



Jerrick Hernandez <jhernandez@guamopa.com>

In the Appeal of Pacific Federal Management, Inc.

Jennifer S. Mendiola <jsmendiola@bsjmlaw.com>

Tue, Oct 29, 2024 at 2:03 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

Cc: "vduenas@guamopa.com" <vduenas@guamopa.com>, Thyrsa Badana <tbagana@guamopa.com>, "John M. Quinata" <official@guamairport.net>, Kathrina Bayson <giaaifbc724@guamairport.net>, "R. Marsil Johnson" <rmarsjohnson@bsjmlaw.com>, Isa Baza <ibbaza@bsjmlaw.com>, William Brennan <wbrennan@arriolafirm.com>

Dear Mr. Hernandez:

Please see attached **Notice of Procurement Appeal** for e-filing in the above-referenced matter. Kindly confirm receipt via return e-mail.

Thank you. Should you have any questions or concerns, please let us know.

Regards,

Jennifer S. Mendiola,

Secretary to Mr. Johnson and Ms. Baza

BLAIR STERLING JOHNSON & MARTINEZ

A Professional Corporation

[1411 Pale San Vitores Road, Suite 303](#)[Tamuning, Guam 96913-4232](#)

Telephone: (671) 477-7857

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NOTICE: We have moved. Please note that our location and mailing address are now:

[1411 Pale San Vitores Road, Suite 303](#)[Tamuning, Guam 96913](#)

Thank you.

LexMundi Member

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Notice of Procurement Appeal re Pacific Federal Management Inc..pdf

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1 R. MARSIL JOHNSON
2 ISA B. BAZA
3 BLAIR STERLING JOHNSON & MARTINEZ
4 A PROFESSIONAL CORPORATION
5 1411 PALE SAN VITORES ROAD, SUITE 303
6 TAMUNING, GUAM 96913-4232
7 TELEPHONE: (671) 477-7857

8 *Attorneys for Appellant Pacific Federal Management, Inc.*

9 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
10 **PROCUREMENT APPEAL**

11 **PART I**

12 **In the Appeal of**) **Docket No. OPA PA-_____**
13)
14 **PACIFIC FEDERAL MANAGEMENT,**)
15 **INC.,**) **NOTICE OF PROCUREMENT**
16) **APPEAL**
17 **Appellant.**)

18 **COMES NOW**, Pacific Federal Management, Inc. (“PFM”) and, through undersigned
19 counsel, gives notice of its appeal from the Guam International Airport Authority (“GIAA”) denial
20 of its procurement protest.

21 **PART II - APPELLANT INFORMATION**

22 Appellant’s Name: Pacific Federal Management, Inc.

23 Appellant’s Mailing Address: 202 Hilton Road, Unit 7
Tumon, Guam 96913

24 Appellant’s Business Address: 202 Hilton Road, Unit 7
25 Tumon, Guam 96913

26 Appellant’s Telephone Number: (671) 989-8542

27 Appellant is represented by legal counsel. Please direct all correspondence to:
28

1 Counsel's Names: R. Marsil Johnson
 2 Isa B. Baza
 Blair Sterling Johnson & Martinez, P.C.
 3
 4 Counsel's Mailing Address: 1411 Pale San Vitores Road, Suite 303
 Tamuning, Guam 96913
 5
 6 Counsel's Telephone Number: (671) 477-7857
 7
 8 Counsel's Email Addresses: rmarsjohnson@bsjmlaw.com
 ibbaza@bsjmlaw.com

9 **PART III - APPEAL INFORMATION**

- 10 A) Purchasing Agency: Guam International Airport Authority ("GIAA")
 11 B) Identification/Number of Procurement, Solicitation, or Contract: Invitation for Bid No.
 GIAA-C07-FY24, Project No. GIAA-FY22-02-1, AIP No. 3-66-0001-TBD (the "IFB").
 12
 13 C) Decision being appealed was made on October 14, 2024 by John M. Quinata, GIAA's
 Executive Manager. He is the Head of the Purchasing Agency.
 14
 15 D) Appeal is made from a Decision on Protest of Method, Solicitation or Award.
 16 E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:
 17 1. Core Tech International Corporation
 18 2. Green Community Development *dba* Surface Solutions

19 **PART IV - STATEMENT OF GROUNDS FOR APPEAL**

20 **A. GROUNDS FOR APPEAL**

21 **1. RELEVANT PROCEDURAL AND FACTUAL HISTORY**

22 On May 22, 2024, GIAA issued the IFB, concerning the bid for the Terminal Building
 23 Roof Replacement and Renewable Energy System – Phase I at GIAA (the "Solicitation").
 24

25 Three bids were submitted:

Bidder	Total Bid Amount
Green Community Development dba Surface Solutions	\$7,898,800.00
Pacific Federal Management, Inc.	\$15,922,865.41
Core Tech International Corporation	\$20,068,296.00

1 Notably, Core Tech International Corporation’s bid was nearly three times the amount of
2 the lowest bid. It was also only \$55,869.00 less than the \$20,124,165.00 government estimate for
3 the project.

4
5 On August 19, 2024 PFM was informed its bid was nonresponsive because it failed to
6 submit and did not hold all required contractor license classifications required by the Solicitation.
7 *See* Exhibit “1” (“Bid Status” Letter).

8 PFM filed a procurement protest with GIAA on August 29, 2024. *See* Exhibit “2” (PFM
9 Protest).

10
11 On October 14, 2025, GIAA Executive Director John Quinata issued a letter to PFM
12 denying its procurement protest, leading to the instant appeal. *See* Exhibit “3” (Denial of
13 Procurement Protest).

14
15 **2. TIMELINESS OF PROTEST AND APPEAL**

16 Title 5 GCA § 5425(a) requires that protests must be made within fourteen days of the
17 issues leading to the protest being known by the protestor.

18 PFM learned the reason why GIAA deemed it a nonresponsive bidder on August 19, 2024.
19 GIAA held that PFM “failed to submit and does not hold all required Contractor’s License
20 classifications.”
21

22 PFM filed its protest on August 29, 2024, which is less than fourteen days after August 19,
23 2024. Therefore, PFM’s procurement protest was timely.

