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OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

IN THE APPEAL OF IP&E Holdings, LLC, Appellant.	DOCKET NO. OPA-PA-15-006 **APPELLEE'S HEARING BRIEF**

COMES NOW, the GUAM POWER AUTHORITY, by and through its counsel of record, D. GRAHAM BOTHA, ESQ., and submits its Hearing Brief for the February 10, 2017, hearing as follows.

ARGUMENT

Guam Power Authority (GPA) submits that it properly awarded the Salvage bid, GPA-SS-003-16, to 4J's Equipment. One company, Trans Steel Management, submitted a bid in response to the IFB. The minimum bid listed in the IFB was $30,000, and on September 6, 2016, Trans Steel Management, submitted a bid in the amount of $5,000, Tab "1A". This bid was properly rejected by GPA. GPA again advertised the bid with a lower minimum bid of $15,000 on September 20, 2016, Tab "3". Trans Steel submitted a bid on October 6, 2016, in the amount of $4,300, which was again properly rejected by GPA, "Tab 6".

GPA notified appellant that it would again seek bidders for the salvage bid, having already attempted unsuccessfully two times to find a qualified bidder. Trans Steel was notified on October 17, 2016, that its bid was rejected due to failure to meet the minimum bid, "Tab 12". GPA

determined that other salvage bids would be considered with a minimum bid of $10,000, with the highest bidder awarded the salvage bid. Two bids were received by GPA, one from Trans Steel Management in the amount of $10,000, and one from 4J Heavy Equipment in the amount of $15,100, Tab "15, 16, 17". GPA properly accepted the highest salvage bid from 4J

Procurement law requires that GPA award to the lowest responsible and **responsive** bidders. A responsive bidder is a person who has submitted a bid which conforms in all material respects to the Invitation for Bid. 5 GCA §5201(g) and 2 GAR, Div. 4, Chap. 3, §3109(n)(2). Further, any bidder's offering which does not meet the acceptability requirements shall be rejected as non-responsive. 2 GAR, Div. 4, Chap. 3, §3109(n)(3)(c).

Trans Steel Management contends that GPA improperly awarded the salvage bid to 4J Heavy Equipment, as Trans Steel Management states that it was the only bidder on 2 separate bids, and therefore only it should have been allowed to make an offer for a third time. Trans Steel did submit a bid on two separate occasions, but in each instance their bid was properly rejected by GPA, as its bid was non-responsive as Trans Steel acknowledges in its letter that it did not meet the minimum bid required by GPA. The bid clearly listed a minimum bid requirement for the two salvage bids. Trans Steel admits it did not comply with that requirement set forth in the salvage bid.

GPA properly made an award to 4J Heavy Equipment as the highest salvage bid received, as it deemed 4J Heavy Equipment the **responsive** and responsible bidder for salvage as specified in the IFB.

CONCLUSION

GPA requests that the appeal of Trans Steel Management be dismissed, and that the Public Auditor award all legal and equitable remedies that GPA may be entitled to as a result.

RESPECTFULLY SUBMITTED this 3rd day of February, 2017.

D. GRAHAM BOTHA, ESQ.
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