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RESPONSE TO TRIPLE J'S REVIEW OF AGENCY REPORT

On August 2, 2013, Triple J filed a response to GSA's Agency Report on OPA-PA-006-2013. Triple J raised three (3) issues:

1. Triple J argues that Morrico Equipment was not the lowest responsive and responsible bidder as it failed to meet the emergency exit door and riveted body panels. Further, it failed to meet the delivery requirements.

GSA's Response: GSA acknowledged that Morrico Equipment did not meet the emergency exit door location and riveted body panels when the original appeal was filed, however, since the award was already issued, (as recognized by Triple J in their comment 2), the proper review of this protest was under Remedies After Award under the procurement law (5 GCA Section 5452). As such, the government has ratified the contract. As to the issue of delivery being late, this issue was not previously raised and inappropriate to raise at this level.

2. Triple J agrees with the fact that the protest was filed after the award, but argues that it was impossible for Triple J to file a protest any sooner, but the government had the opportunity to correct the deficiencies.

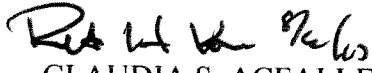
GSA Response: DPW had the opportunity to review the buses and determine whether to accept the buses or not. However, the appropriate remedy is, as previously stated, is that under the "Remedies After Award" section of the procurement law. As such, the Department of Public Works determined that the emergency side door and rivets provided are acceptable.

3. Triple J acknowledges that its appeal to the OPA was filed beyond the 15 day time limitation, but argues that its reconsideration tolls the period of filing while it was awaiting the response to its reconsideration request. Further, they argue that the response by GSA was done in a period for Triple J to miss the period of filing of an appeal with the OPA.

GSA Response: Triple J is attempting to force responsibilities upon the government that does not belong to the government. Since Triple J is arguing that the period of time for filing an appeal is tolled when asking for reconsideration, where does it state so in the law or regulations? The rules do not "toll" the period of time for filing an appeal when asking for reconsideration. The rules provide clearly that you must file an appeal within 15 days of receiving a denial of a protest. That is the only timeframe given for filing an appeal. Triple J is correct that GSA must respond as expeditiously as possible.

GSA did. The fact that Triple J does not like when the response was given, does not change the fact that there is no "tolling" of when an appeal is to be filed. Filing an appeal rests directly with Triple J and GSA had no powers in preventing them from doing so in the timeframe authorized by law.

Note that the government has filed a Motion to Dismiss against Triple J on this very issue. Therefore, any comments to this by Triple J is inappropriately placed here.


/ CLAUDIA S. ACFALLE
Chief Procurement Officer

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