24
25 **3. PFM DID HOLD AND SHOW IT HELD ALL REQUIRED LICENSES BY SHOWING
PROOF THAT IT HELD AN “A LICENSE” AND A “B LICENSE”**

- 26 a. **ALL “A LICENSE” HOLDERS AUTOMATICALLY HOLD LICENSES IN “B
27 LICENSE CATEGORIES” AND “C LICENSE CATEGORIES” PURSUANT TO 25
GAR CH. 12 § 12107(a)(4).**

28 Under the CLB rules:

1 Title 25 GAR Ch. 12 § 12106(a)(1) governs the General Engineering Contractor (“A
2 License”) category. Importantly, the list contained in 25 GAR Ch. 12 § 12106(a)(1) includes
3 “Classified Specialties” as one of the trades or crafts General Engineering Contractors (“A
4 License”) are allowed to perform.
5

6 Title 25 GAR Ch. 12 § 12106(a)(2) governs the General Building Contractor (“B License”)
7 category.
8

9 Title 25 GAR Ch. 12 § 12106(a)(3) governs the General Engineering Contractor (“C
10 License”) subclassifications.
11

12 Title 25 GAR Ch. 12 § 12106(a) encompasses all three license categories.

13 The Solicitation required all bidders to hold the following CLB licenses: A, B, C-8, C-13,
14 C-33, C-37, C-41, C-42, C-48, C-51, C-55 and C-56. The following table contains a list of the “C
15 License” subclassifications required by the IFB and the titles for each subclassification:
16

17 **“Table A”**

18 “C License” Subclassification Number	“C License” Subclassification Title
19 C-8	Cement Concrete Contractor
20 C-13	Electrical Contractor
21 C-33	Painting and Decorating Contractor
22 C-37	Plumbing Contractor
23 C-41	Reinforcing Steel Contractors
24 C-42	Roofing Contractor
25 C-48	Structural Steel Contractor
26 C-51	Warm Air Heating, Ventilating and Air Conditioning Contractor
27 C-55	Waterproofing Contractor
28 C-56	Welding Contractor

29 PFM holds an “A license” and a “B License.” Therefore, under 25 GAR Ch. 12 §
30 12107(a)(4), PFM is also deemed to hold all “C Licenses.” Under that section, “[a]ny person who

1 qualifies by written examination after the effective date of these rules for a contractors license in
2 the general engineering contractor classification shall automatically be deemed to hold or be
3 qualified for a license in the specialities [sic] listed under §12106(a).” 25 GAR Ch. 12 §
4 12107(a)(4). Since PFM has an “A License,” it also automatically holds all licenses listed under
5 25 GAR Ch. 12 § 12106(a), which includes all the “C License” subclassifications listed under Title
6 25 GAR Ch. 12 § 12106(a)(3).
7

8 Thus, when PFM submitted the following CLB License certificates showing that it held an
9 “A License” PFM was submitting proof that, under 25 GAR Ch. 12 § 12107(a)(4), it also was
10 licensed under all “C License” sub-classifications, including C-8, C-13, C-33, C-37, C-41, C-42,
11 C-48, C-51, C-55, and C-56.
12



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23 **b. THE LISTS OF PERMITTED HEAVY CONSTRUCTION TRADES AND CRAFTS**
24 **UNDER TITLE 25 GAR CH. 12 § 12107(a)(1) (“A LICENSES”) AND 25 GAR CH.**
25 **12 § 12107(a)(2) (“B LICENSES”) INCLUDE ALL “C LICENSE”**
26 **SUBCLASSIFICATIONS REQUIRED BY THE IFB EXCEPT C-13, C-37, C-51,**
27 **WHICH WERE COVERED BY PFM SUBCONTRACTORS IN THEIR BID.**

28 In its denial letter, GIAA argued that license holders are limited to the work their license allows them to perform under each subsection of 25 GAR Ch. 12 § 12107(a). Even assuming this

1 to be true, PFM (together with its subcontractor Guam Pacific Mechanical & Electrical, LLC)
 2 submitted proof that they were licensed to do work under all requisite subclassifications.

3 The following table (“Table B”) includes the lists of heavy construction trades contained
 4 in 25 GAR Ch. 12 § 12107(a)(1) (“A License”), 25 GAR Ch. 12 § 12107(a)(2) (“B License”), and
 5 25 GAR Ch. 12 § 12107(a)(3) (“C License” subclassifications”). Each column is copied and pasted
 6 from the corresponding list in 25 GAR CH. 12 § 12107(a)(1-3). The subclassifications that are
 7 covered under both a “C License” subclassification and either the “A License” or the “B License”
 8 list of permitted trades and crafts are in bold. There is much overlap between them:
 9

11 **“Table B”**

§12106(a)(1) General Engineering Contractor “A License”	§12106(a)(2) General Building Contractor “B License”	§12106(a)(3) Specialty Contractor “C Licenses”
Asphalt Paving & Surfacing Cement Concrete Concrete Paving & Surfacing Classified Specialties Demolition Excavating, Grading & Trenching Fencing Gunite Housing & Building Moving & Wrecking Landscaping Pile Driving & Foundation Pest Control Post Tensioning/Prestress Reinforcing Steel Septic Tank Sewer: Sewage; Disposal Drain; Cement Pipe Laying Stone Masonry Structural Steel Water Proofing Welding	Acoustical Tile Aluminum Roofing & Siding Cabinet & Millwork Carpentry Framing Carpet Laying Cement Concrete Concrete Paving & Surfacing Demolition Drywall Fencing Floor Covering Glazing Gunite House a Building Moving a Wrecking Institutional a Commercial Equipment Insulation Landscaping Lift Slab Limited House Improvement & Renovation Masonry Ornamental Metal Painting & Decorating Pest Control Pile Driving & Foundation Plastering Post Tensioning/Prestress Prefabricated Steel Building Reinforcing Steel	Acoustical Tile Asphalt Paving & Surfacing Aluminum Roofing & Siding Boiler, Hot Water Heating & Steam Fitting Cabinet g Millwork Carpentry Framing Carpet laying Cement Concrete Concrete Paving & Surfacing Demolition Drywall Electrical Electrical Pole & Line Electrical Sign Electronic System Elevator Installation Excavating, Grading & Trenching Fire a Burglar Alarm Fire Protection Floor Covering Glazing Gunite House & Building Moving & Wrecking Institutional & Commercial Equipment Insulation Landscaping

