	RECEIVED	
1		
2	Harmon, Tamuning, GU 96913 DATE: 3/31 / 14	
3	T (671) 649-8120 F (671) 649-5737 TIME: 2:06 DAM DPM BY: AA	
4	info@jrngu.com FILE NO OPA-PA: 14-00	
5	Interested Party	
6	BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY	
7		
8	In the Appeal of J & B Modern Tech, OPA-PA-14-001	
9	Appellant. INTERESTED PARTY JRN AIR CONDITIONING &	
10	REFRIGERATION, INC.'S COMMENTS TO SUBMITTED	
11	AGENCY REPORT	
12		
13		
14	JRN Air Conditioning & Refrigeration, Inc. ("JRN" herein), an interested party in this	
15	matter, submits the following Comments, Argument, and Exhibits in response to and support of	
16	the Guam Department of Education's ("GDOE" herein) Agency Report and Agency Statement	
17	previously submitted.	
18		
19	COMMENTS	
20	On or about September 20, 2013, Mr. John Leon Guerrero of GDOE Facilities and	
21	Maintenance requested a cost proposal from JRN for duct work to be performed at Simon	
22	Sanchez High School, Southern High School, and Upi Elementary School, three of the four	
23	schools listed in the relevant invitation for bid (GDOE IFB 005-2014 lists a fourth school, C.L.	
24	Taitano Elementary School) (Exhibit A). To prepare the requested cost proposal, JRN personnel	
25	conducted thorough site inspections at Upi Elementary School on September 20, 2013 and at	
26	Simon Sanchez High School on September 23, 2013, (Exhibit B and Exhibit C). Because of	

inclement weather, JRN personnel did not complete their site inspections until September 24,

2013 at Southern High School (Exhibit D).

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Upon completing site inspections at the three schools, JRN's Project Engineer, Mr. Dan Gomez, informed Mr. Leon Guerrero that the scope of work for which the cost proposal was requested amounts to more than \$100,000 and should thus be opened for bids. Subsequently, on November 25, 2013, GDOE IFB 005-2014 was issued.

A December 5, 2013 notice from GDOE's Mr. Marcus Pido informed all bidders that a pre-bid conference and site inspection was to take place on December 6, 2013, commencing at Simon Sanchez High School and proceeding onto the three other schools (Amendment No. 1). Mr. Elmer Santos, a senior technician of JRN, attended this day specifically because C.L. Taitano Elementary School was not among the schools initially discussed by Mr. Leon Guerrero and Mr. Gomez and thus JRN did not conduct a site inspection at that school during the month of September 2013. The visit to Southern High School was, however, rescheduled for December 10, 2013 due to time constraints. Because JRN conducted its own site inspection of Southern High School on September 24, 2013, attendance on December 10, 2013 was not necessary to the submission of JRN's bid.

ARGUMENT

Section 2.1.2 of GDOE IFB 005-2014 does state that "[s]ite inspection and field verification of existing layout and conditions is mandatory." Nowhere does this section or any other section within the invitation for bid states that attendance of bidders at any site inspections organized and scheduled at the discretion of GDOE is mandatory. The plain language of Section 2.1.2 cannot be interpreted to mean anything beyond its own words or with regard to events that may or may not be scheduled by GDOE in the future. Presumably, the spirit of Section 2.1.2 seeks to ensure that bidders responsibly know the sites prior to submitting bids in order to maximize the accuracy of the costs and project needs they in turn present to GDOE for consideration. However, without more than a basic provision requiring bidders to conduct site inspections presumably in the interest of gauging costs, Section 2.1.2 cannot be read to require attendance at either the December 6, 2013 or December 10, 2013 site inspections.

Furthermore, any reference at all to attendance at the December 6, 2013 or December 10,

2013 site inspections being mandatory was not made by GDOE. Rather, in the questions submitted to GDOE, JRN itself asked two questions: "Will there be a pre-bid conference?" and "Who will be scheduling the *mandatory* site inspection (emphasis added)?" In response to JRN's first question, GDOE noted the December 6, 2013 date, and to the latter, GDOE answered "[s]ite inspection will kick off immediately following pre-bid conference commencing with Simon Sanchez High School followed by Upi Elementary, CL Taitano and finally Southern High School" (Amendment No. 1).

