



Jerrick Hernandez <jhernandez@guamopa.com>

OPA PA 21 006

GPE INC <guampacific@gmail.com>

Tue, Oct 5, 2021 at 9:40 AM

To: Jerrick Hernandez <jhernandez@guamopa.com>, "Gumataotao, Emily" <eggumataotao@triton.uog.edu>, "Camacho, Anthony" <arcamacho@triton.uog.edu>

Dear, Mr Hernandez.

Please see attached Motion for Reconsideration. and confirm receipt of this email.

Very Respectfully,
Sedfrey M Linsangan
President

--

Guam Pacific Enterprise, Inc.
Tel: (671) 649-6994/7/8

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee, you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this email by mistake and delete this email from your system. If you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

 **10 05 2021 DOCUMENTS.pdf**
2314K

Sedfrey M. Linsangan
P.O. Box 23128
Barrigada Guam 96921
Pro Se

BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM


In the Appeal of
Guam Pacific Ent. Inc.
Appellant
vs.
University of Guam
Defendant

Appeal No. OPA-PA-21-006

Motion for Reconsideration

Appellant submits respectfully his
Motion for Reconsideration with the
justifications and authorities.

Dated: Oct. 5, 2021


Sedfrey M. Linsangan
Appellant

Memorandum of Points and Authorities

A Petitioner respect the decision of OPA to dismiss my case without prejudice. But I disagree and present the following arguments.

A) There is no law that provides that the Protestor should wait for the response of the Agency before filing an appeal to OPA.

Discussion

Defendant has presented so many incredible arguments but did not submit justification through Exhibits. All he specified are laws that does not support his claim. He is making his own rules which is under the purview of the OPA. Section 12101 provides the authority to adopt rules of procedure but there

is no adopted rule that I have to wait for the respond of the Agency.

The right forum or body to respond is the OPA which they did not so the Motion to Dismiss is OUT OF ORDER.

B) VOG has already responded on July 2, 2021 by issuing the Bid Status. The status or decision provides that my bid was rejected due to high price and bid is recommended to Docomo. But it was not forwarded to me until Sep. 2, 2021.

Defense claim that decision was not made is not credible. (decision or determination)

C) Section 12105 (h) of Cha. 12 Div. 4

provides that if the award was made after receipt of the protest, the report will include the determination. (Please Exhibit L)

Discussion

In the case of Defense, they did not adhere to the Agency Report which will include their determination as pursuant to this Section. Instead he is in belief that the determination should be presented to Protester after filing the Notice of Protest. Defense is acting in bad faith twice or more by not submitting the complete Agency Report and LOG determination on the protest to the right body which is OPA.

Conclusion

There is a rational basis to reconsider and deny the motion because of the following reasons.

First, UOG has violated Guam Procurement laws and not acting in Good Faith, lost its integrity in administering the bid process.


Second, Defense did not comply with the Agency Report and making allegations that are not justified.

Last is the purifier that was installed since June has harmful effects, health hazards since it is the wrong product, wrong purifier is cause for respiratory illness and has various side effects. I compare it to a person taking the wrong medicine everyday which will lead to serious implications. These installed purifier should be dismantled or taken out asap to prevent the students and workers from the side effects.

I am requesting that the Procurement officers undergo training and schooling in the Bid process in accordance with the law. The VOB students are more safe without the wrong purifier that is not suitable for classrooms.

For the foregoing reasons, I humbly respectfully request to the OPA to reconsider, deny the Motion to Dismiss and schedule a hearing because this case is extraordinary.

Dated: 10/5/21

Respectfully Submitted
By 
Sedfrey M. Linsangal
Appellant

Section 12105

Exhibit
L

2 GAR - DEPARTMENT OF ADMINISTRATION
DIV. 4 - PROCUREMENT REGULATIONS
CH. 12 PROCUREMENT APPEALS TO THE PUBLIC AUDITOR

(a) A copy of the protest;



(b) A copy of the bid or offer submitted by the Appellant and a copy of the bid or offer that is being considered for award or whose bid or offer is being protested, if any had been submitted prior to the protest;



(c) A copy of the solicitation, including the specifications or portions thereof relevant to the protest;



(d) A copy of the abstract of bids or offers or relevant or portions thereof relevant to the protest;



(e) Any other documents which are relevant to the protest; including the contract, if one has been awarded, pertinent amendments, and plans and drawings;

(f) The decision from which the Appeal is taken, if different than the decision submitted by Appellant;

(g) A statement answering the allegation of the Appeal and setting forth findings, actions, and recommendations in the matter together with any additional evidence or information deemed necessary in determining the validity of the Appeal. The statement shall be fully responsive to the allegations of the Appeal;

Section 12105



(h) If the award was made after receipt of the protest, the report will include the determination required under 2 GAR § 9101(e); and

(i) A statement in substantially the same format as Appendix B to this Chapter, indicating whether the matter is the subject of a court proceeding.

SOURCE: ABA 2002 Model Procurement Rules.

§ 12106. Making Information on Appeals Available.

The Public Auditor shall, upon written request, make available to any Interested Party or member of the public information submitted that bears on the substance of the Appeal except where information is proprietary, confidential, or otherwise permitted or required to be withheld by law or regulation. Persons who wish to keep such information submitted by them confidential shall so request by specifically identifying such information within documents submitted,

2 GAR - DEPARTMENT OF ADMINISTRATION
 DIV. 4 - PROCUREMENT REGULATIONS
 CH. 12 PROCUREMENT APPEALS TO THE PUBLIC AUDITOR

CHAPTER 12
PROCUREMENT APPEALS TO THE PUBLIC AUDITOR

NOTE: Submitted by the Office of the Public Auditor to *I Mina' Bente Ocho Na Liheslaturan Guåhan* (28th Guam Legislature) on July 17, 2006. Approved by inaction of the legislature.

- § 12101. Authority and Purpose of Rules of Procedure.
 - § 12102. Jurisdiction of the Public Auditor; Exhaustion of Remedies.
 - § 12103. Definitions.
 - § 12104. Form and Filing of Appeal.
 - § 12105. Agency Report.
 - § 12106. Making Information on Appeals Available.
 - § 12107. Ex Parte Communications with Hearing Officer.
 - § 12108. Hearing Procedures.
 - § 12109. Authority of the Hearing Officer.
 - § 12110. Decisions of the Public Auditor.
 - § 12111. Finality of Decisions.
 - § 12112. Appeal to Public Auditor relative to Method, Solicitation, or Award.
 - § 12113. Appeal to Public Auditor relative to Contract or Breach of Contract Controversies.
 - § 12114. Appeal to Public Auditor of Debarment or Suspension.
 - § 12115. Review of Award Pending Protest or Appeal.
 - § 12116. Disqualification of Public Auditor.
- Appendices A-D.

§ 12101. Authority and Purpose of Rules of Procedure.

These Rules of Procedure are promulgated under the authority of 5 GCA Chapter 5, Article 12, and Public Law 28-68, which gives the Public Auditor the duty to be in control of and be responsible for procurement Appeals in Guam, and the authority to adopt rules of procedure pursuant to 5 GCA § 5701. These rules shall be construed and applied to provide for the expeditious resolution of controversies in accordance with the requirements of 5 GCA Chapter 5 (Guam Procurement Law) and the Guam Procurement Regulations contained in 2 GAR Division 4.