1	Roofing	Lathing
2	Septic Tank	Lift Slab
3	Sheet Metal	Limited House Improvement & Renovation Masonry
4	Spray, Texture Coating	Ornamental Metal
5	Stone Masonry	Painting & Decorating
6	Structural Steel	Pest Control
7	Swimming Pool	Pile Driving & Foundation
8	Tile	Plastering
9	Water Proofing	Plumbing
10	Welding	Post Tensioning/Prestress
11	Wood Flooring	Prefabricated Steel Building
12	Wood Shingle & Shake	Reconditioning Concrete Water & Sewer lines
13	Classified Specialties	Refrigeration
14		Reinforcing Steel
15		Roofing
16		Septic Tank
17		Fencing
18		Sewer; Sewage Disposal Drain:
19		Cement Pipe Laying
20		Sheet Metal
21		Solar
22		Spray, Texture Coating
23		Structural Pest Control
24		Structural Steel
25		Swimming Pool
26		Tile
27		Warm Air Heating, Ventilating & Air Conditioning
28		Water Chlorination
		Water Proofing
		Welding
		Well Drilling
		Wood Flooring Wood Shingle & Shake
		Classified Specialties

All the "C License" subclassifications required by the IFB are also contained in the lists of heavy construction trades and crafts permitted to "A License" and "B License" holders by 25 GAR Ch. 12 § 12107(a)(1) and 25 GAR Ch. 12 § 12107(a)(2) except C-13, C-37, and C-51. The following table ("Table C") shows all of the required categories that are covered by each license:

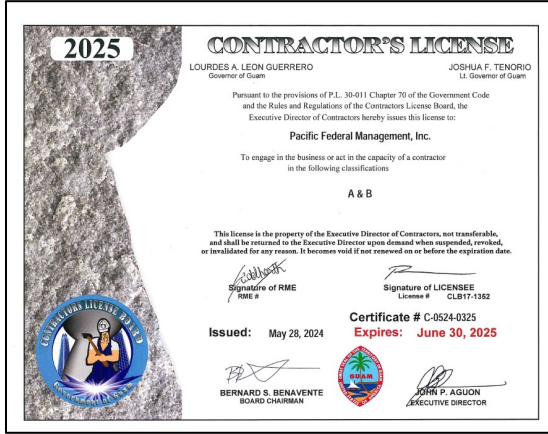
"Table C"

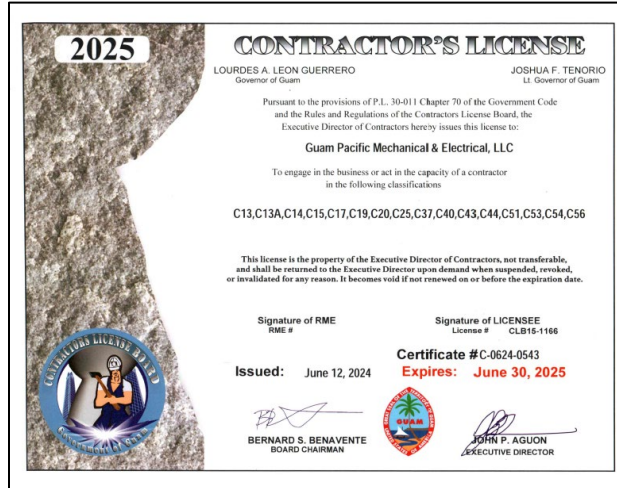
§12106(a)(1) General Engineering Contractor "A License"	§12106(a)(2) General Building Contractor "B License"	§12106(a)(3) Specialty Contractor "C Licenses"
Cement Concrete	Cement Concrete	C-8 Cement Concrete Contractor

1 2 3 4 5 6	Reinforcing Steel Structural Steel Water Proofing Welding	Reinforcing Steel Roofing Contractor Structural Steel Waterproofing Welding	C-13 Electrical Contractor C-37 Plumbing Contractor C-41 Reinforcing Steel Contractors C-42 Roofing Contractor C-48 Structural Steel Contractor C-51 Warm Air Heating, Ventilating and Air Conditioning Contractor C-55 Waterproofing Contractor C-56 Welding Contractor
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7 In addition to its CLB “A License” and “B License”, PFM submitted the license of its
8 subcontractor: Guam Pacific Mechanical & Electrical, LLC. Guam Pacific Mechanical &
9 Electrical, LLC’s CLB license shows that holds the following licenses that are not covered by the
10 “A License” and “B License” lists permitted heavy construction trades and crafts: C-13 (Electrical
11 Contractor), C-37 (Plumbing Contractor), and C-51 (Warm Air Heating, Ventilating and Air
12 Conditioning Contractor).

13
14 Thus, when PFM submitted its CLB License certificates showing that it holds both an “A
15 License” and a “B License” as well as the Guam Pacific Mechanical & Electrical, LLC CLB
16 license showing that Guam Pacific Mechanical & Electrical, LLC is licensed in the C-13
17 (Electrical Contractor), C-37 (Plumbing Contractor), and C-51 (Warm Air Heating, Ventilating
18 and Air Conditioning Contractor) subclassifications, it successfully submitted proof that it held
19 licenses in all required categories.
20
21





4. **REQUIRING BIDDERS TO HOLD ALL CONTRACTOR LICENSES LISTED BY THE SOLICITATION AT THE TIME OF BID SUBMISSION LIMITS COMPETITION IN CONTRAVENTION OF GUAM LAW.**

A policy espoused by Guam procurement law is to “foster effective broad-based competition within the free enterprise system” and to “provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Territory.” See 5 GCA §§ 5001(b)(5) and (6). Specifications should further seek to “encourage competition” and “shall not be unduly restrictive.” 5 GCA § 5265.

Rather than following this policy, the Solicitation required all parties to provide licensure in all 12 sub-classifications listed in the Solicitation at the time of bid submission, which unduly limits competition. Requiring licensure at bid submission only enables parties who have gone through the full licensing process to bid, rather than expanding competition to parties who are capable, yet have not yet expended the cost to pay for a CLB license in a required sub-classification.

It is unclear if there are any entities in Guam who hold the unique combination of the 12 different required CLB licenses. By limiting competition only to bidders who hold this unique combination of 12 licenses at the time of bid submittal as opposed to the time of actual performance

1 of the contract work, GIAA unfairly limited competition in violation of Guam procurement law.

