



OFFICE OF PUBLIC ACCOUNTABILITY

Doris Flores Brooks, CPA, CGFM

Public Auditor

BEFORE THE PUBLIC AUDITOR

PROCUREMENT APPEALS

TERRITORY OF GUAM

**IN THE APPEAL OF
ABLE INDUSTRIES OF THE PACIFIC,**

Docket OPA PA 13-007

Appellant.

ORDER DISMISSING THE APPEAL OF ABLE INDUSTRIES OF THE PACIFIC

The above-captioned appeals arise from IFB NO. GIAA-001-FY13. Because the two appeals involve common facts and issues of law, the appeals were consolidated. The Hearing Officer, having reviewed the procurement record, the documents, exhibits, pleadings, motions and other materials submitted by the parties, ORDERS that the appeal filed by Able Industries of the Pacific (“AIP”) is DISMISSED.


In its appeal, AIP asserts the following: That on March 18, 2013 AIP met with GIAA General Manager requesting AIP be awarded the contract for custodial services as a non-profit corporation. On March 29, 2013 GIAA advised AIP that it intended to award the contract based upon the IFB. On May 3, 2013 GIAA issued a Bid Status to AIP rejecting AIP’s bid due to “No bid security or insufficient bid security amount submitted; as required by Section 11 of the General Terms and Conditions...High Price; or others: *No Bid Security/No Bonding Capability.*” On May 23 and June 3, 2013 AIP wrote GIAA requesting clarification regarding the policy for awarding contracts to non-profit corporations. On June 4, 2013 the GSA advised AIP that GIAA was not required to consider awarding the contract to non-profit corporations. On June 6, 2013 AIP met with GSA to discuss the bid status. That same day, GIAA responded to AIP’s May 23, 2013 letter. On June 10, 2013 AIP filed its Notice of Appeal to the Public Auditor of GIAA’s May 3, 2013 Decision.

1 On June 21, 2013 the Hearing Officer issued an Order Consolidating Appeals and Amending
2 Scheduling Order. In that Order, June 28, 2013 was set as the deadline for any further motions by
3 the parties, and July 5, 2013 was set as the deadline for any oppositions to such motions. On June
4 28, 2013 GIAA filed a Motion to Dismiss AIP's appeal. AIP did not file an opposition to that
5 motion. 2 GAR § 12109(d) confers on the Hearing Officer the power to rule on motions and other
6 procedural items.

7 5 G.C.A. § 5425(a) affords bidders the right to protest the method of source selection,
8 solicitation, or award of a contract provided the protest shall be submitted in writing within
9 fourteen (14) days after the bidder knows or should have known of the facts giving rise thereto.
10 AIP did not submit a protest in writing within fourteen (14) days AIP knew or should have known
11 of the facts giving rise to any protest. 5 G.C.A. § 5425(e) affords bidders the right to appeal a
12 Protest Decision provided the appeal is made to the Public Auditor within fifteen (15) days after
13 receipt by the protestant of the notice of decision. AIP did not appeal a Protest Decision to the
14 Public Auditor within fifteen (15) days after receipt by the protestant of a notice of decision.

15 AIP did not file a timely protest or a timely appeal. Therefore, AIP's appeal is DISMISSED.
16 This is a Final Administrative Decision. The Parties are hereby informed of their right to appeal
17 from a Decision of the Public Auditor to the Superior Court of Guam in accordance with Part D
18 of Article 9 of 5 G.C.A. §5481(a) within fourteen (14) days after receipt of a Final Administrative
19 Decision. A copy of this Decision shall be provided to the Parties and their respective attorneys,
20 in accordance with 5 G.C.A. §5702, and shall be made available for review on the OPA website
21 at www.guamopa.org.

22 IT IS SO ORDERED this 23rd day of July, 2013.

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24 PETER C. PEREZ, ESQ.,
25 Hearing Officer
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