





1 In appealing GMHA's warranted rejection of its bid, JMI contends the product descriptions  
2 it submitted for the EVO ES CT should not be considered part of its bid, and the price page (Bid  
3 Form) alone is proof of full compliance with the specifications required by GMHA in the IFB.  
4 However, as the procurement record shows, JMI used these same supporting documents to answer  
5 other specific inquiries from GMHA. JMI is arguing that the documents they submitted for the EVO  
6 ES CT can be used to prove their compliance but cannot be used when they prove non-compliance.  
7 JMI cannot have it both ways. JMI indeed submitted product specification documents for a EVO ES  
8 CT to GMHA as part of its bid. GMHA correctly used JMI's supporting documents to confirm non-  
9 compliance with the specifications it provided all bidders in its IFB.  
10

11 Considering JMI failed to meet the specifications required by GMHA, GMHA correctly  
12 deemed the JMI as non-responsive. GHMA then correctly awarded the bid to Oka Pacific as the  
13 lowest responsive bidder  
14

## 15 ARGUMENTS

### 16 GMHA may reject bids from bidders who are "deemed non-responsive".

17 A responsive bidder is defined as "a person who has submitted a bid which conforms in all  
18 material respects to the Invitation for Bids." Title 5 of the Guam Code Annotated ("GCA"), § 5201  
19 (g). The IFB provides that "[f]ailure to provide a bid that conforms to the requirements of the Bid  
20 Plans and Specifications in every respect may subject the bidder to being deemed non-responsive  
21 and therefore having their bid rejected." IFB, Section 1-22, PR 749. Emphasis added. Furthermore,  
22 a bid can be rejected when: ...(ii) the bid is not responsive, that is, it does not conform in all  
23 material respects to the Invitation for Bids," or "(iii) the supply, service or construction item offered  
24 in the bid is unacceptable by reason of its failure to meet the requirements of the specifications." 2  
25 GAR, Div. 4, § 3115(3)(3)(ii) and (iii). Emphasis added.  
26

1 JMI is not a responsive bidder as its bid does not conform in all material  
2 respects to the IFB.

3 **JMI's bid proposed a Revolution EVO ES CT.**

4 JMI submitted descriptive product descriptions for a GE EVO ES. Below are excerpts from  
5 the CT specification sheet that JMI presented as part of its bid:



7 **JMI-Edison**  
125 North Marine Corps Drive, Tamuning, Guam 96913  
Tel: (671) 646-1256, 646-8184 Fax: (671) 649-5685  
E-Mail: sales@jmiguam.com Website: www.jmiguam.com



8 **GE Revolution EVO**

9 **S7880ES Revolution EVO System ES Configuration**

10 Today's healthcare environment is about creating new solutions to pressing needs. It's about  
11 understanding how one CT exam can improve patient outcomes while lowering the cost of providing  
12 care. Revolution EVO is designed with the purpose of operating in this new reality, while anticipating  
13 the challenges of tomorrow. It's designed to support the widest variety of patients and applications,  
14 from complex trauma or cardiac cases, to large patient backlogs in busy emergency departments that  
15 strain workflows and resources. The design of Revolution EVO is made for institutions that are unable  
16 to sacrifice advanced capabilities such as high resolution for daily productivity. It is well suited for  
17 those who need to provide the lowest dose possible. And it provides options to expand your referral  
18 physician base and the services you provide to your community.

13 Specifically, the product description JMI provided clearly shows that the "maximum number of  
14 slices per rotation" is "32 acquired slices" even though GMHA specifications required that a CT  
15 must acquire 64 slices. See also JMI's original bid at p. 55:

