RESOLUTION NO. 03-FY2019

RELATIVE TO RATIFICATION OF THE CONTRACT EXTENSION WITH EUROFIN EATON ANALYTICAL INC. FOR LABORATORY SERVICES

WHEREAS, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities (“CCU”) has plenary authority over financial, contractual and policy matters relative to the Guam Waterworks Authority (“GWA”); and

WHEREAS, the Guam Waterworks Authority (“GWA”) is a Guam Public Corporation established and existing under the laws of Guam; and

WHEREAS, the Consolidated Commission on Utilities under Section 5452 of Title 5 of the Guam Code Annotated has the authority to ratify the procurement of goods and services if there is no indication that the company who was awarded the procurement acted in bad faith and there is a finding that the procurement is for GWA’s use and is in the best interest of the Territory of Guam; and

WHEREAS, in April of this year, GWA Compliance and Safety initiated a procurement to replace the current Laboratory Services Contract that was competitively procured in 2013 with a contract date of August 2, 2013 which, after completing two extensions was set to expire on August 2, 2018; and

WHEREAS, on May 7, 2018, GWA put out an Invitation for Bid (IFB) (Exhibit A) that was opened on May 23, 2018, soliciting bid proposals from experienced and responsive bidders for a US Environmental Protection Agency certified lab able analyze water and wastewater sample provided by the Guam Waterworks Authority (“GWA”) in a manner that meets the “Standardized Monitoring Requirements” established by the Guam Environmental Protection Agency as provided under the Safe Drinking Water Act and the Guam Primary and Secondary Safe Drinking Water Regulations; and
WHEREAS, after a thorough analysis of the two bids offered at that time, GWA determined that neither bidder was entirely responsive to the technical requirements set forth in the procurement and all bids were rejected (Exhibit B); and

WHEREAS, the procurement documents were revised by GWA regulatory and compliance personnel in preparation to re-bid the solicitation which was advertised on September 10, 2018 (Exhibit C); and

WHEREAS, numerous inquiries came in from potential bidders requesting clarifications which resulted in delaying the opening of the bids to September 27, 2018 (Exhibit D); and

WHEREAS, a conditional award was issued to Eurofins Eaton Analytical, LLC on October 19, 2018 (Exhibit E) (See CCU Resolution 02-FY2019) however, due to the anticipated contract amount, that award requires CCU and PUC approval, which will delay the execution of the contract for this procurement until after the PUC meeting in late December of this year; and

WHEREAS, the average annual anticipated costs for the Laboratory Services is Four Hundred Five Thousand Dollars ($405,000.00) which on a monthly basis, averages approximately Thirty-Five Thousand Seven Hundred Dollars ($35,700.00) including a five-percent (5%) contingency; and

WHEREAS, GWA seeks approval from the CCU to ratify the 2013 contract amendments from August 2, 2018 through the date the agreement will be signed after PUC approval at an estimated monthly cost of Thirty-Five Thousand Seven Hundred Dollars ($35,700.00) per month for laboratory services; and
NOW BE IT THEREFORE RESOLVED, the Consolidated Commission on Utilities does hereby approve the following:

Section 1. The foregoing recitals hereto are hereby ratified, confirmed, and incorporated herein by reference.

Section 2. The Consolidated Commission on Utilities hereby ratifies spending under the existing contract amendments from August 2, 2018 through the end of calendar 2018 at an estimated Thirty-Five Thousand Seven Hundred Dollars ($35,700.00) per month for laboratory services on the following grounds:

   a. There was no indication of bad faith or fraud in any of the procurements contained herein.

   b. According to GWA management, the services is required to ensure for the ongoing need for analytical testing to comply with the Clean Water Act, the Safe Drinking Act and the 2011 Court Order. The recitals set forth above hereby constitute the findings of the CCU.

   c. All of the procurements herein are in the best interest of the Territory of Guam and the Guam Waterworks Authority.

   d. Only a reasonable profit was given in those instances where the profit was given.

Section 3. This Resolution is hereby determined to be a declaration of official intent of the Consolidated Commission on Utilities

Section 4. All actions heretofore taken by the GWA or the officers thereof or on their behalf not inconsistent herewith related to these purchases are hereby ratified, approved and confirmed.