2 GIAA has also failed to provide increased economy in territorial activities and maximize
3 the purchasing value of local funds, as demonstrated in this case, where the bid was ultimately
4 awarded to the highest rather than the lowest bidder. Such an illogical result is not only
5 uneconomical but contrary to Guam law.
6

7 **5. REQUIRING “A LICENSE” HOLDERS TO ALSO HOLD “C LICENSES” WILL RESULT**
8 **IN ABSURD CONSEQUENCES.**

9 It would not make practical sense to require an “A license” holder to also obtain “C license”
10 subclassifications. This is because for an entity to hold an “A license”, the CLB would have had
11 to determine that the entity had specialized knowledge and skill in the following areas, among
12 others: hydro-electric projects, sewers and sewage disposal plants and systems, power plants and
13 other utility plants and installations, cement and concrete work, etc. It would be an absurd
14 construction of the regulations if a holder of an A license would only be able to operate sewers
15 and sewage disposal plants and systems, but incapable of performing plumbing work without a C-
16 37 license.
17

18
19 An A-license holder would be capable of operating hydro-electric projects, power plants
20 and other utility plants, but incapable of performing electrical contracting work without a C-13
21 license. An A-license holder would be capable of performing cement and concrete work in
22 conjunction with any other work allowed, but incapable of performing cement concrete contracting
23 work without a C-8 license.
24

25 Such a tortured interpretation of the statute is plainly absurd.

26 **B. RULING REQUESTED**

27 PFM respectfully requests that the Office of Public Accountability (“OPA”) issue an order
28 declaring the following:

1 1. That PFM submitted proof of valid Contractor's license showing that it held
2 licenses in all required categories;

3 2. That Core Tech International Corporation was not the lowest responsive and
4 responsible bidder;

5 3. That GIAA be required to review all bid submissions, determine the responsiveness
6 of all bidders, and award the IFB to the lowest priced responsible and responsive bidder; and
7

8 4. For such further relief that the OPA deems appropriate.

9
10 **C. SUPPORTING EXHIBITS, EVIDENCE OR DOCUMENTS**

11 Submitted with this appeal are the following exhibits, evidence or documents:

12 1. Exhibit "1" Bid Status – August 19, 2024

13 2. Exhibit "2" Bid Protest – August 29, 2024

14 3. Exhibit "3" Decision – October 14, 2024
15

16 **PART V - DECLARATION RE: COURT ACTION**

17 The undersigned does hereby confirm that to the best of his knowledge, no case or action
18 concerning the IFB that is the subject of this appeal has been commenced in court. The undersigned
19 party agrees to notify the Office of Public Accountability within 24 hours if court action
20 commences regarding this Appeal or the underlying procurement action.
21

22 **DATED** this 29th day of October, 2024.

23 **BLAIR STERLING JOHNSON & MARTINEZ**
24 A PROFESSIONAL CORPORATION

25 BY: 
26

R. MARSIL JOHNSON

Attorneys for Appellant Pacific Federal Management, Inc.

27 **ATTACHMENTS: EXHIBITS "1", "2" & "3"**

28 A56\60051-05\G:\Drive\Pld\RMJ\2024.10.29 - Notice of Procurement Appeal re Pacific
Federal Management Inc.

1 **VERIFICATION**

2 I, **ROBERT SALAS II**, President of Pacific Federal Management, Inc., hereby declare under
3 penalty of perjury under the laws of Guam that I have read the foregoing **NOTICE OF**
4 **PROCUREMENT APPEAL** and that it is true and correct of my own knowledge, except as to those
5 matters alleged upon information and belief and so to those matters, I believe them to be true.
6

7 **DATED** this 29th day of October, 2024.

8
9 

10
11

ROBERT SALAS II

Exhibit “1”



August 19, 2024

BID STATUS

TRANSMITTED VIA EMAIL: rob.salas@pfmgum.com

Mr. Robert Salas II
President
Pacific Federal Management, Inc.
202 Hilton Road, Unit 7
Tumon, Guam 96913

Invitation for Bid No.: **GIAA-C07-FY24**

Bid Opening Date: **July 5, 2024**

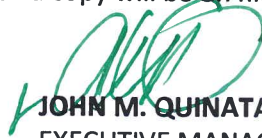
Description: **Terminal Building Roof Replacement and Renewable Energy System – Phase I**

The following is the result of the subject mentioned bid. Refer to the items checked below:

- CANCELLED (in its entirety or partially cancelled) due to:
 Insufficient funds; Change in specifications; Best interest of the Government;
 Others: _____
- REJECTED due to:
 Late Submission of bid;
 No bid security submitted; pursuant to Section 15 of the Instructions to Bidders;
 Not meeting the delivery requirements as stated in the IFB;
 Non-conformance with the specifications/bid requirements:
Pacific Federal Management Inc. was found to be nonresponsive and not responsible as Bidder failed to submit and does not hold all required Contractor's License classifications required in the IFB Package, Special Reminders to Prospective Bidders (Bidder failed to submit and does not hold C-8, C-41, C-42, C-48).
- High Price;
 Others: _____
- Notice of Award issued to:
Core Tech International Corporation in the amount of \$20,068,296.00.

REMARKS:

GIAA appreciates your participation in this process and looks forward to your interest in future procurements. Please send your authorized representative to GIAA Procurement Office to pick up your Bid Guarantee. Kindly acknowledge receipt below and email back to giaaifbc724@guamairport.net. Your non-submittal of the acknowledged receipt shall mean actual receipt of this notice based on the date of our email transmission indicating confirmed or successful, of which a copy will be on file.


JOHN M. QUINATA
EXECUTIVE MANAGER

ACKNOWLEDGE RECEIPT:

Print Name & Title: _____
Sign & Date Here: _____

Exhibit “2”

August 29, 2024

**VIA HAND DELIVERY
& EMAIL
official@guamairport.net**

John M. Quinata
Executive Manager/Chief Procurement Officer
GUAM INTERNATIONAL
AIRPORT AUTHORITY
Government of Guam
355 Chalan Pasaheru
Tamuning, Guam 96913

**VIA HAND DELIVERY
& EMAIL
giaaifbc724@guamairport.net**

Kathrina Bayson
GIAA Procurement Office
GUAM INTERNATIONAL
AIRPORT AUTHORITY
Government of Guam
355 Chalan Pasaheru
Tamuning, Guam 96913

**RE: PROCUREMENT PROTEST
IFB NO. GIAA-C07-FY24
PROJECT NO. GIAA-FY22-02-1
AIP NO. 3-66-0001-TBD
BID FOR: TERMINAL BUILDING ROOF REPLACEMENT AND
RENEWABLE ENERGY SYSTEM – PHASE 1**

Dear Mr. Quinata and Ms. Bayson:

We represent Pacific Federal Management, Inc. (“PFM”). PFM hereby protests the Guam International Airport Authority (“GIAA”) Invitation for Bid No. GIAA-C07-FY24, Project No. GIAA-FY22-02-1, AIP No. 3-66-0001-TBD Terminal Building Roof Replacement and Renewable Energy System – Phase I (the “IFB”).

Procurement: Invitation for Bid No. GIAA-C07-FY24, Project No. GIAA-FY22-02-1, AIP No. 3-66-0001-TBD Terminal Building Roof Replacement and Renewable Energy System – Phase I

Name of Protestor: Pacific Federal Management, Inc.

