793,902. Change Orders 1 thru 3 were within the 20% amount because their total cost was \$1,773,210. However, Change Order No. 5's \$1,263,448 cost, when added to the prior change orders that did not receive the PUC's authorization, exceeded the 20% amount. After the PUC approved Change Order 4, the total contract price approved by the PUC was \$12,109,999.35 and 20% of that amount is \$2,421,999.87 and the total cost of Change Orders 1, 2, 3, and 5 is \$3,036,658 (\$29,387 (Change Order 1) + \$543,813 (Change Order 2), \$1,200,010 (Change Order 3) + \$1,263,448 (Change Order 5) =

¹³ Id., at 6.

¹⁴ PUC Order, Administrative Docket, Contract Review Protocol for GPA, at 4.

¹⁵ GPA Responses at PUC-01.

\$3,036,658) which is more than that 20% amount. Thus, GPA was required to obtain the PUC's prior approval of Change Order No. 5 but did not do so.

12. GPA's Change Order No. 5 was reasonable, prudent, and necessary. Change Order No. 5 was for the removal and disposal of oil sludge that could not be pumped out of Tank 1934 after it had been drained.¹⁶ The \$1,263,448 cost of the change order was reasonable. The majority of this cost, \$576,680 (46% of the total cost) was for labor. The removal of the sludge was labor intensive because it would take approximately nine weeks for Tristar's personnel to enter the tank, manually move the sludge to side pumps where the sludge would be diluted and then removed by vacuum trucks. Any undiluted sludge would then be consolidated into drums and disposed of at an EPA approved site.¹⁷ Hence, the total cost was reasonable due to the labor-intensive process required to complete the work. Change Order 5 was prudent because Tristar waived the \$43,750 cost of the cutter stock that was used to dilute the sludge and residue, and because Tristar only charged 20 cents per gallon to administer the recovered sludge in exchange for GPA giving Tristar title to all sludge removed which reduced this cost by approximately \$800,000.¹⁸ Change Order 5 was necessary because the tank's unpumpable sludge had to be removed to complete the tank repairs and bring it back into service. Thus, Change Order No. 5 was reasonable, prudent, and necessary.
13. GPA must obtain the PUC's approval to expend on additional \$4,147,691.85 on the contract for a change order to perform lead abatement and additional repairs on Tank 1934. The current amount the PUC has authorized GPA to expend on the contract is \$13,883,209.35 (\$8,969,510 original contract price + \$1,773,210 for Change Orders 1 thru 3 + \$3,140,489.35 for Change Order 4 = \$13,883,209.35), and 20% of that amount is \$2,776,641.87. Hence, GPA must obtain the PUC's approval of the new change order because its \$4,147,691.85 cost exceeds the 20% threshold.
14. The \$4,147,691.84 cost of the proposed change order is reasonable. Tristar is asking for an additional \$2,422,572.54 to correct defects on Tank 1934's interior bottom plate and shell, exterior shell wall, roof exterior surface, bottom projection plate, and the tank's stairway and handrail.¹⁹ Similar work was done to Tank 1935 in Change Order 4 for the amount of \$3,140,489.35, and the proposed work for Tank

¹⁶ Id., at PUC-042.

¹⁷ Id., at PUC 041-042.

¹⁸ Id.

¹⁹ GPA Petition at 11.

1934 is \$717,916.81 cheaper ($\$3,140,489.35 - \$2,422,572.54 = \$717,916.81$). The additional \$1,725,119.31 is for lead abatement, specifically the removal of lead based paint that was identified by an independent and credible third party on the tank's exterior.²⁰ Tristar originally requested the amount of \$1,868,656.31 and GPA negotiated a lower amount of \$1,725,119.31 which resulted in \$143,537 in savings ($\$1,868,656.31 - \$1,725,119.31 = \$143,537$). Therefore, the cost of the proposed change order is reasonable.

15. The six-to-ten-month period to perform proposed change order is only prudent if it can be done within eight months. Tristar estimates that it will take from six to ten months, excluding material delivery, to perform the work.²¹ Due to Tristar's inspection and repair of Tanks 1934 and 1935, the tanks are currently out of service and, under a separate contract, Tristar is leasing residual fuel oil [RFO] storage to GPA at the cost of \$169,209.26 per month, with \$656,640 plant delivery fee, and Tristar's RFO storage contract costs GPA \$2,687,151.17 annually and this contract is set to expire in August, 2026.²² GPA states that Tristar's completion of the work on Tank 1934 will result in GPA not continuing Tristar's RFO storage contract.²³ There are only eight more months left on Tristar's RFO storage contract and the Tristar's six-to-ten-month period, exclusive of material delivery to complete the work, will likely require another extension of Tristar's RFO storage contract. Hence, the period to perform the proposed change order must not exceed the remaining eight months of Tristar's RFO storage contract to be prudent.
16. Correcting Tank 1934's defects and performing the lead abatement is necessary. In its current condition, Tank 1934 has been deemed "not suitable for service."²⁴ Hence, the correcting Tank 1934's defects and performing the lead abatement are necessary to bring it back into service.
17. Based on the foregoing, the \$4,147,691.84 cost of the proposed change order is reasonable and necessary. However, GPA must carefully supervise the work to ensure that it is completed prior to the August, 2026 expiration of Tristar's RFO storage contract for the proposed change order to be prudent.

²⁰ GPA Responses at PUC-04-07.

²¹ GPA Petition at 12.

²² PUC Order dated May 29, 2025, GPA Docket No. 25-11 at 4.

²³ GPA Petition at 3.

²⁴Id., at 8.

RECOMMENDATION

18. Counsel recommends that the PUC approve and ratify the \$1,263,448 cost of Change Order No. 5, and grant GPA's request that the PUC approve the \$4,147,691.84 cost of the proposed change order and that the PUC require GPA to ensure the work be completed prior to the expiration of Tristar's RFO storage contract with GPA to avoid a costly extension of that contract.
19. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 12th day of December, 2025.

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