Section 5. Based on the foregoing, the CCU authorizes GWA management to pay the amount owed between GWA and Eurofin Eaton Analytical Inc. for the laboratory services at an estimated monthly cost of Thirty-Five Thousand Seven Hundred Dollars ($35,700.00) through the end of calendar year 2018.

//
RESOLVED, that the Chairman certified and the Board Secretary attests to the adoption of this Resolution.

DULY AND REGULARLY ADOPTED, this 27th day of November, 2018.

Certified by: 

JOSEPH T. DUENAS  
Chairperson

Attested by: 

J. GEORGE BAMBA  
Secretary

SECRETARY’S CERTIFICATE

I, J. George Bamba, Board Secretary of the Consolidated Commission on Utilities as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular meeting by the members of the Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were present voted as follows:

AYES: 5

NAYS: 0

ABSTENTION: 0

ABSENT: 0
EXHIBIT A
Sunscreen ban gains Hawaii support, not certain if Guam will catch up

By Jamie Ward
jamie@postguam.com

While Hawaii passed legislation May 1 banning the sale of sunscreen containing chemicals believed to be harmful to coral reefs, it’s unclear if Guam will catch up soon.

The state’s move has rekindled a debate on what’s more important: Protecting corals, or keeping sunscreens accessible to protect skin from damaging effects of the sun that could lead to cancer?

The Guam Daily Post asked certain senators if they’re likely to adopt a move similar to Hawaii’s, but there have been no Guam legislative tactics so far.

The Hawaii bill awaits the signatures of the governor, and the rules don’t go into effect until 2021. The legislation would prohibit the distribution of sunscreens containing the chemicals oxybenzone and octinoxate, which some scientists believe contribute to coral bleaching when washed off into the ocean.

The Consumer Healthcare Products Association, a 127-year-old national trade association, representing the leading manufacturers and marketers of over-the-counter medicines and dietary supplements, challenged the sunscreen ban.

“The health, safety, and welfare of millions of Hawaii residents and tourists has been severely compromised by the passage of (legislation) that will ban at least 70 percent of the sunscreens on the market today, based on weak science blaming sunscreens for damage to coral reefs,” the trade organization stated recently.

“This irresponsible action will make it more difficult for families to protect themselves against the sun’s harmful ultraviolet rays, and it is contrary to the many concerns expressed by Hawaii’s medical doctors, dermatologists, and public health experts.”

Banning oxybenzone and octinoxate—key ingredients in effective sunscreens on the market — would drastically and unnecessarily reduce the selection of safe and effective sunscreen products available to residents and visitors, the industry group stated.

Oxybenzone and octinoxate, found in the majority of sunscreens, are safe and effective over-the-counter active ingredients recognized by the Food and Drug Administration to reduce the risks of developing skin cancer, the industry group stated.

“This ban also avoids the real causes of coral decline according to scientists in Hawaii and around the world: global warming, agricultural runoff, sewage, and overfishing,” the industry group stated.

Appointment of Palacios to Customs questioned

By Kevin Kennigan
kevin@postguam.com

A former member of Lt. Gov. Ray Tenorio’s staff has raised questions about the appointment of Eric Palacios as director of the Guam Customs and Quarantine Agency.

Geraldine Castillo said she was the recipient of a series of what she described as “inappropriate emails” sent to her by Palacios in 2011 when she was a staff assistant and Palacios was then the lieutenant governor’s staff as the administrator of the Guam State Clearinghouse.

Castillo said she never filed a sexual harassment complaint against Palacios, but she brought the emails to the attention of her supervisor, who then raised the issue with the lieutenant governor. “I spoke to Eric about this, this has been many years ago,” Tenorio said when asked about the incident last week. “It came out in the media. You can find the articles. It was called sexual harassment.”

“Tenorio could not recall exactly what Palacios’ response was.”

did come out in the media.”

However, Tenorio emphasized, “We don’t tolerate it and I know I spoke to him about it, particularly saying we do not tolerate this stuff.”

“I beg to differ, he said Castillo. “In fact, I was admonished.”