Address of Protestor:

Pacific Federal Management, Inc.
202 Hilton Road, Unit 7
Tumon, Guam 96913

A.B. WON PAT INTERNATIONAL
AIRPORT GUAM



**RECEIPT
ACKNOWLEDGED**

BY:

JODECI TERLANE
SIGNATURE
JODECI TERLANE
PRINT NAME

Admin
COMPANY/DEPARTMENT

DATE: 08/29/24 TIME: 2:14PM

Address of Protestor for Purposes of this Protest:

c/o R. Marsil Johnson
Blair Sterling Johnson & Martinez, P.C.
1411 Pale San Vitores Rd., Ste. 303
Tamuning Guam, 96913

Statement of Reasons for Protest:

PFM submitted a proposal in response to the IFB. GIAA required that the winning bidder hold a General Engineering Contractor License (an “A License”), a General Building Contractor License (a “B License”), as well as the following specialty licenses: C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56.

On August 19, 2024, PFM was informed that the IFB Notice of Award was issued to Core Tech International Corporation (“Core Tech”) on grounds that PFM did not hold certain licenses, specifically C-8, C-41, C-42, and C-48 licenses.

PFM protests GIAA’s award of the contract in the IFB to Core Tech for the following reasons:

- A. PFM HOLDS ALL REQUIRED LICENSES BECAUSE AN “A LICENSE” HOLDER AUTOMATICALLY HOLDS LICENSES FOR ALL CLB SPECIALTY CONTRACTOR “C LICENSE” SUB-CLASSIFICATIONS UNDER 25 GAR CH. 12 § 12107(a)(4).**

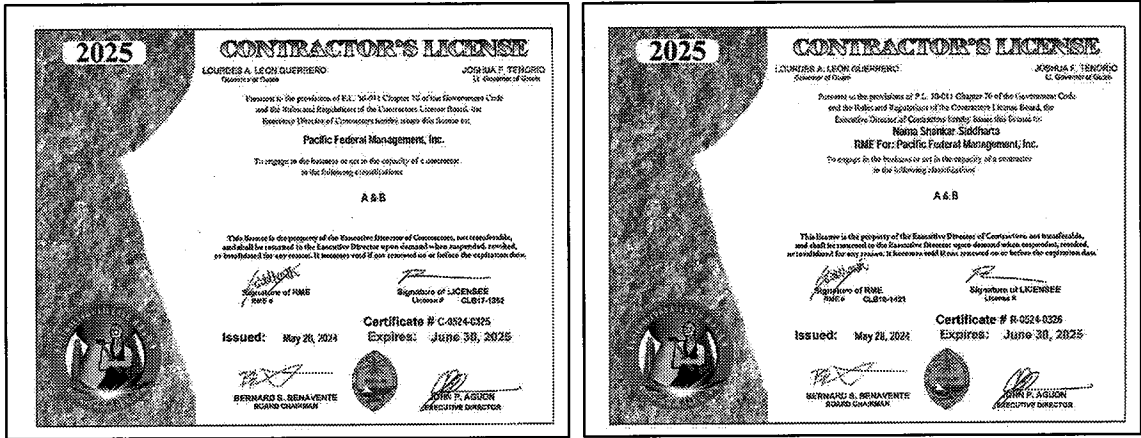
The IFB requires all bidders hold the following contractors licenses: A, B, C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56. *See* IFB (B) (1) Special Reminder to Prospective Bidders, p. 3, Section 28.

The CLB rules and regulations provide that anyone who holds an “A License” is automatically deemed to hold a license for all specialties listed under 25 GAR Ch. 12 § 12106(a). *See* 25 GAR Ch. 12 § 12107(a)(4). This includes all the “C License” sub-classifications identified in the IFB. *See* 25 GAR Ch. 12 §§ 12106(a)(4)(C-1) to 12106(a)(4)(C-68). Here is the full text of 25 GAR Ch. 12 § 12107(a)(4):

Any person who qualifies by written examination after the effective date of these rules for a contractors license in the general engineering contractor classification shall automatically be deemed to hold or be qualified for a license in the specialties listed under §12106(a)

This section specifically identifies 25 GAR Ch. 12 § 12106(a). It does not distinguish between or identify any more specific subsection of that rule. Importantly, 25 GAR Ch. 12 § 12106(a) includes the following “C License” sub-classifications required by the IFB: C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56.

Since PFM holds an “A License”, a plain reading of the statute shows that it is automatically deemed to hold all “C License” sub-classifications, including C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56. Thus, when PFM submitted the following CLB License certificates showing that it and its responsible managing employee hold both an “A License” and a “B License”, PFM was submitting proof that, under 25 GAR Ch. 12 § 12107(a)(4), it also was licensed under all “C License” sub-classifications, including C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56.



See PFM Bid Proposal at p. 152-153.

It is true that 25 GAR Ch. 12 § 12107(b)(1) states that “a licensee classified as a General Engineering Contractor or as a General Building Contractor shall not act, assume to act or advertise as a Specialty Contractor except in specialties for which he is licensed.” However, this language does not conflict with the more inclusive language of 25 GAR Ch. 12 § 12107(a)(4), because “A License” holders are automatically licensed under all “C License” sub-classifications by virtue of holding an “A License.” See 25 GAR Ch. 12 § 12107(a)(4) (“...shall automatically be deemed to hold or be qualified for a license in the specialties listed under §12106(a).”). Section 25 GAR Ch. 12 § 12107(b)(1) when read in conjunction with 25 GAR Ch. 12 § 12107(a)(4) effectively serves to exclude “B License” only holders from being allowed to perform work under the “A License” classification or the “C License” sub-classifications.

B. REQUIRING EACH BIDDER TO HOLD ALL CONTRACTOR LICENSES LISTED BY THE IFB AT THE TIME OF BID SUBMITTAL LIMITS COMPETITION IN DIRECT CONTRAVENTION OF THE PURPOSES AND POLICIES OF GUAM PROCUREMENT LAW.

The purposes and policies of Guam procurement law require that the statutes and rules governing procurement be construed and applied “to foster effective broad-based competition within the free enterprise system” and “to provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Territory.” See 5 GCA §§ 5001(b)(5) and (6).

By requiring bidding parties to already be licensed in every sub-classification listed by GIAA unduly restricts competition in contravention of the purposes and policies of Guam procurement law. It limits competition to parties who have gone through the full licensed process, rather than expanding competition to parties who may qualify for licenses, but have not expended the time, cost, and resources to hiring a licensed RME and paying for a CLB License in the required sub-classifications.