JRN had prior notice of GDOE's exercise of discretion in calling and organizing a site inspection. JRN then characterized the GDOE-scheduled site inspection as "mandatory" in its question because of the addition of C.L. Taitano Elementary School to the scope of work. As stated above, this school was not one of schools initially discussed when a cost proposal was requested and it was the only school JRN has not previously inspected. Thus, to JRN's understanding, attending the one GDOE-scheduled site inspection was necessary to its bid.

That time ran out on December 6, 2013 and the Southern High School site inspection would have to take place on December 10, 2013 did not concern JRN because a second site inspection of that school would have been frivolous in light of the site inspection conducted by JRN on September 24, 2013. Thus, while attendance on December 6, 2013 was mandatory, i.e. a self-imposed requirement, for JRN, attendance on December 10, 2013 was not.

Lastly, JRN's difference in treatment of December 6, 2013 and December 10, 2013 was also due to the occurrence of the pre-bid conference on December 6, 2013, immediately prior to the site inspections, which was called and organized also at the discretion of GDOE per Section 2.3.1 of GDOE IFB 005-2014.

The grounds on which Appellant J & B Modern Tech protested against the award to JRN and is now appealing GDOE's decision as to that protest are misguided. JRN respectfully ask that the Office of Public Accountability dismiss this matter.

Dated: March <u>(3/</u>, 2014

JULISIS R. NUCUM JRN Air Conditioning & Refrigeration, Inc.

DECLARATION

I, JULISIS R. NUCUM, declare that the foregoing statements are true and correct, to the best of my knowledge, and make such statements under penalty of perjury.

Dated: March <u>3/</u>, 2014

By

JULISIS R. NUCUM JRN Air Conditioning & Refrigeration, Inc.

COMMENTS TO AGENCY REPORT

SERVICE LIST

1	SERV
2	
3	J & B MODERN TECH Mr. John C. Terlaje, Esq. 194 Hernan Cortez Avenue
4	Suite 216, Terlaje Professional Building
5	Hagatna, GU 96910 T (671) 472-8894
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8	GUAM DEPARTMENT OF EDUCATION Mr. Andrew T. Perez, Esq. PO Box DE
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11	OFFICE OF PUBLIC ACCOUNTABILITY
12	Mr. Jerrick Hernandez, Auditor 238 Archbishop Flores Street
13	Suite 401, DNA Building
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15	F (671) 472-7951 jhernandez@guamopa.org
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EXHIBIT A

Dan Gomez

From:

John V. Leon Guerrero (Facilties & Maintenance) < ivleonquerrero@gdoe.net>

Sent:

Friday, September 20, 2013 2:17 PM

To:

Dan Gomez

Cc:

irestella@gdoe.net; julisis nucum; lynnebalatbat@jrngu.com

Subject:

Re: FW: DUCT WORKS PROPOSAL

Attachments:

image001.jpg

Dan, Southern high School would be everything on roof top of Building 5000, Simon Sanchez would be all of the units on main building and Science building. Upi would be buildings A,B,Cand D. These are all 5 ton package units. Please get with JR. He has all the specs.

On Fri, Sep 20, 2013 at 10:23 AM, Dan Gomez < dangomez@jrngu.com > wrote:

Hafa Adai.

Just a few clarification. Elmer and his crew are up in UPI, Simon Sanchez and Southern High. Are you requesting a quotation/proposal for units and duct works? Or just the transition ducts? If this is just the Transition ducts, we need information as to the exact location of the unit and dimension of the units.

Rain is pouring hard and I asked my guys to stop for now and resume when it's safe.