Castillo told The Guam Daily Post that the lieutenant governor “was never involved and did not handle it himself.” Castillo said, “He delegated it to Dong Choe, his chief of staff at the time,” and she was “summoned to Dong’s office,” where she “was ordered to apologize to Eric.” She said Palacios threatened to sue her for defamation of character.

“I was ordered by Dong Choe, to apologize to Eric for sending me inappropriate messages,” she said.

Did Eric apologize? Never.”

Contacted for his comment, Palacios issued the following statement to the Post: “I stand by the resolution of this matter in 2011. This situation involving my former colleagues was investigated, and no harassment was substantiated. We did apologize to each other, and we have not had any contact since. I hope she is doing well and I continue to wish her the best.”

GUAM WATERWORKS AUTHORITY

**Starter Water, Better Lives.**

Guam A. Nelson Public Services Building

888 Route 13, Mangilao, Guam 96913

Tel: (671) 300-6343 or Fax: (671) 443-3750

*This ad is paid for by the Guam Waterworks Authority.*

**INVITATION FOR BID**

The GUAM WATERWORKS AUTHORITY will receive sealed bids for the following GWA F&I 2018-06 for Laboratory Services. Bids will be accepted until 10:00 a.m. Chamorro Standards Time, May 3, 2018 and GWA F&I 2018-05 for Pick-Up Trucks 4 x 2 Regular Cab. Bids will be accepted until 2:00 p.m. Chamorro Standards Time, May 3, 2018 at the GWA Procurement Office first floor located at the Offices B. Nelson Public Services Building in Mangilao at which time and place all bids will be publicly opened and read aloud. All bids must be accompanied by a Bid/Performance Bond in the amount of thirteen percent (13%) of the total bid price. Bid security may be bid/performace bond, surety bond, certified check or cashier’s check made payable to Guam Waterworks Authority. A non-refundable amount of $10.00 is required for the purchase price of every set of bidding documents which are available at the GWA Procurement Office. Bidders can download a bid package at www.guamwaterworks.org without charge, although vendors are strongly encouraged to contact or visit the Procurement Office to register to ensure that updated information of procurements or bid amendments are distributed to you.

GUAM reserves the right to reject any or all proposals and to waive any minor imperfection in the bid proposal in the interest of the Guam Waterworks Authority.

MIGUEL C. BORDALLO, P.E.

General Manager
EXHIBIT B
Subject: IFB Number: 2018-05
For: Laboratory Services
Reference: Re-bid
Bid Opening Date: June 05, 2018
Time: 10:00 AM

Vendor Names Registered Bids:
Eurofins Eaton Analytical LLC.
ARS Aleut Analytical
DG
SGS Guam Inc.
SGS Philippines, Inc.
M.D Wholesale
Cassidy’s Associated Insurers, Inc

Evaluations Committee Findings:
Submittals:
Eurofins Eaton Analytical LLC.
ARS Aleut Analytical

The committee members determines that both bid submittals were Nonconformance with the “All or None” requirements, and therefore both offers are deemed non responsive, and thereby the evaluation committee recommends to issue a Re-Bid.

Please see attached: “All or None Bids Proposals.”

Miguel C. Bordallo, P.E. GM

( ) Approve       ( ) Disapprove

Vincent Guerrero, Supply Administrator

( ) Approve       ( ) Disapprove
CHAPTER 3
SOURCE SELECTION AND CONTRACT FORMATION

All or None Bids or Proposals. Only when provided by the solicitation may a bid or proposal limit acceptance to the entire bid or proposal offering. Otherwise, such bids or proposals shall be deemed to be nonresponsive. If the bid or proposal is properly so limited, the territory shall not reject part of such bid or proposal and award on the remainder.
ARS Aleut Analytical  
3710 Woodland Dr, Suite 900  
Anchorage, AK 99517  
TEL: 907-841-9478  FAX: 907-258-6634

Bid Invitation No. GWA IFB 2018-05  
Opened: June 05, 2018 @ 10:00AM

Description: Laboratory Services

The following is the result of the above-mentioned bid. Refer to the items checked below.

[ ] Cancelled in its entirety.