The Office of Public Accountability (the “OPA”) has held in at least one prior decision that bid specification requiring bidders produce qualifications necessary to performance of the work at the time of bid submittal is unduly restrictive of competition. *In the Appeal of IP&E Holdings, L.L.C.*, Appeal No: OPA-PA-15-006 (September 18, 2015). In *IP&E*, the procuring agency required prospective bidders to submit “their Workmen’s Statutory Compensation Insurance and Employer’s Liability Insurance providing a waiver of subrogation in favor of GPA. GPA was required to be an additional insured and the bidders were to include a waiver of subrogation in favor of GPA for their Commercial General Liability, Automobile Liability, Pollution Liability, and Excess Liability Insurance Policies.” *Id.* at 10. The OPA held that this requirement “highly favors bidders with existing contracts with GPA by requiring the same types of insurance, and highly prejudices bidders without those same contracts.” *Id.* Accordingly, the OPA held this requirement violated 5 GCA § 5001(b)(6) and 2 GAR Div. 4 Chap. 1 § 1102(5) because it favored bidders who held existing contracts with GPA and prejudices bidders without them.

Specific to this matter, there are only a limited number of entities in Guam, if any, who hold the unique combination of 12 different CLB Licenses required by the IFB (A, B, C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56). By limiting competition only to bidders who hold this unique combination of 12 licenses at the time of bid submittal as opposed to the time of actual performance of the contract work, GIAA has unfairly limited competition and violated the purposes and policies underlying Guam procurement law by unduly limiting competition and not fostering effective broad-based competition within the free-enterprise system. Also, by unduly limiting competition, GIAA has also effectively limited competition to the one bidder who was the highest bidder to this IFB, thus failing “to provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Territory” as required by 5 GCA §§ 5001(b)(5).

Overly restrictive licensing requirements also violate a section of Guam procurement law that requires that specifications not be unduly restrictive. *See* 5 GCA § 5265 (“All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Territory’s needs and shall not be unduly restrictive.”). By requiring that a bidder who already holds an “A License” also needlessly hold other “C Licenses”, GIAA has rendered the IFB unduly restrictive and in violation of 5 GCA § 5265.

A review of the Guam Contractor's License Board's 2025 Contractor Listing shows that no single company has all 12 CLB Licenses required by the IFB. This includes Core Tech International Corporation, who was awarded the contract. No entity with the words "Core Tech" in the name hold C-33, C37, or C-56 licenses. See <https://clb.guam.gov/index.php/contractors-listing/>.

The issue of contractors licensing has also been exacerbated by the fact the CLB has not been allowing prospective licensees to be tested in various "C License" subclassifications, further decreasing the pool of contractors who can qualify for this procurement.

C. REQUIRING "A LICENSE" HOLDERS TO ALSO HOLD C LICENSES WILL RESULT IN ABSURD CONSEQUENCES.

To find that an entity can be licensed to perform work under an "A License" and somehow be incapable of performing work required by "C License" sub-classifications would result in absurd consequences. The CLB rules and regulations define a General Engineering contractor in the following manner:

(1) A General Engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill including the following divisions and subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydro-electric projects; levees, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works; pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances; parks, playgrounds and other recreational works; refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill; houses, power plants and other utility plants and installations; mines, metallurgical plants, land leveling and earthmoving projects; excavating, grading, trenching, paving and surfacing work; and cement and concrete works in conjunction with the above mentioned fixed works.

See 25 GAR Ch. 12 § 12107(a)(1). Thus, for an entity to hold an "A License" means the CLB has licensed the entity to have specialized knowledge and skill in the following areas, among others: hydro-electric projects, sewers and sewage disposal plants and systems, power plants and other utility plants and installations, metallurgical plants, and cement and concrete works.

The result of such a tortured construction would mean that a holder of an A License only would be able to operate sewers and sewage disposal plants and systems, but incapable of performing plumbing work without a C-37 license. An "A License" only holder would be

capable of operating hydro-electric projects, power plants, and other utility plants and installations, but incapable of performing electrical contracting work without a C-13 license. An "A License" only holder would be capable of performing cement and concrete works in conjunction with any of the other work allowed, but incapable of performing cement concrete contracting work without a C-8 license. Such a tortured interpretation of the stature is patently absurd.

Request for Relief:

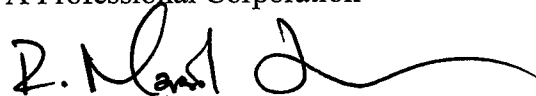
PFM respectfully requests that GIAA recognize that PFM provided sufficient proof that it submitted proof of all necessary CLB licenses with its bid, find that PFM was the lowest responsible bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids under 5 GCA § 5211(g), and award the contract to PFM.

Supporting Documents:

Relevant documents from the PFM proposal are attached hereto as Exhibit "A".

Very truly yours,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation



R. MARSIL JOHNSON

**ATTACHMENT:
EXHIBIT "A"**

IC:U56\60051-05
G:/Drive/DB Insurance/Ltr/2024.08.29 - Pacific Federal Management Protest re GIAA-
C07-FY24

EXHIBIT

“A”

2025

CONTRACTOR'S LICENSE

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lt. Governor of Guam

Pursuant to the provisions of P.L. 30-011 Chapter 70 of the Government Code and the Rules and Regulations of the Contractors License Board, the Executive Director of Contractors hereby issues this license to:


Pacific Federal Management, Inc.

To engage in the business or act in the capacity of a contractor in the following classifications

A & B

This license is the property of the Executive Director of Contractors, not transferable, and shall be returned to the Executive Director upon demand when suspended, revoked, or invalidated for any reason. It becomes void if not renewed on or before the expiration date.


Signature of RME
RME #


Signature of LICENSEE
License # CLB17-1352

Certificate # C-0524-0325

Issued: May 28, 2024

Expires: June 30, 2025


BERNARD S. BENAVENTE
BOARD CHAIRMAN




JOHN P. AGUON
EXECUTIVE DIRECTOR



2025

CONTRACTOR'S LICENSE

LOURDES A. LEON GUERRERO
Governor of Guam

JOSHUA F. TENORIO
Lt. Governor of Guam

Pursuant to the provisions of P.L. 30-011 Chapter 70 of the Government Code and the Rules and Regulations of the Contractors License Board, the Executive Director of Contractors hereby issues this license to:

Nama Shankar Siddharta


RME For: Pacific Federal Management, Inc.