17 **System Hardware**

18 **Detector and data acquisition system**

19 <b>Height clarity detector</b>	Inherited directly from our breakthrough Revolution CT system, the Clarity detector is the heart of Revolution EVO. With its high-resolution imaging capabilities, you can see details as small as 0.276 mm. The Clarity detector delivers improved dose efficiency and signal-to-noise ratio as well, plus large coverage with 70 cm x 140 cm FOV.
20 <b>Integrated Clarity data acquisition system</b>	Thanks to its revolutionary patented design, the data acquisition system is integrated directly onto the photo diode. This reduces the size of the data acquisition system by 75%, reduces electronic noise by 64%, and lowers power consumption by 50% compared to previous generation systems.
21 <b>High speed scanner</b>	Our proprietary, patented scanner was designed specifically for CT imaging and provides key performance properties that make it best for the task including high primary speed affects spatial resolution at fast rotation speeds, low attenuation artifacts artifacts and high x-ray stopping power affects image quality per dose.
22 <b>Clarity 2D coverage</b>	Designed to reduce scatter and improve image quality
<b>Maximum number of slices per rotation</b>	32 acquired slices up to 64 axial reconstructed slices
23 <b>Number of detector channels</b>	64
<b>Number of detector electronic channels</b>	32
<b>Number of detector elements</b>	54,272
24 <b>Number of views per rotation</b>	865 - 1,960
<b>Acquisition modes</b>	32 x 0.625 mm, 32 x 1.25 mm, 16 x 0.625 mm, 8 x 0.625 mm, 4 x 0.625 mm, 2 x 0.625 mm
25 <b>Pixel &amp; z-resolution modes</b>	Pixel resolution: 1.1 mm x 1.1 mm

26 Agency Report, Tab G (JMI Bid Appendix 5-1: CT Data & Brochure, p. 5).

1 JMI, by proposing the Revolution EVO ES platform, failed to provide a bid that conforms  
2 to the requirements of the IFB Plans and Specifications in every respect. Because JMI's bid failed  
3 to provide a CT that acquires 64 slices per rotation, a material specification, GMHA properly  
4 determined JMI was non-responsive and rejected its bid.

5 **64 slices "reconstructed" is not the same as 64 slices "acquired" when it comes to the quality of**  
6 **radiology diagnostics.**

7 The EVO ES proposed by JMI reconstructs 64 slices but does not acquire 64 slices. There is  
8 a distinct difference between "ACQUIRED" and "RECONSTRUCTED." The number of detector  
9 electronic channels are the physical limit of how many unique slices can be acquired simultaneously.  
10 The number of electronic channels is tied directly to the number of ACQUIRED slices a CT is  
11 capable of collecting.  
12

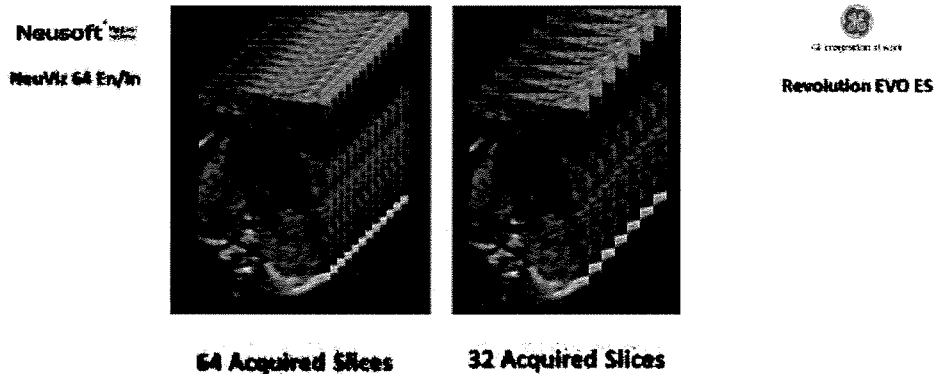
13 Although the CT offered by JMI, the Revolution EVO ES, is a 64 slice CT system, that  
14 designation is related to the number of RECONSTRUCTED SLICES that can be manipulated from  
15 32 acquired slices. The acquired slices are the raw data that the machine is capable of collecting in a  
16 rotation. The 32 acquired slices of the Revolution EVO ES are interpolated (digitally  
17 created/enhanced) into 64 RECONSTRUCTED SLICES. With fewer ACQUIRED slices in an  
18 imaging volume being transformed into a higher number of RECONSTRUCTED SLICES, there is a  
19 potential for loss of diagnostic information and reduction in resolution.  
20

21 The difference between 64 versus 32 acquired slices is significant with regard to the digital  
22 information captured in the "views" or "projections":  
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24 The "gap" between each acquired slice is larger with a 32-slice acquisition as opposed to a  
25 64 slice acquisition. The gaps represent missing digital information that will not be available for  
26 reconstruction and could lack significant clinical information. If two CTs are identical and one  
27 acquires 32 slices and the other 64 slices, the CT that acquires 64 slices will provide higher quality  
28 resolution than a CT that only acquires 32 slices. A CT that acquires only 32 slices must also be

1 “interpolated” (digitally created) to approximate the higher resolution of a CT that acquires 64  
2 slices. GMHA knew that there will be a loss of resolution - the images will not be as good- when it  
3 specified that the new CTs must acquire 64 slices per rotation. GMHA clearly intended to improve  
4 the resolution of CT scans from its desired new CTs.

