



Jerrick Hernandez <jhernandez@guamopa.com>

Appeal Case No. OPA - PA-21-007 - Comments on Agency Report

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Thu, Oct 14, 2021 at 3:40 PM

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Hafa Adai,

Please see G4S Comments on Agency Statement for OPA - PA-21-007, attached here for your perusal.

A receipt confirmation would be most appreciated.

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Thank you,

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6 **OFFICE OF THE PUBLIC AUDITOR**

7 **PROCUREMENT APPEALS**

8 In the Appeal of
9 G4S Security Systems (Guam) Inc.

APPEAL CASE NO. OPA-PA-21-007

10 COMMENTS ON AGENCY STATEMENT

11 Appellant

12
13 G4S Security Systems (Guam) Inc. response to the October 4th, 2021, Agency Statement made by
14 Guam Department of Education (GDOE) for GDOE Multi-Step Invitation for Bid (IFB) 026- 2021, for Indoor and
15 Outdoor Wireless Local Area Network (“WLAN”) Infrastructure Installation Project.

17 I. **BACKGROUND AND ISSUE SUMMARY**

18 On April 13, 2021, Guam Department of Education (hereafter referred to as “GDOE”) issued its Multi-Step
19 IFB 026-2021 for Indoor and Outdoor Wireless Local Area Network (“WLAN”) Infrastructure Installation Project
20 (hereafter referred to as the “IFB”). On May 28, 2021, GDOE received bids for the IFB from G4S Security Systems
21 (Guam) Inc. (hereinafter referred to as “G4S”) and Technologies for Tomorrow Inc. (hereafter referred to as “TFT”).
22 On July 13, 2021, GDOE awarded to TFT as the lowest, most responsible and responsive bid for the IFB.

23 G4S contends that TFT is not the most responsible and responsive bidder, evidenced by the absence of
24 proper, required and necessary licensing to execute the scope of work in the IFB.

1 II. GDOE FAILED TO PROPERLY EVALUATE THE IFB IN ACCORDANCE

2 WITH GUAM PROCUREMENT LAW, RULES AND REGULATIONS, AND THE TERMS AND CONDITIONS OF THE IFB.

3 The contract shall be awarded with reasonable promptness by written notice to the lowest responsible
4 bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. See 5 GCA §5211(g).

5 Guam Procurement Law defines a responsible bidder as one with the capability in all respects to perform fully the
6 contract requirements, and the integrity and reliability which will assure good faith performance, and a
7 responsive bidder is one who has submitted a bid which conforms in all material respects to the Invitation for
8 Bids. See 5 GCA §§ 5201(f), 5201(g).

9 The Guam Department of Education (GDOE) is seeking a vendor that is capable in expanding the Wireless
10 Local Area Network (WLAN) infrastructure at twenty-six (26) elementary schools, eight (8) middle schools and six
11 (6) high schools. See IFB 026- 2021, § 2 (2.2).

12 GDOE failed to recognize that in IFB section 2.3 Project Description, the technical specification and scope
13 of services had specific scope(s) of work that requires a vendor to have a valid C-68 Telecommunications Guam
14 Contractors License and a Responsible Management Employee (RME). Although the IFB does not directly state a
15 requirement for a Guam Contractors License, it indirectly affirms that a Guam Contractors License is necessary by
16 stating in the IFB Project Description, the activity and type of work required to fulfill the contract that only a
17 vendor with the valid Guam Contractors License and RME are allowed to do. See IFB 026- 2021, section 2, part 2.3.
18 Submitting a bid that does not conform to this is therefore a determination that the bidder is not responsive. TFT
19 is not responsive because they have not submitted a bid which conforms in all material respects to the IFB.

20 GDOE erroneously dismissed the following question in the IFB by vendor during the bid process. See IFB
21 Amendment #4 question 8.

22 *Given the scope of work to be performed by the Bidder at each of the GDOE school sites, GDOE Bidder*
23 *requirements for similar projects (example: GDOE IFB-006-2021), and applicable Guam law related to Contractor's*
24 *Licensing, please confirm the requirement for the Bidder to have a Guam Contractor's license with a*
25 *telecommunications specialty (C-68) and for evidence of this license to be provided with the bidder's submission.*
26 ***GDOE Response: The project includes the furnishing and installation of network equipment to expand the***
27 ***wireless internet coverage in the public schools. This project is very similar to previous awarded wireless***
28 ***expansion projects in the public schools. The project activities does not include any structural***
fabrication/construction or structural alteration or repair.
Bidders are responsible to be informed and knowledgeable of any regulatory requirements for this project.
Bidders should be guided by any regulatory requirements issued from the federal and/or local governing entity.

