

LAW OFFICE OF JAMES M. MAHER
238 Archbishop Flores Street, Ste. 300
Hagatna, Guam 96910
Tel: 671-477-7892
E-mail: jmpc671@gmail.com

DATE: 1/20/2022
TIME: 1:30 PM AM PM BY: [Signature]
FILE NO OPA-PA: 21-012

**PROCUREMENT APPEAL OF DENIAL OF PROCUREMENT PROTEST
IN THE OFFICE OF PUBLIC ACCOUNTABILITY**

In the Appeal of)	DOCKET NO. OPA-PA-21-012
)	
GRAPHIC CENTER, INC.)	TRIAL BRIEF
)	
Appellant.)	
_____)	

I: CONTESTED ISSUES

- 1) Whether Infosend's proposal was responsive;
- 2) Whether Infosend is responsible;
- 3) Whether the evaluation was supported by competent, objective data.

II. Graphic Center, Inc.'s Argument Summary

A principal concern Graphic Center, Inc.'s ("Graphic") has respecting the proposed award to Infosend is its failure to include in its proposal the information requested in the owner's Exhibit "1" to the RFP. "All submittals must strictly conform to the Request for Proposal and any addenda." Section 1.4 of the RFP.

An additional objection and concern to the proposed award is Infosend's ability to promptly perform given the distance between its operational location and the prospective customers' location. The printing, mailing and the timely delivery to customers on Guam are significant obstacles to a task whose difficulty is compounded by the current Pandemic that has and continues to cause significant transportation delays and interruptions which, in turn, impede and prevent prompt service from off-island locations. Infosend's

assurances of prompt delivery cannot be reconciled with the current situation.

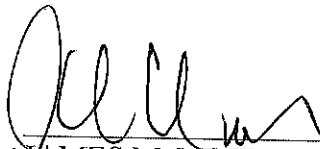
Subsumed in the above-referenced but self-validating concerns is the evaluators' scoring and their criteria to determine the most qualified Offeror. That Infosend received higher scores than Graphic in the presumably-evaluated-selection criteria of section 2.3 of the RFP or in the evaluators' criteria is questionable in light of the absence of readily-obtainable evidence of its proven record of performance or performance under conditions that prevail here and under the aggravating circumstances arising from the Pandemic here or elsewhere in contrast to Graphic, who, over the preceding five (5) years, has delivered prompt and seamless service subject to affirmation through references. As such, the almost certain service delays and interruptions shall not only impact the owner's revenue stream but also its customers' service and satisfaction. The evaluators ignored the fact that Infosend lacks a service system which must be customized to the customer base in its evaluation and resulting score which Graphic submits illustrates an evaluation that lacks a rational and factually relationship to known data.

In affirming Graphic's protest, GPA failed to substantively address the grounds Graphic raised.

Respectfully submitted this 26th day of January, 2022.

LAW OFFICE OF JAMES M. MAHER

By:



JAMES M. MAHER

Attorney for Graphic Center, Inc.