To engage in the business or act in the capacity of a contractor in the following classifications

A & B

This license is the property of the Executive Director of Contractors, not transferable, and shall be returned to the Executive Director upon demand when suspended, revoked, or invalidated for any reason. It becomes void if not renewed on or before the expiration date.


Signature of RME
RME # CLB18-1421


Signature of LICENSEE
License #

Certificate # R-0524-0326

Issued: May 28, 2024

Expires: June 30, 2025


BERNARD S. BENAVENTE
BOARD CHAIRMAN




JOHN P. AGUON
EXECUTIVE DIRECTOR



Exhibit “3”



P.O. Box 8770 Tel (671) 646-0300
Tamuning, GU 96931 Fax (671) 646-8823

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EMAIL: official@guamairport.net

WE'RE ON IT
24/7

October 14, 2024

TRANSMITTED VIA EMAIL: rmarsjohnson@bsjmlaw.com

R. Marsil Johnson, Esq.
Blair Sterling Johnson & Martinez, P.C.
1411 Pale San Vitores Road, Suite 303
Tamuning, Guam 96913

Subject: Denial of Procurement Protest
Pacific Federal Management, Inc. Aug. 29, 2024
Terminal Building Roof Replacement and Renewable Energy System – Phase I
IFB No. GIAA-C07-FY24, Project No. GIAA-FY22-02-1, AIP No. 3-66-0001-TBD

Hafa Adai Attorney Johnson,

The A.B. Won Pat Guam International Airport Authority (“GIAA”) is in receipt of your August 29, 2024 letter of protest related to the above-referenced procurement on behalf of Pacific Federal Management, Inc. (“PFM”).

5 G.C.A. Section 5424(b) Background.

GIAA recently received notice of your email to GIAA’s counsel dated October 4, 2024 which followed discussions at a meeting between GIAA and PFM from September 24, 2024. At that meeting, GIAA proposed that PFM withdraw its protest for the reasons discussed further herein. This request was made pursuant to 5 G.C.A. 5425(b), which gives the GIAA Executive Manager authority to settle and resolve a protest prior to taking other statutorily authorized action on the same. After the September 24, 2024 meeting, GIAA transmitted to you, as PFM’s Counsel a copy of the public portions of the procurement record as of that date. That record is referenced in this letter. Your October 4, 2024 email confirmed that notwithstanding the meeting and documentation provided, PFM “would like to continue with its protest”.

Response to Protest Letter.

For background purposes, the following sequence of events related to the subject procurement is relevant to the bases of protest raised in your letter.

IFB No. GIAA-C07 Terminal Roof Replacement and Renewable Energy System -Phase I (the “IFB”) was issued and made available on GIAA’s website on May 22, 2024. A PFM representative downloaded the IFB package on May 30, 2024 and PFM acknowledged receipt of the IFB the same day. The IFB included a section that provided that bidders would have to provide in their sealed bid *inter alia* “**Other Requirements**.” Copy of valid Contractor’s license – Classification A, B, C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55 and C-56” IFB p. 34 of 221. The Bid Form included in the IFB indicated that the contractor’s licenses would have to be submitted with a sealed bid in response to the IFB. IFB pp. 37-40 of 221. The



Denial of Procurement Protest

Pacific Federal Management, Inc. Aug. 29, 2024

Terminal Building Roof Replacement and Renewable Energy System – Phase I

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Bidder's Qualification Statement similarly indicates that bidders would have to submit their contractor's license with their sealed bid. IFB p. 71 of 221.

The draft contract included with the IFB also indicated at Section 10.6 that the contractor warranted it was "duly licensed and authorized to transact the business of construction under the applicable laws of Guam." IFB p. 95 of 221.

PFM submitted its bid on July 5, 2024. In its Bid, PFM check marked box 28 of the required forms, Mr. Robert Salas II executed the required forms checklist and submitted the same as part of PFM's Bid. PFM Bid p. 6 of 158. PFM provided the names of two subcontractors in a designation of contractors form. PFM Bid p. 45 of 158. PFM executed and submitted the Bidder's Qualification Statement and submitted its and its subcontractors' Contractor's licenses. PFM Bid p. 49, Attachment E pp. 82- of 158. Finally, PFM executed the form contract and submitted the same to GIAA. PM Bid p. 128 of 158.

GIAA received two other bids from Core Tech International Corporation ("Core Tech") and Green Community Development dba Surface Solutions ("Surface Solutions") in response to the IFB. GIAA determined that only Core Tech submitted proof that it or its subcontractors possessed the Guam Contractor's licenses required to be submitted with its sealed bid. Like PFM, Surface Solutions also submitted proof of only some, but not all contractor's licenses. Surface Solutions possesses Contractor's licenses A and B.

GIAA also contacted the Guam Contractor's License Board to confirm that neither PFM nor its subcontractors, and Surface Solutions and its subcontractors, possessed all the required Guam Contractor's license required by the IFB. GIAA then prepared for the award related to this procurement with the assistance and approval of the Office of the Attorney General pursuant to 5 G.C.A. Section 5150.

GIAA issued a notice of award to Core Tech and gave notice of the same to Surface Solutions and PFM on or about August 19, 2024. Because the procurement record was in the process of being, but was not yet certified, GIAA stayed the procurement upon receipt of PFM's August 29, 2024 letter of protest.

1. PFM's Protest is untimely.

The right to protest is available to bidders who "may be aggrieved in connection with the method of source selection, solicitation, or award of a contract." 5 G.C.A. § 5425(a). Under Guam law, an aggrieved individual must submit a protest within fourteen (14) days after such aggrieved individual knows or should know the facts giving rise thereto. 5 G.C.A. § 5425(a). A timely protest is a jurisdictional requirement of the procurement protest and appeal scheme in the Guam procurement law. Teleguam Holdings, LLC v. Guam, 2018 Guam 5 ¶¶ 20-21; DFS Guam L.P., 2020, Guam 20 ¶¶ 77, 81-87 ("a protest filed more than 14 days after the disappointed offeror or bidder had notice of the grounds for the protest is barred as untimely."). DFS Guam L.P., 2020, Guam 20 ¶ 87.

Here, PFM's protest is based on a requirement that was expressly stated in the IFB. As stated above, several places in the IFB made clear that proof of possession of valid contractor's licenses with classification A, B, C-8, C-13, C-33, C-37, C-41, C-42, C-48, C-51, C-55, and C-56 was required to be submitted with a sealed bid in response to the IFB. PFM received the IFB on May 30, 2024. PFM's protest based on the requirement that it have and submit the required licenses at the time of bid submission, made on August 29, 2024, was therefore not made within 14 days of when it knew of the requirement. PFM's protest is therefore untimely and barred.