5  
6 **Half as many ACQUIRED SLICES, Half the DIGITAL INFORMATION**  
7 **(FEWER, “VIEWS”, “PROJECTIONS”, “SAMPLES”)**



25 To ACQUIRE 64 slices with GE’s particular technology with the EVO “ES”, the number of  
26 detector arrays must be DOUBLED from 32<sup>1</sup> to 64. Detector arrays are the single most expensive  
27 component of a CT and account for 25 to 40% of the system cost.

28 If JMI offered the Revolution EVO “LS,” it would have met the specification of 64 slices  
acquired that would have been reconstructed into 64 slices. There would be no need for an  
interpolation step to synthesize the additional 32 slices (as is required with the Revolution EVO ES).

There is more fidelity in the digital information produced by the Revolution EVO LS and OP’s

<sup>1</sup> The Neusoft technology offered by Oka also uses 32 detector arrays. But, that is where the similarity ends.

Neusoft uses a tube technology known as “dynamic” or “flying” focal spot to move the x-ray beam in both the axial and lateral planes. This allows Neusoft to acquire 64 slices by multiplexing the 32 detector arrays through 64 detector electronic channels. The dynamic focal spot with the 64 detector electronic channels is the difference between the two systems.

In addition, there are more than twice as many “PROJECTIONS” or “VIEWS” with the Neusoft products as opposed to the GE products. This is significant when contrasting and comparing ACQUIRED versus RECONSTRUCTED slices.

1 proposed NeuViz 64En/In CT system as slices are not being digitally created.

2 GMHA wants the better CT machines with better resolution. GMHA was very clear about that in the  
3 IFB. GMHA as the end-user determines its needs. GMHA told the bidders in the IFB exactly what it needed.

4 **JMI misrepresents the technical specifications of its proposed CT scanner.**

5 When GMHA asked JMI to clarify whether the submitted system acquired 64 slices or not, JMI  
6 misrepresented the technical specifications of its proposed CT, the Revolution EVO ES.

7 GMHA sent the following clarification request to JMI:



8 **JMI-Edison**

9 125 North Marine Drive, Tamuning, Guam 96913  
10 Tel: (671) 646-1234, 649-3248 Fax: (671) 649-3686  
11 E-Mail: [ales@jmidg.com](mailto:ales@jmidg.com) Website: [www.jmidg.com](http://www.jmidg.com)

- 12 1) Is maintenance an additional \$44,200 to what we currently pay for the annual  
13 contract? Is this for 18 months or per month?  
The standard warranty period is 12 months. The bid specified line item  
14 pricing for an 18-month warranty period so the \$44,200 is the total price for  
the additional 6 months to comply with the 18-month warranty requirement  
for the 2 CTs.
- 15 2) Can the specification for live fluoro be pointed out on the specific machine?  
Both CT systems come with the Biopsy Mode Capability and only the  
Cardiac CT is configured with the live Fluoro.
- 16 3) Are both machines 32 acquired and 64 reconstructed slices?  
Both CT systems are 64 acquired and 64 reconstructed.
- 17 4) Is the power output for both 48 KW with the 72 KW optional?  
No, both systems are configured to be 72 kW systems. can you provide the page? the spec  
state 32 acquired.
- 18 5) Is the MHU minimum 7MHU?  
Yes, the CT Tube is a 7MHU tube, higher than the 5 MHU requirement.  
The IFB states 72KW option
- 19 6) Is the noise suppression 7880MR on the cardiac scanner? Is that optional or included?  
B7880MR is our SmartMAR item and is the Metal Artifact Reduction

20  
21 In response to GMHA's inquiry "are both machines 32 acquired and 64 reconstructed slices," JMI  
22 responded "both systems are 64 acquired and 64 reconstructed." In response to GMHA's second inquiry for  
23 JMI to provide the page in its bid that supports JMI's claim that both CT systems are 64 acquired, JMI refers  
24 GMHA to the bid specs for the EVO ES it submitted, *inter alia*:

25 Imaging Performance Images and Specs TAB Cover Page 1, Item No. 4  
26 There are 64 Detector Rows, 4,272 Detector Elements and 64 Slices/Rotation.

