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THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Procurement Appeal of)
)
MORRICO EQUIPMENT, LLC,)
)
Appellant.)
_____)

**NOTICE OF PROCUREMENT
APPEAL**

Docket No. OPA-PA _____

Appellant Information:

Morrigo Equipment, LLC ("Morrigo")
197 Ypao Road
Tamuning, Guam 96931

Tel: 649-1946
Fax: 649-1947

Appeal Information:

- A) General Services Agency.
- B) Invitation for Bid No. GSA065-14; a procurement solicitation for school buses.
- C) Decision being appealed is the GSA Denial of Procurement Protest, dated November 12, 2014, and received by Morrigo on November 13, 2014.
- D) Appeal is made from a decision on protest of method, solicitation or award.
- E) Names of competing bidders: Triple J Enterprises, Inc.

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Form and Filing:

1. On or about July 1, 2014, the GSA let the subject Invitation for Bid (“IFB”), for school buses.
2. Morrico submitted a bid in response to the IFB and a bid opening was conducted on August 12, 2014. *See, Exhibit A.*
3. On September 9, 2014, GSA sent Morrico a bid status advising that the Morrico bid was rejected due to nonconformity with an exterior rivet specification. The GSA further advised that the IFB would be re-bid. *See, Exhibit B.*
4. On October 29, 2014, Triple J Enterprises, Inc. (“Triple J”), filed an appeal to the Office of Public Accountability (“OPA”), with respect to the GSA’s September 26, 2014, denial of Triple J’s previously filed protest. *See, In the Matter of Appeal of Triple J Enterprises, Inc., OPA-PA-14-009.*
5. On November 10, 2014, Morrico learned that Triple J, the GSA and the Guam Attorney General’s Office (“AGO”), had entered into a written settlement agreement to resolve Triple J’s OPA appeal in OPA-PA-14-009. The settlement agreement was submitted to the OPA on November 7, 2014, and the OPA signed the settlement agreement on November 10th. The settlement agreement provided that the GSA would award nine (9) buses to Triple J and that the GSA would award three (3) buses to Morrico. The settlement agreement further provided that if Morrico protested the settlement agreement, then the GSA would award all buses to Triple J.
6. Morrico was not a party to the settlement agreement, it did not sign the settlement agreement and it does not approve of the settlement agreement.
7. On November 10, 2014, Morrico, through counsel, filed a protest with the GSA with respect to its intent to award a contract to Triple J for the purchase of buses under the IFB. Morrico’s protest is attached hereto as **Exhibit C** and is incorporated herein by reference.
8. The GSA denied Morrico’s protest in a letter dated November 12, 2014, and received by Morrico’s counsel on November 13, 2014. *See, Exhibit D.*
9. In its letter denying the protest, the GSA relied on the fact that 5 GCA § 5425(b) provides that the Chief Procurement Officer of the GSA has the authority to settle and resolve protests and that this is why the GSA entered into a settlement agreement with Triple J. However, the GSA did not resolve Triple J’s protest by way of a settlement agreement under Section 5425(b). Rather, on September 26, 2014, it acted pursuant to 5 GCA § 5425(c) and issued a written decision denying Triple J’s protest and advising that it had a right to administrative or judicial review. *See, In the Matter of Appeal of Triple J Enterprises, Inc., OPA-PA-14-009, Notice of Appeal, Exhibit L.* Thereafter and upon Triple J’s appeal to the OPA, there was no longer any protest pending before the GSA which it could resolve pursuant to 5 GCA § 5425(b). Furthermore, the GSA failed to

provide notice to Morrico of Triple J's appeal to the OPA and thereby denied Morrico's due process rights to notice and an opportunity to be heard.

10. Morrico requests that the OPA rule that the GSA's denial of Morrico's protest was arbitrary, capricious and an abuse of discretion, and that the OPA order the GSA to set aside its agreement to award a contract to Triple J.

11. Morrico further requests that the OPA consolidate this appeal with the appeal of Triple J in OPA-PA-14-009.

12. Morrico has attached all supporting documents as exhibits hereto.

Declaration regarding court action:

Morrigo confirms that an action in court has not been commenced.

Dated this 18th day of November, 2014.

DOOLEY ROBERTS & FOWLER LLP

By:



KEVIN J. FOWLER
Attorneys for Appellant
Morrigo Equipment, LLC

VERIFICATION

I, Torgun Smith, Executive Vice President for Appellant Morrico, hereby declare under penalty of perjury under the laws of Guam that I have read the foregoing Notice of Appeal and that it is true and correct of my own knowledge, except as to those matters alleged upon information and belief and as to those matters, I believe them to be true.

Dated this 18th day of November, 2014.



TORGUN SMITH