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Attorneys for Appellant
JRN Air Conditioning & Refrigeration, Inc.

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DEC 30 2010
TRN BY: LSA Ac
FILE NO. OPA-PA: 10-007

OFFICE OF THE PUBLIC ACCOUNTABILITY

GUAM

IN THE APPEAL OF
JRN AIR CONDITIONING &
REFRIGERATION, INC.

Appellant.

APPEAL NO. OPA-PA-10-007

**NOTICE OF FILING OF EXHIBITS
AND LIST OF ISSUES WHICH
REQUIRE EVIDENCE OR
ARGUMENTS TO BE PRESENTED AT
THE HEARING.**

Appellant JRN Air-conditioning & Refrigeration, Inc. ("JRN"), by and through its undersigned counsel, hereby files with the Office of Public Accountability - Procurement Appeals four (4) copies of the following Exhibits:

- Exhibit 1.** Quotation from JRN for Southern High School Cafeteria, dated October 13, 2010, for Southern High School Cafeteria AC Unit, in the amount of \$9,240.00, *inclusive of all labor and materials*.
- Exhibit 2.** GDOE Requisition 2400-287-02 dated October 14, 2010 approved and funds certified, for repairs to Southern High School Cafeteria AC Unit B, in the amount of \$9,240.00 *inclusive of all labor and materials*. Attached note with instructions by Billy Cruz.
- Exhibit 3.** Quotation from J&B Modern Tech for Southern High School Cafeteria AC unit, dated October 18, 2010 approved and work commenced for an indefinite amount to exceed \$ 9,143.50 *exclusive of materials*.

COPY

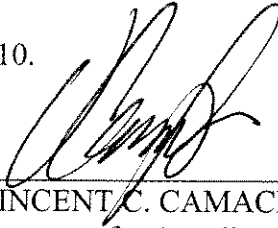
- Exhibit 4.** Letter from J&B Modern Tech to Mr. Brian Mafnas, Supply Management Administrator, dated April 30, 2010 requesting modification of labor rates to comply with the Wage Determination requirements.
- Exhibit 5.** Letter from Mr. Brian Mafnas, Supply Management Administrator, in response to Letter from J&B Modern Tech, dated May 10, 2010, granting an increase in labor rates to comply with Wage Determination requirements.

Appellant also submits its List of Issues which require evidence or arguments to be presented at the Hearing as follows:

- Issue 1.** Whether GDOE violated the Guam Procurement law § 5211(b) by failing to require the awarded bidder to demonstrate compliance with §§ 5801 and 5802 (Wage Determination).
- Issue 2.** Whether GDOE violated the Guam Procurement law § 5211(e) by failing to properly identify the specific occupation that bidders would employ in performing under the IFB.
- Issue 3.** Whether GDOE violated the Guam Procurement law § 5211 (g) by failing to ensure that the awarded bidder met the requirements and criteria set forth in the IFB.
- Issue 3(a).** Whether GDOE failed to conduct a responsibility inquiry when informed of the possibility that the lowest bid may not conform with §§ 5801 and 5802 (Wage Determination).
- Issue 3(b).** Whether GDOE failed to conduct a responsibility inquiry even when provided with an employee listing not meeting the crew (personnel) requirements of the IFB.

DATED: Hagåtña, Guam, December 30, 2010.

CARLSMITH BALL LLP



VINCENT C. CAMACHO
Attorneys for Appellant
JRN Air Conditioning & Refrigeration, Inc.

EXHIBIT 1



JRN AIR CONDITIONING & REFRIGERATION

Sales • Service • Maintenance • Installation • Electrical

P.O. Box 27071 • GME, Guam 96921 • Tel: (671) 649-8120/21 • Fax: (671) 649-8737

RELAX. IT'S RHEEM

QUOTATION

Date: 10/13/10

Prepared By: JRN

Quotation / Proforma No.: _____

Approved By: _____

Customer Name: CLUB / JRS MARTINA

Mailing Address: _____

Phone Number (H): _____ (W) 495-6618 (Fax) 495-7040

Contact Person: FILLY GILG

Job Location: _____

Area to be Air Conditioned: _____ sq.ft.

New Relocation Replacement

UNIT MODEL NUMBER SELECTED	ea.	PRICE
<u>COMMERCIAL 40 TON (SPLIT)</u>	<u>1</u>	<u>1,500.00</u>
<u>FREON (12 TONS)</u>	<u>3</u>	<u>240.00</u>
<u>FILTER 20165</u>	<u>1</u>	<u>10.00</u>

Basic installation (includes parts and labor) = 2,100.00

CHARGES / NITROGEN / ACETYLENE 210.00

SEQUENCE TIMER 15.00

Other _____

Removal of Freon and disposal of old unit _____

Wall Bracket _____

ELECTRICAL FROM PANEL BOARD

Breaker _____

10 - 20 feet _____

21 - 50 feet _____

51 - 80 feet _____

TOTAL JOB PRICE: 2,925.00

Details of unit location as per conversation with customer - **BE PRECISE!**

NOTE: 1 year warranty (parts & labor only)

Customer's Acceptance: _____ Date: 10/13/10

Deposit Received \$ _____ We will be pleased to receive your order, subject to the above Terms and Conditions

EXHIBIT 2



2400-287-02
~~2400-216-004~~ Y

REQUISITION FORM



Requisition No. 2400-216-004 RPO #

Facilities & Maintenance Division

Vendor No.:

Vendor Name: JRN Air Conditioning & Refrigeration

Address:

Attention: MR. BILLY P. CRUZ, MANAGER (ACTING)

Reference: Refrigeration Section

Requisition Date: October 14, 2010

Date Requested: October 14, 2010

From Location: 2400Y 2240 KA

Blanket Amount \$9,240.00

Account No. 19.08.24.00.26.0280.0022

1	ea	<p>For the repairs of SHS Café. AC Unit B. Scope of Work : Replace 40 Ton Compressor (carrier of all a/c units at all schools for preparation of the up-coming school year.</p>	\$9,240.00	\$	9,240.00
		<p>Authorize Personnel 1. Jacinto Estella Jr. 2. John Leon Guerrero</p>	<p>10/17 PER BILLY, HE WILL GET QUOTES</p> <p>10/22 PER BILLY, CANCEL REQUISITION.</p>		

NOTE: All off-island order must include shipping & handling charges as a line item. Key in your orders (except GSA) and then submit your original requisitions to Business Office / Federal Programs.