1 The IFB makes construction and cabling a requirement and criteria because it is laden with project
2 requirements, statements and descriptions which state that the installation of equipment, conduit and or
3 structured communications cabling and other work are parts of the scope of work. All such activity shall only be
4 undertaken by a contractor who is licensed to do such work and has a Responsible Management Employee (RME).
5 See IFB 026- 2021, section 2, part 2.3 §§ 2.3.1.1.2.5, 2.3.1.1.2.6, 2.3.1.1.2.7, 2.3.1.1.2.8, 2.3.1.2.1.5, 2.3.1.2.1.6,
6 2.3.1.2.1.7, 2.3.1.2.1.8, 2.3.1.2.3, 2.3.1.2.3.2, 2.3.1.2.3.2.1, 2.3.1.2.3.2.2, 2.3.1.2.3.3, 2.3.1.2.3.3.1, 2.3.1.2.3.3.2,
7 2.3.1.4.5, 2.3.1.5.10, 2.3.1.5.10.5, 2.3.1.5.10.7, 2.3.1.5.10.8, 2.3.1.5.10.9, 2.3.1.5.11.4, 2.3.1.5.11.6, 2.3.1.6.1.1.4,
8 2.3.1.6.1.1.6, 2.3.1.6.1.2.4, 2.3.1.6.1.2.5, 2.3.1.6.1.2.6, 2.3.1.6.1.2.7, 2.3.1.6.1.2.8, 2.3.1.6.1.2.9, 2.3.1.6.1.2.10,
9 2.3.1.6.1.2.11, 2.3.1.6.1.2.12, 2.3.1.6.1.3.1, 2.3.1.6.1.3.2, 2.3.1.6.1.3.3, 2.3.1.6.2.5, 2.3.1.7, 2.3.1.7.2, 2.3.1.7.3,
10 2.3.1.7.4, 2.3.1.7.5, 2.3.1.7.6, 2.3.1.7.7, 2.3.1.7.8.1, 2.3.1.7.8.2, 2.3.1.7.8.3, 2.3.1.7.8.4, 2.3.1.7.8.5, 2.3.1.7.8.6, part
11 2.3.2 §§ 2.3.2.5.1.2, 2.3.2.5.2, 2.3.2.5.2.1, 2.3.2.5.2.2, 2.3.2.5.2.3, 2.3.2.7.4, 2.3.2.7.5, 2.3.2.8.2.1, part 2.3.2.9, part
12 2.3.2.10, part 2.3.2.11

13 TFT is **not the most responsible bidder** because they lack the capability to perform fully the contract
14 requirements on Guam. In order to be capable to perform the contract deliverables, the vendor must have the
15 proper Guam Contractors License issued by the Guam Contractors License Board, in this case a C-68
16 (Telecommunications) Specialty Contractor License and a Responsible Management Employee (RME). See 21 GCA,
17 Div. 2, Ch. 70 § 70106 (d) (e). Without a Guam Contractors License, TFT is incapable of fulfilling the requirements of
18 a contract on Guam thereby making them unreliable. Furthermore, a company that knowingly participates in a bid
19 without the proper licensing lacks the **integrity and reliability** which will **assure good faith performance**.
20

21 No person within the purview of this Chapter shall act, or assume to act, or advertise, as a general
22 engineering contractor, a general building contractor or a specialty contractor without a license previously
23 obtained under and in compliance with this Chapter and the rules and regulations of the Contractors License Board
24 (CLB). See 21 GCA, Div. 2, Ch. 70 § 70108. TFT is in direct violation of this through the act of bidding on the IFB
25 without the proper licensing.

26 *Contractor* means any person who undertakes to construct, alter, repair, add to, subtract from, improve,
27 move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project development
28

1 or improvement or do any part thereof, including the erection of scaffolding or other structure of works in
2 connection therewith for another person for a fee. See 21 GCA, Div. 2, CH 70 § 70100 (b).

3 Following the provisions of the aforementioned Guam Codes, Procurement Laws, Regulations, and the IFB
4 shall conclusively determine that TFT should have been disqualified by GDOE during the bid evaluation. Less than
5 that is an improper evaluation and award of the IFB.

6 III. **THIS APPEAL IS PROPERLY BEFORE THE OPA AND SHOULD NOT BE DISMISSED.**

7 TFT does not meet the requirement for the "**lowest, most responsible and responsive bidder** as Guam
8 Procurement Law defines a **responsible bidder** as one with the **capability in all respects** to perform fully the
9 contract requirements, and the **integrity and reliability** which will **assure good faith performance**, and a
10 **responsive bidder** is one who has submitted a bid which **conforms in all material respects** to the Invitation for
11 Bids. See 5 GCA §§ 5201(f), 5201(g). In this regard, The OPA has jurisdiction to properly hear our appeal.

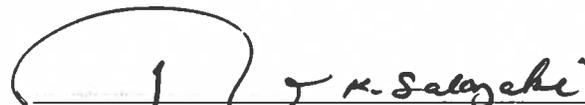
12 TFT's noncompliance with The Guam Contractors License Board makes them ineligible to bid. See 21 GCA,
13 Div. 2, Ch. 70 § 70108. Their submission of a bid obscured an otherwise transparent and straight forward process.

14 GDOE overlooked the IFB construction, installation and cabling requirements in the award process.

15 G4S is the lowest, most responsible and responsive bidder and meets all criteria pursuant to Guam
16 Procurement Law, GDOE's IFB, and The Guam Contractors License Board rules and regulations.

17 In conclusion and based on the previously mentioned reasons, G4S hereby requests that TFT be
18 disqualified from the bid and award the IFB to G4S who is in fact the lowest, most responsible and responsive
19 bidder and meets all criteria pursuant to Guam Procurement Law, GDOE's IFB, and The Guam Contractors License
20 Board rules and regulations.
21

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24
25 Dated this 14th of October, 2021.

26
27 
28 Tefesa Sakazaki – General Manager