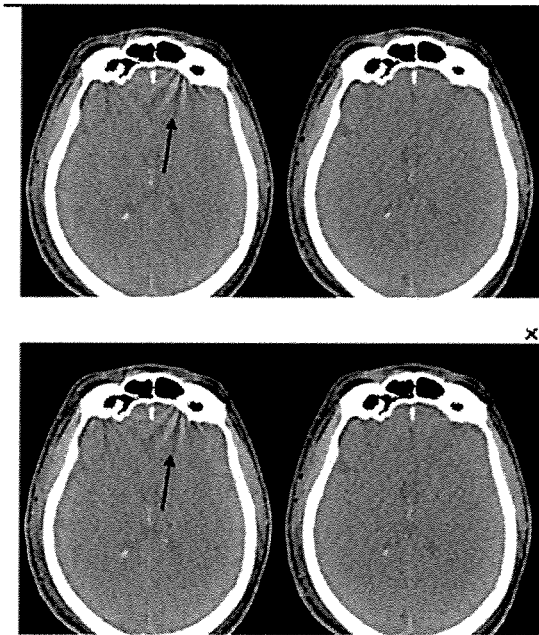
1 Surprisingly, JMI includes a 64-detector channel upgrade **option** (emphasis added) and with this  
2 “option”, JMI’s CTs would meet the requirement of the bid to acquire 64 slices per rotation.

3 However, GMHA did not seek a CT with an optional upgrade.

4 JMI could have offered a different and more expensive GE machine, the Revolution EVO  
5 “LS”, but it did NOT. However, with the EVO ES CT JMI actually offered, it is impossible to  
6 acquire 64 slices with only 32 detector channels.

7  
8 The specification that JMI did not meet, a CT that acquires 64 slices per rotation, was  
9 correctly determined by GMHA to be fundamental and so significant as to lead it to reject JMI’s  
10 bid. GMHA determined that it needed the output, image quality and resolution afforded by a CT  
11 that acquires 64 slices, not 32.

12 GMHA knows inferior CT images are produced with 32 versus 64 acquired slices per  
13 rotation as can be seen in the following images:  
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Fig. 10 Reduction of spiral artifacts with the z-flying focal spot technique. Left: A head specimen scanned with 32 × 0.6 collimation at a pitch of 1.4, without z-flying focal spot. Right: A head specimen scanned at the same pitch with 64 × 0.6 mm slice acquisition using the z-flying focal spot technique. Due to the improved longitudinal sampling, spiral interpolation artifacts (the windmill structures indicated by the arrow) are suppressed without degradation of the z-axis resolution.



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**Performance Evaluation of a 64-Slice CT System with z-Flying Focal Spot.** T. Flohr<sup>1, 2</sup>,  
K. Stierstorfer<sup>1</sup>, R. Raupach<sup>1</sup>, S. Ulzheimer<sup>1</sup>, H. Bruder<sup>1</sup> *Fortschr Röntgenstr* 2004;  
176(12): 1803-1810, DOI: 10.1055/s-2004-813717.<sup>2</sup>

**JMI should not be allowed to argue that it should not be held to the literature it provided in support of its bid because it actually supports GMHA's determination that JMI's bid is nonresponsive.**

The brochure/literature for the EVO ES that JMI submitted as part of its bid clearly states the EVO ES CT it was offering only acquires 32 slices. However, JMI contends "GMHA's use of the Appendix [to JMI's bid proposal] to determine responsiveness was unnecessary as JMI had, in the actual Bid Proposal documents mandated by GMHA, agreed to provide the CT machines as specified by GMHA." JMI's Comments on Agency Statement at 12. JMI argues "GMHA's reliance upon the appendix of JMI's submission in order to find grounds to reject its bid does not conform to the plain terms of the IFB...[as] IFB explains that 'each bid must be submitted on the prescribed Bid form contained within the Appendix A [of the IFB] and shall be accompanied by all of the required forms and documents required in these Specifications.'" JMI Comments to Agency Statement at 2 citing § 1-2, PR 744. JMI further argues "none of the required forms include the additional brochures provided by JMI in its bid package Appendix." *Id.*

<sup>2</sup>Spiral scanning with 64 sub-millimeter slices, z-flying focal spot and 0.33 s gantry rotation time represents a further leap in improved spatial and temporal resolution for routine clinical applications, while maintaining a low level of spiral artifacts up to high pitch values. Improved longitudinal resolution goes hand in hand with considerably reduced scan times, facilitating the examination of uncooperative patients and reducing the amount of contrast agent needed, but also requiring optimized contrast agent protocols.  
**Diagnostic Accuracy of 64-Slice Computed Tomography Coronary Angiography:** A Prospective, Multicenter, Multivendor Study, *Journal of the American College of Cardiology*, Volume 52, Issue 25, 16-23 December 2008, Pages 2135-2144.

