

IN THE MATTER OF)	Docket OPA PA-16-015
)	
Trans Steel Management)	FILING OF BRIEF
Appellant,)	
)	
AND)	
)	
Guam Power Authority)	
Purchasing Agency)	

The Office of Public Accountability (OPA) had jurisdiction in hearing this matter because it is a procurement issue. 2 GAR Div. 4 Chapter 8 §8102 (h) (2) Supply Management Competitive Sealed Bidding.

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

Back Ground

DATE: Feb 3, 2017
 TIME: 4:16 AM PM BY: FOJ
 FILE NO OPA-PA: 16-015

On August 11, 2016 the Guam Power Authority (GPA) issued Invitation for Surplus Bid (IFSB) No. GPA-SS-003-16 (Miscellaneous Surplus Bid).

The IFSB invited and urged bidders to inspect the property to be sold **prior** to submitting a bid.

When Trans Steel conducted its first inspection the vehicles that we were interested was complete with doors, engines, etc. (Tab 25 of the Procurement Record).

Prior to the bid submission Trans Steel conducted a second inspection and discovered that on the same vehicle that Trans Steel inspected on the first inspection the door and the engine were removed. (Tab 25 of the Procurement Record).

Trans Steel after its second inspection realized that the conduct of GPA is somewhat a Bait and Switch conduct. Since **major** parts were removed from the heavy equipment vehicle such as the door and the engine during the inspection process the minimum bid amount should change. The reason I mentioned Bait and Switch is that during the original inspection the parts of the vehicle were all in-tact, however just before the bid opening time and date parts were removed from what the bidders originally saw during the first site inspection.

On September 06, 2016 IFSB was opened and Trans Steel the sole bidder submitted its bid in the amount of \$5,000.00 which was rejected by GPA for failing to meet the minimum bid amount of \$30,000.00. No official rejection of GPA-SS-003-16 was issued by GPA to Trans Steel.

On September 20 & 27, 2016 a Re-Bid GPA –SS-003-16 was advertised on the Guam Daily Post (Tab 4 of the Procurement Record). Based on the Bid Register only ONE (1) interested bidder registered or picked up a bid package on October 03, 2016, Trans Steel. (Tab 6 of the Procurement Record).

On October 06, 2016 at 10:00 a.m., the Re-Bid GPA-SS-003-16 was opened and only ONE (1) bidder submitted a bid namely: Trans Steel Hauling and Management. (Tab 7 of the Procurement Record).

On October 14, 2016 at 7:57 a.m., Mr. Vince Barcinas, Buyer 1 emailed Mr. Jimmy Pangelinan, Transportation Superintendent (Husband of Ms. Jamie Pangelinan, Supply Management Administrator) requesting for advise on the bid submitted by the **ONLY** bidder, Trans Steel in the amount of \$4,300.00 (Tab 10 of the Procurement Record).

On October 14, 2016 at 1:30 p.m., Ms. Genevieve Pablo, 4J's Equipment, Inc. emailed Ms. Jamie Pangelinan, Supply Management Administrator (Wife of Mr. Jimmy Pangelinan, Transportation Superintendent) indicating that she would like to submit a bid for the scrap at the GPA Transportation Yard. (Tab 11 of the Procurement Record).

Ms. Pangelinan failed in her fiduciary responsibility to inform 4J's that IFB Re-Bid GPA-SS-003-16 closed on October 06, 2016 and therefore cannot receive any bids after the scheduled bid opening.

On October 20, 2016 Trans Steel received a letter dated October 17, 2016 from GPA, notifying Trans Steel that its bid for Re-Bid GPA-SS-003-16 was rejected due to not meeting the minimum bid amount. (Tab 12 of the Procurement Record).

On October 20, 2016 Trans Steel met with Ms. Jamie Pangelinan and Mr. Vince Barcinas at the office of Ms. Jamie Pangelinan in which I was informed by Ms. Jamie Pangelinan to submit an offer of \$10,000.00 on or before 10:00 a.m., October 28, 2016. (Tab 19 of the Procurement Record).

On October 24, 2016 Trans Steel met with Ms. Jamie Pangelinan, Mr. Vince Barcinas, and Mr. Jimmy Pangelinan, to include other GPA Transportation employees at the GPA Transportation Office in Tamuning. Again, Ms. Jamie Pangelinan informed me to submit a bid counter offer of \$10,000.00 (Tab 19 of the Procurement Record).

On October 28, 2016 10:00 a.m., an abstract referencing Re-Bid GPA-SS-003-16 (Counter Offer) for Miscellaneous Surplus Salvage Bid. The abstract indicated two (2) bids received namely: 4J's Equipment Inc. and Trans Steel. (Tab 15 of the Procurement Record).

CONCLUSION

Issue #1

On October 06, 2016 was the scheduled bid opening for Re-Bid GPA-SS-003-16. Only ONE (1) bid was received, Trans Steel based on the abstract prepared. (Tab 7 of the Procurement Record)

Therefore, how can 4J's submit a **counter offer** on October 28, 2016 when they did not submit a bid for Re-Bid GPA-SS-003-16? What is 4J's counter offering against? Again, the abstract only noted ONE (1) bid was received.

Issue #2

There is no evidence in the procurement record of a notice issued by GPA to any vendor regarding the rejection of the bid submitted by Trans Steel on Re-Bid GPA-SS-003-16. Neither was a notice issued by GPA inviting vendors that GPA wishes to negotiate a price for the scrap located at the GPA Transportation Yard.

Therefore, how then was 4J's notified by GPA that GPA was requesting for a **Counter Offer** for Re-Bid GPA-SS-003-16? Since there is no documentation in the procurement record that GPA notified 4J's on the **Counter Offer**, who then informed 4J's? The procurement record does not have any evidence of such invitation.

Issue #3

Because the abstract prepared on October 28, 2016, indicated or referenced the solicitation Re-Bid GPA-SS-003-16 and noted (Counter Offer), the only bidder qualified to submit a **Counter Offer** is the **SOLE** bidder Trans Steel, since they are the only bidder that submitted a bid for Re-Bid GPA-SS-003-16.

If GPA's position was to negotiate with other vendors not relevant to the solicitation, GPA should not reference the solicitation number or indicate **Counter Offer** on the abstract dated October 28, 2016. **However, because the solicitation number Re-Bid GPA-SS-003-16 was indicated or referenced on the abstract dated October 28, 2016, it is clear that GPA was interested in a Counter Offer under the same bid solicitation number.**

The mystery remains, how or why was 4J's the only vendor informed of GPA's intention to request for a **Counter Offer**?

Issue #4

When Ms. Jamie Pangelinan received the email dated October 14, 2016 from Ms. Genevieve Pablo, 4J's of their interest to submit a bid for the scrap at the Transportation Yard, Ms. Jamie Pangelinan failed in her fiduciary responsibility as the Supply Management Administrator, to inform 4J's that the bid had already closed on October 06, 2016.

Therefore, Ms. Jamie Pangelinan should not have received the "**Counter Offer**" submitted by 4J's.

RESOLUTION SOUGHT

1. GPA to rescind the letter dated October 28, 2016 to 4J's awarding their Counter Offer of \$15,100.00
2. GPA to accept the Counter Offer submitted on October 28, 2016 by the ONLY bidder Trans Steel in the amount of \$10,000.00.

I am confident as always, that the OPA will render a decision that is fair and equitable, based on the procurement record that was presented. I look forward to a favorable decision to be rendered by the OPA.



JOHN PEARSON
General Manager
Trans Steel Management