[ ] Rejected due to:
   [ ] Late submission of bid
   [ ] No bid security or insufficient bid security amount submitted as required by Section 11 of the General Terms and Conditions
   [ ] Not meeting the delivery requirement as stated in the IFB
   [ ] Non-conformance with the “All or None” requirements.
   [ ] Inability to provide future maintenance and services to the equipment
   [ ] High price:
   [ ] Other:

[ ] Bid is recommended for award to: re-bid

Remarks: Thank you for your time and participation.

Miguel C. Bordallo P.E  
General Manager
Hafa Adai Rick,

Please see attached Bid Status for IFB 2018-05 (RE-BID) Laboratory Services, bid is recommended for award to Re-Bid. Kindly acknowledge and send back the soonest.

Please feel free to contact me if you have any questions. Have a great day!

Adios,

Mary D. Torres
Buyer II
871-300-6032
Gloria B. Nelson Public Services Building
688 Route 15, Mangilao, Guam 96913
Fax. No.: (871) 549-3750
Better Water Better Lives
Better Water Better Lives
BID STATUS

Date: July-16-2018

Eurofins Eaton Analytical, LLC
750 Royal Oaks Drive, Suite 100
Monrovia Ca, 91016
TEL: 625-386-1100 -FAX: 626-386-1101

Bid Invitation No. GWA IFB 2018-05
Opened: June 05, 2018 @ 10:00AM
Description: Laboratory Services

The following is the result of the above-mentioned bid. Refer to the items checked below.

☒ [ ] Cancelled in its entirety.
☒ [ ] Rejected due to:
  [ ] Late submission of bid
  [ ] No bid security or insufficient bid security amount submitted as required by Section 11 of the General Terms and Conditions
  [ ] Not meeting the delivery requirement as stated in the IFB
  ☒ [ ] Non-conformance with the “All or None” requirements.
  [ ] Inability to provide future maintenance and services to the equipment
  [ ] High price: [ ] Other:

☐ [ ] Bid is recommended to: re-bid

Remarks: Thank you for your time and participation.

Miguel C. Bordallo P.E
General Ménager
Hafa Adai Zenon,

Please see attached Bid Status for IFB 2018-05 (RE-BID) Laboratory Services. bid is recommended for award to Re-Bid. Kindly acknowledge and send back the soonest.

Please feel free to contact me if you have any questions. Have a great day!

Adios,

Mary D. Torres
Buyer II
671-300-6032
Gloria B. Nelson Public Services Building
688 Route 15, Mangilao, Guam 96913
Fax. No.: (671) 649-3750
Better Water Better Lives
Better Water Better Lives

GUAM WATER AUTHORITY
EXHIBIT C
Djokovic, del Potro meet in final

On Sunday, Djokovic will meet third-seeded Juan Martin del Potro of Argentina, the 2009 US Open champion, in the 23rd Grand Slam final of his career.

The sixth-seeded Djokovic advanced to the final in quick order, bypassing 23rd-seeded Kei Nishikori of Japan 6-3, 6-4, 6-2 Friday. Earlier, del Potro moved into his second career Grand Slam final when leading 7-6 (7-3) 6-2, world No. 1 Rafael Nadal retired from the match with a knee injury.

Djokovic’s strategy in the final will be to counter del Potro’s two big weapons: his serve and forehand. The Serb owns a 14-4 lifetime record over del Potro that should bolster his confidence.

This will not be the first encounter between the two at the US Open. They met here in the 2007 third round and 2012 quarterfinals. Djokovic prevailed on both occasions.

“T’ve played him many times on different occasions,” Djokovic said. “We’ve never faced each other in a Grand Slam final, so that’s something new.”

“One of the keys of the match will be return; how well I can return, how many returns I can get back in play, but also try to have some depth in that return, and how accurately I can serve myself.”

For Djokovic, the US Open title quest is about more than just picking up a 14th major trophy. He’s hoping to score back-to-back Wimbledon and US Open titles for the third time in his career. He previously achieved that feat in 2011 and 2015, the two times he won the US Open in seven final appearances in New York.

Del Potro, who underwent four wrist surgeries after winning his lone Grand Slam trophy at the US Open in 2009, shocked Roger Federer in that five-set thriller on Arthur Ashe Stadium. It’s no wonder the Argentine constantly refers to the US Open as his favorite tournament in the world.

