

Felix P Camacho
Governor



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PROCUREMENT APPEALS

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January 18, 2008

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BY:

Anne Camacho

PROCUREMENT APPEAL

FILE No. OPA-PA

08-001

by TG
cc feli
RC
LP

In the Appeal of)
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)
FAR EAST EQUIPMENT CO., LLC)
(Name of Company), APPELLANT)
_____)

MOTION TO DISMISS

Docket No. OPA-PA-08-001

Pursuant to 2 GAR Section 12104(c)(9), the General Services Agency hereby files this Motion to Dismiss the Appeal of Far East Equipment Co., Inc. LLC in case number OPA-PA-08-001 for the following reason:

The appeal filed by the Appellant protested issues that were not the subject of the protest filed on December 21, 2007. The protest to the General Services Agency was based on the following issues: non-conformance with the specifications/requirements, high price and "vendors recommended commercial deviations and commercial contract terms are not in compliance with the Guam Procurement Rules and Regulations. The General Services Agency addressed these concerns on December 28, 2007.


The appeal to the Office of the Public Auditor is based upon the following reasons as noted in the appeal package of the Appellant: Solicitation for a construction project using multi-step sealed bidding procedures which rightfully should proceed to negotiations and then contract award; that the solicitation was a multi-step sealed bidding; that the bid rejection was in error; and that the appellant seeks fair and equitable treatment under the Guam Procurement Law.

Because the Appellant failed to provide these grounds to the General Services Agency to review and possibly resolve at the lowest possible level, its appeal to the Office of the Public Auditor is inappropriate as it is nothing more than another attempt at getting a second crack at the apple of failing to meet the requirement of letting the General Services Agency the opportunity to address these concerns. Moreover, the Appellant failed to meet the requirement of filing a timely protest within the fourteen (14) days period required under 5GCA §5425(a). The General Services Agency issued the bid status on November 29, 2007.

The package submitted by the Appellant was erroneous in that it indicated that the appeal was based upon the decision of the General Services Agency. See Notice of Appeal, Part III (C) and (D).

The General Services Agency did not address the issues that were raised in this appeal and as such, should have been given the opportunity to address them prior to being ambushed by an appeal filed with the Office of the Public Auditor.

Sincerely,


CLAUDIA S. ACFALLE
Chief Procurement Officer

Transmission Report

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The package submitted by the Appellant was erroneous in that it indicated that the appeal was based upon the decision of the General Services Agency. See Notice of Appeal, Part III (C) and (D).

The General Services Agency did not address the issues that were raised in this appeal and as such, should have been given the opportunity to address them prior to being ambushed by an appeal filed with the Office of the Public Auditor.

Sincerely,

C. Acfalle
CLAUDIA S. ACFALLE
Chief Procurement Officer

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Abbreviations:

- HS: Host send
- HR: Host receive
- WS: Waiting send
- PL: Polled local
- PR: Polled remote
- MS: Mailbox save
- MP: Mailbox print
- CP: Completed
- FA: Fail
- TU: Terminated by user
- TS: Terminated by system
- RP: Report
- G3: Group 3
- EC: Error Correct