Regards,

Dan Gomez

Project Engineer



JRN Air Conditioning & Refrigeration

Personal E-mail: dangomez@jrngu.com

Company E-mail: info@jrngu.com

Tel # (671) 649-8120/21

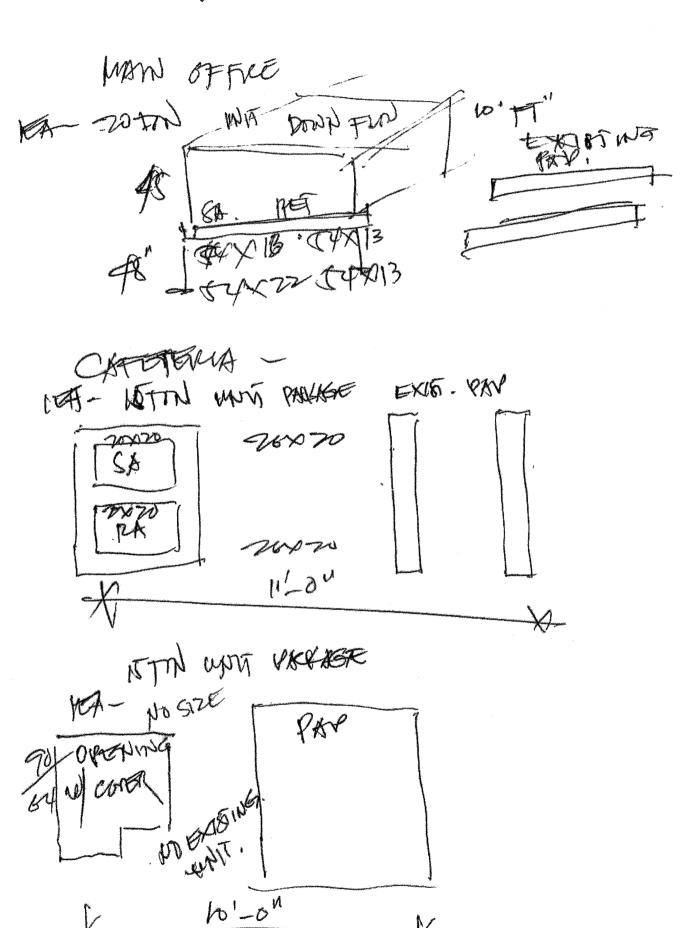
Fax# (671) 649-5737

John V. Leon Guerrero Tel. 475-0616 E-Mail: jvleonguerrero@gdoe.net Building Maintenance Supervisor 162 North Marine Corps Drive Piti,Guam 96915

EXHIBIT B

1/2 1/2

1513



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SMON SANCHEZ MESCHOTT A/C 9-23-13 AR-1 TRAVE_7.5 TON XC-2-75-M TRAVE/ 如可 10TT" 态的 ·NXXXI AC-3.10TN

SIMON SAHONEZ HIGSCHOOL 9-23-13 AK-4-15 TON PHAM37-22 PHEEM. 15 TO 38X20 AR-6-KTM

SMAN SANCHEZ HIGHTON 9-23-12

A/C-8-10TIN

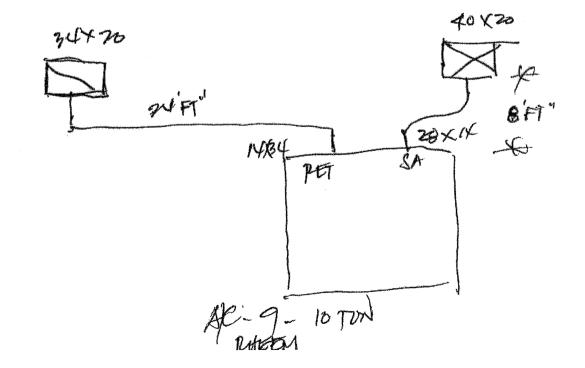
PHROOM

SA PET

14/-FT'

14/-FT'

14/-FT'



MG SHOOL 9-23×13 SIMM SPHOBEZ AC-10-7.5 TO 16'FT" 28 F

SIMON STACKES PRESIDENT 9-23-13 AK-12-10700 10 TON TRAW 10TON -PAREM PET NXE 松大列 pc 188 00×98

SMON SONGHEZ MESCHOOL 38×16 31×15 THE TOTAL AIC-16-ATO

EXHIBIT D

9-24-13 SHEET MOTHE CAA-18 SH Stro (MVTI-A) SONTH ENTOJ. Top Root 50× 20 JX 20 30/20 18-0"FT (外2) BONH 18'-0" FT PISEN PON

SHOOT METAL GA # 18

SAS BLUGISON
SOUTH WEARS

