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**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

DATE: 4/29/13  
TIME: 11:45  AM  PM BY: JK  
FILE NO OPA-PA: 13-003

8 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**  
9 **PROCUREMENT APPEAL**

10 IN THE APPEAL OF

APPEAL NO. OPA-PA-13-003

11 PHIL-GETS (GUAM)  
12 INTERNATIONAL TRADING CORP.  
13 dba J&B MODERN TECH,

**MOTION TO ALLOW FOR THE PURCHASE  
OF INDIVIDUAL AIR CONDITIONER  
UNITS**

Appellant.

14 Comes now Guam Department of Education ("GDOE") and moves for an order to allow  
15 GDOE to purchase individual air conditioner units.

16 **BACKGROUND**

17 On or about April 17, 2013, several large air conditioner units at Simon Sanchez High  
18 School broke down. The staff of GDOE's Facilities & Maintenance Division inspected the units  
19 and determined that two 7.5 ton air conditioner units were beyond repair. As a result of these air  
20 conditioner units being down, the air temperatures in four classrooms, the library, the counselors'  
21 offices and the nurse's office range from 80°F-84°F. GDOE's Facilities & Maintenance staff  
22 recommended these two 7.5 ton units be replaced with new units. See Attached Declaration of  
23 Billy Cruz, Facilities & Maintenance Manager. The two 7.5 ton air conditioner units were slated  
24 to be replaced with units purchased under GDOE Invitation for Bid 008-2013 ("IFB") for the  
25 Indefinite Quantity Bid for Purchase of Air Conditioning Equipment ("IFB").  
26  
27  
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1 DISCUSSION

2 GDOE requests that the OPA grant its Motion to Allow for the Purchase of Individual Air  
3 Conditioner Units. GDOE does not ask the OPA to allow GDOE to move forward with the award  
4 of the IFB, which encompasses over 1500 units, but GDOE only asks the OPA to allow GDOE to  
5 purchase two air conditioner units to replace those that are beyond repair.

6  
7 The Every Child is Entitled to an Adequate Public Education Act mandates that public  
8 schools must provide at a minimum “air conditioned or properly ventilated classrooms in which  
9 the sensible air temperature is no greater than 78°F.” Public Law 28-45; 1 G.C.A § 715(12)(f).

10 In order for GDOE to provide an adequate public education for public school students,  
11 GDOE must keep all public school classrooms at an air temperature no greater than 78°F.  
12 Presently, GDOE is unable to procure any replacement air conditioner units due to the stay issued  
13 in the IFB. GDOE’s inability to procure replacement air conditioner units will lead to GDOE  
14 classrooms’ air temperature exceeding 78°F, which is in violation the Every Child is Entitled to  
15 an Adequate Public Education Act.  
16

17 To prevent this from happening, GDOE requires that the OPA allow the purchase of  
18 replacement air conditioner units. Presently there are two 7.5 ton air conditioner units at Simon  
19 Sanchez High School that need to be replaced immediately. Together these air conditioner units  
20 service four classrooms, the library, the counselors’ offices and the nurse’s office. Without these  
21 air conditioner units functioning the air temperature of these classrooms and offices range from  
22 80°F-84°F.  
23

24 If the OPA does not allow GDOE to replace the two 7.5 ton units at Simon Sanchez High  
25 School, GDOE will be placed in the position of being non-compliant with the Every Child is  
26 Entitled to an Adequate Public Education Act. Therefore, GDOE respectfully asks the OPA to  
27 grant GDOE’s Motion to Allow for the Purchase of Individual Air Conditioner Units, and allow  
28

1 GDOE to use applicable competitive procurement procedures to purchase these air conditioner  
2 units in order to comply with the mandate of the Every Child is Entitled to an Adequate Public  
3 Education Act.

4  
5 **CONCLUSION**

6 For the foregoing reasons, GDOE respectfully requests that the Office of Public  
7 Accountability to grant GDOE's Motion to Allow for the Purchase of Individual Air Conditioner  
8 Units.

9  
10 Dated this 29<sup>th</sup> day of April, 2013.

11 Respectfully submitted,

12 **GUAM DEPARTMENT OF EDUCATION**

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14 By:   
15 **ANDREW T. PEREZ, ESQ.**  
16 *Legal Counsel*

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