Nevertheless, winning the title will require more than simply hitting the Open his favorite place.

“It will be a difficult match because we are close friends,” del Potro said. “For sure, we both want to win. But Novak has won the Wimbledon already. He’s playing so good. He will be the favorite to win on Sunday. But I don’t know. When I played Roger nine years ago, he was the favorite to win, as well. I try to make the surprise again.”

“I’m here,” he added. “I’m excited to keep surprising the tennis world, as I did with myself. (You) never know what could happen in the future. So I’m happy just to be a tennis player again after all the wrist problems.”

If del Potro has one special ingredient in his corner it’s that he’s likely to receive a boisterous share of the crowd support in the final. He’s a fan favorite in these parts, and coupled with 12 boisterous fans who traveled here from his hometown of Cancun, the stadium will be rocking.

And Djokovic doesn’t hesitate in admitting he understands the appeal of his opponent.

“He’s a giant, too,” Djokovic said. “He’s really tall, has a big game, but at the same time he handles the right values in life. He cares about his family, he cares about his friends, he respects everyone. He fights every match from the first to the last point. I think people can relate to that and appreciate what he brings to the tennis.”
Young logistics company aims to battle Amazon

(Chicago Tribune) - With $40 million in new investments announced Thursday, Chicago-based e-commerce logistics company ShipBob is eying an expansion — starting with a new fulfillment warehouse and a push to hire 100 people in the next year.

The startup aims to help small to midsize e-commerce companies ship their products at speeds similar to Amazon. Shipping logistics tends to be the hardest part of launching an e-commerce brand, said Diluv Saxena, ShipBob's co-founder and CEO.

"The expectation from a customer standpoint is that they will get all of their e-commerce orders delivered to them like Amazon Prime: same-day, next-day," he said. "These e-commerce businesses don't have the infrastructure to support that customer expectation."

ShipBob plans to use its $40 million round of funding to continue working toward that capability and improve its software platform. Its new facility in suburban Cicero, Illinois, is six times larger than the company's previous Chicago-area warehouse. It can facilitate same-day delivery for Chicago-area customers ordering products from e-commerce platform Shopify.

Increasing competition

Other e-commerce fulfillment companies are also investing in the Chicago area to keep up with booming demand from online shoppers.

Las Vegas-based Rakuten Super Logistics announced Wednesday that it would open two additional fulfillment centers, one in New Jersey and the other in suburban McCook, which is expected to open in October. Amazon also has been building up its presence in the area and now operates more than half a dozen facilities in Illinois.

There is room in the ecommerce fulfillment world for a new player besides Amazon, said Sunil Chopra, a professor at Northwestern University's Kellogg School of Management. To compete with the tech giant and other players, ShipBob will need to take advantage of its scale to lower the cost of its services for customers.

"That is the key," he said.

ShipBob's new Cicero warehouse is roughly the size of two football fields. The space is still filling up, but already occupying the shelves are products from at least 1,000 e-commerce companies, including quinoa snack brand I Heart Keenwah and apparel maker Creepy Co., both based in Chicago. There are rows of bins filled with smaller items, such as watch straps and zombie T-shirts, and racks of unpackaged boxes stuffed with products from soak to back-hair trimmers waiting to be ordered. Workers move between the rows, putting boxes on racks and sorting through pallets.

"There was a time when we knew all the clients and products, and that's long gone," co-founder Jivko Bohinov said on a recent afternoon, as he walked through the rows of items.

In about a year, ShipBob grew from more than 350 employees to 60.

"The company's hiring plans for the next year are fueled by its plans to open more fulfillment centers and double the size of its software engineering team," Saxena said.

Hard work poured into coffee shop

UNIQUE LOOKING BUSINESS: Peter and Hiroko Wolls, with their sons William, left, and Noel, stand in front of the Suga Coffee and Tea on Marine Drive across the Adelup intersection. An old shipping container was converted into the coffee shop. According to Peter Wolls, the couple worked on the project for nearly two years before being able to open the business. Wolls estimates that he has spent nearly $300,000 to launch the drive-thru concept. Norman M. Taura, The Guam Daily Post

GUAM WATERWORKS AUTHORITY

"Better Water, Better Lives."

