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**PROCUREMENT APPEAL**

December 4, 2014

**VIA HAND DELIVERY**

THE OFFICE OF PUBLIC ACCOUNTABILITY - GUAM  
Suite 401, Pacific News Building  
238 Archbishop Flores Street  
Hagatna, Guam 96910  
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DATE: 12/4/14  
TIME: 4:29  AM  PM BY: [Signature]  
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**Re: Transmittal Letter**

Dear Madam Public Auditor:

Pursuant to 2 GAR § 12104(b), please find the appeal of appellant Morrico Equipment, LLC of the denial of its protest in connection with GSA-065-14 a procurement solicitation for school buses transmitted with this letter.

Sincerely,

DOOLEY ROBERTS & FOWLER LLP



**Kevin J. Fowler**

Enclosures

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Attorneys for Appellant  
Morrico Equipment, LLC

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DATE: 12/4/14  
TIME: 4:39  AM  PM BY: [Signature]  
FILE NO OPA-PA: 14-012

**THE OFFICE OF PUBLIC ACCOUNTABILITY**

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

**NOTICE OF PROCUREMENT  
APPEAL**

Docket No. OPA-PA 14-012

**Appellant Information:**

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

Tel: 649-1946  
Fax: 649-1947

**Appeal Information:**

- A) General Services Agency (“GSA”).
- B) Invitation for Bid No. GSA065-14; a procurement solicitation for school buses.
- C) Decision being appealed is the GSA’s December 1, 2014, decision by which it refused to render a decision on Morrigo’s November 21, 2014, protest.
- D) Appeal is made from a decision on protest of method, solicitation or award.
- E) Names of competing bidders: Triple J Enterprises, Inc.

ORIGINAL

### **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 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 10<sup>th</sup>. 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**.
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. On November 18, 2014, Morrico filed an appeal with the OPA with respect to the GSA’s November 12, 2014, protest denial. *See, In The Procurement Appeal of Morrico Equipment, LLC, OPA-PA-14-011.*
10. On November 21, 2014, Morrico filed a second protest with the GSA regarding its intent to award a contract to Triple J. Morrico’s second protest is attached hereto as **Exhibit E** and is incorporated herein by reference.
11. On December 1, 2014, the GSA responded to Morrico’s November 21, 2014, second protest. The GSA refused to render a decision on the merits of the second protest because it had

stayed the procurement following Morrigo's first protest filed on November 10, 2014. The GSA's December 1, 2014, letter is attached hereto as **Exhibit F**.

12. In *In the Appeal of Pacific Data Systems*, OPA-PA-12-012, the OPA held that even though there was a pending appeal of a procurement protest decision, the GSA must still render a decision on a second protest filed by the same bidder with respect to that same solicitation. Further, the OPA held that the GSA must also render a decision on any other protests filed by other bidders with respect to that same solicitation.

13. Morrigo requests that the OPA rule that the GSA must render a decision on Morrigo's November 21, 2014, protest.

15. Morrigo 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 3<sup>rd</sup> day of December, 2014.

DOOLEY ROBERTS & FOWLER LLP

By:



**KEVIN J. FOWLER**  
Attorneys for Appellant  
Morrigo Equipment, LLC

**VERIFICATION**

I, Torgun Smith, Executive Vice President for Appellant Morrigo, hereby declare under penalty of perjury under the laws of Guam that I have read the foregoing Notice of Procurement 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 3<sup>rd</sup> day of December, 2014.



**TORGUN SMITH**