2. PFM and its Subcontractors do not hold the required contractor's licenses.

PFM alleges that as a holder of the A and B license contractor's license classification, PFM is "automatically deemed to hold a license for all specialties listed under 25 GAR § 12106(a)." PFM Protest Ltr, p. 2 (Aug. 29, 2024).

PFM ignores the logical organization of 25 GAR § 12106(a) which has three separate licensee classification categories in subsections (a)(1), (a)(2) and (a)(3) – for A, B, and C. More to the point, the Guam Contractor's License Board ("GCLB"), the regulatory authority responsible for administering the licensing scheme distinguishes between the three lists in 12106(a). See Part VI, Guam Contractor's License Board Rules and Regulations available at: <https://guamclbcom.wordpress.com/wp-content/uploads/2016/09/rules-and-regulations.pdf>.

PFM concedes that an A and B licensee cannot "act, assume to act or advertise as a specialty contractor *except for the specialties in which he is licensed.*" PFM Protest Ltr, p. 2 (Aug. 29, 2024). PFM simply recites that regulatory provision then disregards it in favor of what it calls "the more inclusive language of 25 GAR 12107(a)(4)." PFM cannot tout one alleged ambiguity in a statute and then flout the neighboring provisions that clarify the scheme. Guam law prohibits acting as a contractor of any type without the required license. 21 G.C.A. § 70108(a) ("No person . . . shall act, or assume to act or advertise, as a general engineering contractor, a general building contractor or a specialty contractor without a license previously obtained under and in compliance with this Chapter and the rules and regulations of the Contractors License Board (CLB).")

The GCLB issues A and B licensees C category licenses. See GCLB Contractor's Listing available at <https://clb.guam.gov/index.php/contractors-listing/>. The Regulations confirm that A and B licensees are still required to obtain specialty C licenses to perform work requiring such licenses with specific and limited exceptions. See 25 GAR § 12107(b)(1) ("A licensee classified as a General Engineering Contractor or as a General Building Contractor shall not act, assume to act or advertise as a Specialty Contractor *except in specialties for which he is licensed*" (emphasis added)); see also, 25 GAR § 12107(b)(4) ("General Building Contractors and Specialty Contractors holding proper licenses need not have a C-30 Limited Home Improvement and Renovation contractor licenses to engage in home improvement and renovation contracting *in their own field*" (emphasis added); 25 GAR § 12107(d) ("A licensee may obtain additional classifications by filing an application and meeting the requirements regarding experience in the classification requested").

Since PFM has possession of the procurement record, PFM is aware that upon receipt and opening of the bids in this matter, GIAA contacted the GCLB who confirmed that PFM does not possess the licenses required of the IFB. The GCLB therefore also does not agree that all A and B license holders like PFM are automatically qualified in all C Specialties listed under Section 12106(a). Presumably, the GCLB would have informed GIAA of A and B license holders not needing C licenses when GIAA inquired of a contractor's qualifications to perform work.

Based on the foregoing, GIAA determines that PFM's protest that it is automatically deemed to hold all GCLB specialty C licenses required by the IFB pursuant to 25 GAR 12106(a) is without merit.

3. The requirement of legally required licensure by a third-party regulatory entity – the GCLB - is not anti-competitive.

Denial of Procurement Protest

Pacific Federal Management, Inc. Aug. 29, 2024

Terminal Building Roof Replacement and Renewable Energy System – Phase I

IFB No. GIAA-C07-FY24, Project No. GIAA-FY22-02-1, AIP No. 3-66-0001-TBD

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PFM next alleges that OPA precedent deems GIAA’s requirement of bidders to hold certain contractor’s licenses is anti-competitive. PFM’s authority supporting this argument is inapposite. In in the appeal of IP&E Holdings, LLC., the OPA determined that IFB insurance requirements by GPA favored existing GPA contractors since contractors without a preexisting relationship with GPA would not have the required coverage in place when bidding on GPA contracts. OPA-PA-15-006 (Sept. 18, 2015).

Here, the requirements of contractor’s licenses required by the GCLB under Guam law does not favor any entity that does business with GIAA. Rather, the licenses are legally required by the GCLB to perform the work sought by the IFB. Notably, PFM does not contest that licensure in the C-specialties noted are not required to perform the scope of work. In fact, PFM argues that it is automatically deemed licensed in those areas by virtue of its GCLB A and B Contractor’s license, as discussed above. GIAA is not requiring licensure solely to eliminate competition. GIAA is complying with the law, which requires that the selected contractor is licensed to perform the work set forth in the IFB. See supra Section 2.

To the extent PFM alleges that GIAA’s licensure requirement in the IFB is anticompetitive, GIAA finds that PFM’s arguments are baseless. Contractors at GIAA and in Guam are required to comply with Guam law, including the requirement that they be licensed to perform the work they are contracted to perform. 21 G.C.A. § 70108 supra Section 2. GIAA has no discretion to take any other course except to require contractors to comply with the law.

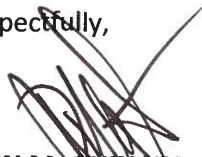
4. PFM is not entitled to an award related to the IFB.

Finally, PFM requests that GIAA find that it “submitted proof of all necessary CLB licenses with its bid, find that PFM was the lowest responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids under 5 G.C.A § 5211(g), and award the contract to PFM.” PFM Protest p. 6 (Aug. 29, 2024).

Since PFM now possesses the procurement record, PFM is aware that Surface Solutions submitted a bid with a lower price than PFM. Surface Solutions also holds GCLB A and B licenses but did not submit proof it holds all required C classification GCLB licenses with its bid. Surface Solutions, despite submitting the lowest dollar amount bid in response to the IFB, was not awarded due to the lack of the required GCLB licenses. Thus, in the event that PFM prevails in any litigation of its protest concerning its automatic C licensure by holding a GCLB A and B license, the lowest bidder would be Surface Solutions and not PFM. Thus, PFM would not be entitled to an award related to this procurement should its protest be found to have merit.

Based on the foregoing, your letter of protest on behalf of PFM dated August 29, 2024, is hereby denied in its entirety. Pursuant to 5 G.C.A. Section 5425, PFM is hereby informed of the right to appeal this decision to the Office of Public Accountability, and the right to judicial review. Nothing herein is construed as a waiver of any such right, remedy, claim for relief or defense available to GIAA. The same are hereby reserved.

Respectfully,


JOHN M. QUINATA
Executive Manager