TOTAL: \$ 9,240.00

SIGNATURE OF DIVISION HEAD / SCHOOL ADMINISTRATOR

Billy P. Cruz

9,240.00

M. Cruz

EXHIBIT 3

J&B MODERN TECH
HVACR EQUIPMENT AND SUPPLIES

P.O. BOX 9788 TAMUNING, GUAM, U.S.A. 96931
TELEPHONE : (671) 646-0588 FAX : (671) 646-0589

QUOTATION

Q-000000 Page of pages

MR. ALBERT GARCIA GPSS-PROCUREMENT HATGANA, GUAM	DATE : OCT. 18, 2010	JOB : SHS-CAFETERIA A/C
	ENGINEER / ARCHITECT :	DELIVERY :
ATTENTION :	F.O.B. :	TERMS : .

WE ARE PLEASED TO QUOTE THE FOLLOWING : CONFIRMING YES NO

ITEM	QUANTITY	DESCRIPTION	EST. SHIPPING WEIGHT	NET UNIT PRICE	NET TOTAL
1	1 EA.	COMPRESSOR-40 TONS		\$ 8,580.00	8,580.00
2	3 EA.	RECOVERY TANK		420.00	420.00
3		NITROGEN FOR FLUSHING		51.50	51.50
4	1 EA.	CORE FILTER		46.00	46.00
5.		OTHER MATERIALS TO BE DETERMINED THE COST UPON COMPLETION OF JOB.			??
6.		LABOR (ESTIMATED ONLY- FINAL UPON COMPLETION			1,526.40
7.		PREVENTIVE MAINTENANCE- ESTIMATED ONLY/ OR N COMPLETION			??
		COMPLETE DESCRIPTION OF MATERIALS USED AND TOTAL AMOUNT			
		WILL BE SHOWN ON MSO AND ATTACHED ^{TO} ON OUR BILL.			

RECEIVED AND APPROVED WORK TO COMMENCE IMMEDIATELY
Albert Garcia
ALBERT G. GARCIA 10/18/2010

QUOTE PREPARED BY : <i>Gene M. Bangayan</i> GENE M. BANGAYAN	THIS QUOTE VALID UNTIL : 19	TOTAL \$
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EXHIBIT 4



J&B MODERN TECH
ACR EQUIPMENT AND SUPPLIES

P.O. BOX 9788 TAMUNING, GUAM, U.S.A. 96931
TELEPHONE : (671) 646-0588 / 646-3346 / 646-4435
FAX: (671) 646-0589

April 30, 2010

MR. BRIAN C. MAFNAS
Administrator, Supply Management
Department of Education
Hagatna, Guam 96932

Re: Cafeteria Equipment Maintenance and Repair Services:

Dear Mr. Mafnas,

We are thankful to received your letter and the PO # 201000047 on the above caption. However, we are requesting a modification on the labor rate in reference to GPSS IFB-003-2008. The reason of asking an adjustment was couple with several factors such as, wage labor determination that change yearly; the employee benefits, like health insurance; free group life insurance; 401K retirement; the company's fica participation payment and company's vehicle gas maintenance and others, etc. Therefore, we would like to request for our Technicians a \$30.00 per man hour and for our helpers a \$20.00 per man hour. This is a 33.35 per cent discount on our company's regular service charge of \$45.00 per man hour. Your immediate attention on this matter is greatly appreciated.

Very truly yours,

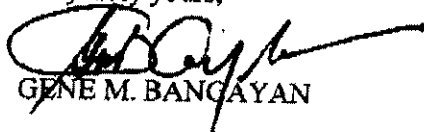

GENE M. BANCAYAN

EXHIBIT 5



DEPARTMENT OF EDUCATION
Office of Supply Management

www.gdoe.net
P.O. Box DE, Hagatna, Guam 96932
Telephone: (671) 300-1580 Fax: (671) 472-5001
Email: bcmafнас@gdoe.net



Nerissa Bretania Underwood, PhD.
Superintendent of Education

Brian C. Mafnas
Supply Management Administrator

May 10, 2010

J&B Modern Tech
P.O. Box 9788
Tamuning, Guam 96931

Attn: Gene M. Bangayan
President

Project Name: Cafeteria Equipment Maintenance and Repair Services

Project Number: IFB 003-2008

Subject: Change Order


Dear Mr. Bangayan,

In response to your letter dated April 30, 2010 and to comply with DOL fair labor rates we are issuing this Change Order to your contract on Cafeteria Equipment Maintenance and Repair Services for DOE Government Owned/Operated School Cafeteria Facilities. The following rates now apply:

- General Technicians Rate \$30.00 per man hour
- Helper Rate \$20.00 per man hour

Please be advised that this Change Order is subject to the availability of funds and that all **General Conditions, General Provisions, Specification/Performance Standards, and Scope of Work** as stipulated within the original contract **IFB 003-2008** shall apply.

Should you have any questions regarding this matter, contact this office at (671) 300-1580/1


Brian C. Mafnas
Administrator, Supply Management

cc:
File