1 JMI's argument that none of the "required forms" include the additional brochures it  
2 provided as part of its Appendix A contradicts the Record:

3 **Bidder:** In the Procurement Checklist (Checklist of Forms and Documents  
4 r e q u i r e d

5 to be submitted in conjunction with the Bid)-page 5 of the IFB [sic], what are the  
6 requirements being referred to items 14 [Proof of All Licensure to Perform Work  
7 Called for by the IFB] and 15 [Forms or Documents Required by IFB or Amendments  
8 not referred to above].

9 **GMHA:** It is a reminder to vendors to include whatever the vendor wants to  
10 propose...information about your company or the equipment, etc. It would depend on  
11 the vendor.

12 Agency Procurement Record, Vol. III at 743 (Procurement Checklist) and 830 (Amendment #8 For  
13 GMHA IFB 013-2017). JMI decided to include information on the CT scanners it was proposing as  
14 encouraged by GMHA. JMI should not be allowed to argue that it should not be held to the  
15 literature it provided in support of its bid because it actually supports GMHA's determination that  
16 JMI's bid is nonresponsive. *See The Appeal of TeleGuam Holdings, LLC, Docket OPA-PA-12-*  
17 *2016, TeleGuam Holdings ("GTA") (The OPA held that based on the information and literature*  
18 *provided by the appellant was not compliant with the IFB specifications despite its representations*  
19 *in the Bid form that it was compliant.").*

20 Even if JMI failed to include a brochure or other product literature, the EVO ES's  
21 specifications are available to the public elsewhere to the committee that evaluated JMI's bid. The  
22 committee would have reached the same conclusion--the CT offered by JMI, the EVO ES, does not  
23 acquire 64 slices per 360-degree rotation despite JMI's misrepresentations of its CT's specifications.  
24 Because JMI's offered CT does not conform in all material respects to the IFB, JMI is not the  
25 responsive bidder.

26 Finally, as the procurement record shows, JMI used these same supporting documents to  
27 answer other specific inquiries from GMHA. JMI is arguing that the documents it submitted for the  
28 EVO ES CT can be used to prove its compliance but cannot be used to prove non-compliance. JMI

1 cannot have it both ways. JMI indeed submitted product specification documents for a EVO ES CT  
2 to GMHA as part of its bid. GMHA correctly used these documents to confirm that the EVO ES CT  
3 was non-compliant with the specifications it provided all bidders in the IFB. As a result, GMHA  
4 correctly rejected the JMI bid as non-responsive.

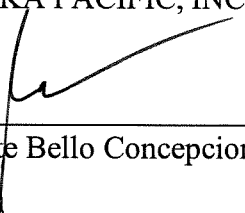
5 GMHA correctly rejected JMI's bid for failing to meet specifications. GMHA correctly  
6 reviewed ALL the documents submitted by JMI, especially the product description for the EVO ES  
7 CT to evaluate whether or not JMI met ALL of GMHA's desired specifications. JMI's own  
8 documents detailing the specifications of the EVO ES CT show that their proposed CT does not  
9 acquire 64 slices per rotation.

10  
11 **CONCLUSION**

12 GMHA set forth the technical parameters of the CT scanners it required in IFB 013-2017.  
13 Based on its staff's ability to analyze the technical parameters currently available in CT imaging,  
14 GMHA appropriately determined the units offered by JMI did not meet the technical parameters of  
15 the IFB. Because GMHA was correct in rejecting JMI's bid as it was non-responsive, the OPA  
16 should affirm GMHA's determination that Interested Party Oka Pacific, Inc. is the responsive bidder  
17 with the lowest price.

18 Dated this 14<sup>th</sup> day of March, 2018.  
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20  
21 **BROOKS CONCEPCION LAW, P.C.**  
22 Attorneys for OKA PACIFIC, INC.

23 By:   
24 Georgette Bello Concepcion, Esq.