Stella B. Nelson Public Services Building

194 Route 11, Mangilao, Guam 96913

Tel: (671) 633-4127 / Fax: (671) 635-3750

*This AD IS PAID FOR BY GWA (PUBLIC LAW 28-12)

INVITATION FOR BID

The GUAM WATERWORKS AUTHORITY will receive sealed bids for Laboratory Services Re-Bid, in GWA IFB, NO. 2018-33, Bids will be accepted until 10:00 a.m., Chamorro Standard Time, September 27, 2018 at the GWA Procurement Office First floor located at the Stella B. Nelson Public Services Building in Mangilao, at which time and place all bids will be publicly opened and read aloud. All bids must be accompanied by a Bid / Performance Bond in the amount of 10% of the total bid price. Bids securely may be bid/performance bond, Surety Bond, certified check or cashier's check made payable to Guam Waterworks Authority. A non-refundable amount of $15.00 is required for the purchase price of every set of bidding documents which are available at the GWA Procurement Office. Bidders can download a bid package at www.guamwaterworks.org without charge, although vendors are strongly encouraged to contact or visit GWA Procurement Office to ensure that updated information, notices or bid amendments are distributed to you.

GWA reserves the right to revise or reject any or all proposals and to waive any minor imperfection in the bid proposal in the interest of the Guam Waterworks Authority.

MIGUEL C. BORDALLO, P.E.
General Manager
EXHIBIT D
September 19, 2018

Bid Amendment No. 1
Invitation for Bid No: 2018-33
For: Laboratory Services (Re-Bid)

Prospective Bidders are hereby notified of the following:

Bid opening date scheduled for September 27, 2018 at 10:00 a.m. has been rescheduled.
New bid opening date and time is scheduled for October 09, 2018 @ 10:00 a.m.

Nothing Follows:

[Signature]
Vincent E. Guerrero, CPM
Supply Management Administrator
EXHIBIT E
GUAM WATERWORKS AUTHORITY
Gloria B. Nelson Public Service Building
689 Route 15, Mangilao GU, 96913
Tel: (671) 300-6027 Fax: (671) 649-3780

NOTICE OF CONDITIONAL AWARD

Date: October 19, 2018

Rick Zimmer
Eurofins Eaton Analytical, LLC
750 Royal Oaks Drive, Suite 100
Monrovia CA, 91016
Phone #671-300-6027
Office: +1 949 716 7180

Re: Invitation for Bid Number: IFB 2018-33 Laboratory Services

Heads Adal Mr. Zimmer,

The Guam Waterworks Authority ("GWA") has considered the bid submitted by Eurofins Eaton Analytical for the above described reference in response to its Advertisement for bid dated September 19, 2018 and you are hereby notified that the Bid Item(s) submitted has been accepted by GWA. Please be advised the Performance and Payment Bond (which must remain in full force and effect until all performance has ended, which includes all warranty periods).

You are also advised that any obligation incurred by your firm prior to execution of the contract is entirely at your own risk and GWA shall have no obligation to reimburse costs incurred prior to execution of the contract.

Please note this Notice of Award is conditional on obtaining the approval of the Guam Consolidated Commission on Utilities for any award over $250,000 and the approval of the Guam Public Utilities Commission where the total value over the life of the contract could exceed $1M. Also, award is conditional upon providing any documents such as proof of licensure, proof of insurance or other documents required to be submitted to GWA under the Bid or Guam law.

/  
/
You are required to return an acknowledged copy of this Conditional Notice of Award to the Procurement Administrator.

Sincerely,

[Signature]
Miguel C. Bortolto, P.E.
General Manager

ACCEPTANCE OF CONDITIONAL NOTICE OF AWARD

Receipt of the above Notice of Conditional Award for GWA Bid No. 2018-33 is hereby acknowledged

[Signature]
By: Rosco Ramirez
Title: President
(please print)

Dated this 25 day of October, 2018.

******** END OF CONDITIONAL NOTICE OF AWARD ********

Ref: RFQ 2018-33 Laboratory Services