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**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

DATE: 03-14-18  
TIME: 4:10  AM  PM BY: JMO  
FILE NO OPA-PA: 18-001

8 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**  
9 **HAGÁTÑA, GUAM**

10 IN THE APPEAL OF :

CASE NO: OPA-PA-18-001

11 JMI EDISON,

**AGENCY HEARING BRIEF**

12 Appellant.

13  
14 **COMES NOW** the Guam Memorial Hospital Authority, by and through counsel,  
15 Fisher & Associates, and submits its Hearing Brief pursuant to the Office of Public  
16 Accountability's Order of February 8, 2018.

17 **STIPULATED FACTS**

18 GMHA submits the following stipulations based on the record:

- 19
- 20 1. On July 19, 2017 the Guam Memorial Hospital Authority (hereinafter "GMHA")  
21 solicited bids for "Purchase, Installation, and Training of New CT Scanners", GMHA  
22 IFB 013-2017. The procurement called for the purchase of one 64 slice state of the art  
23 Computer Tomography (CT) system (to evaluate the entire body such as lungs, heart,  
24 brain, extremities) and one 64 slice fully cardiac configured state of the art system (to  
25

1 evaluate the coronaries and other structures non-invasively).

- 2 2. Appellant JMI-Edison (hereinafter “JMI-Edison”) submitted a response to the  
3 solicitation, along with three other bidders. JMI-Edison submitted a bid price of  
4 \$1,224,040.00.
- 5 3. GMHA sent JMI-Edison two separate requests for clarification regarding the offered  
6 machines’ technical specifications for acquired 64-slice and detection, and minimum  
7 slice thickness of .625mm at output.
- 8 4. JMI-Edison subsequently responded to the requests.
- 9 5. On December 20, 2017, GMHA informed JMI-Edison that it was not the lowest  
10 responsible, responsive bidder and its bid was rejected.
- 11 6. JMI-Edison protested the determination which was rejected by GMHA on December  
12 28, 2017. GMHA’s response was received by JMI-Edison on January 2, 2018.

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15 **ISSUES PRESENTED**

16 1. Whether Appellant JMI-Edison was the Lowest Responsible and Responsive Bidder in this  
17 Procurement

18  
19 Guam’s procurement law provides that a bid packet can be rejected when: “(ii) the bid is  
20 not responsive, that is, it does not conform in all material respects to the Invitation for Bids,” or  
21 (iii) the supply, service, or construction item offered in the bid is unacceptable by reason of its  
22 failure to meet the requirements of the specifications.” 2 GAR, Div. 4, §§ 3115(e)(3)(ii)-(iii).

23 JMI-Edison stands upon its bid and states that it intended to offer machines that would  
24 produce 64-slice acquisition at slice thickness of .625 mm. JMI-Edison admits that “the CT  
25 systems offered by JMI were indeed ...64 reconstructed slice machines.” *Appeal at 3.* JMI-

1 Edison attempts to mask the reality that a 64 reconstructed slice machine does not conform  
2 with bid specifications for a true 64 acquired slice image at the required thickness of .625 mm  
3 in the first output. A true 64 slice acquisition should be possible with one 360-degree  
4 rotation, without the necessity of reconstructing an image to conform to 64 slice acquisition.  
5 Further, the JMI-Edison's bid is not for a true 64 slice acquisition machine which can at some  
6 point be upgraded to produce a higher resolution image, since it is a lower base machine that  
7 has already been or will need to be upgraded to provide 64 slices. JMI-Edison is non-  
8 responsive and for this reason (and others) not the lowest responsive, responsible bidder.

#### 11 **ANTICIPATED WITNESSES**

12 GMHA may call any or all of the following witnesses at the Hearing:

- 13 1. Mrs. Jean Grape Ko, JMI-Edison. Mrs. Ko will testify, inter alia, as to JMI-  
14 Edison's intent in submitting its bid and concerning its potential performance  
15 under the procurement.
- 16 2. Mrs. Dolores F. Pangelinan, GMHA. Mrs. Pangelinan will testify, inter alia, as to  
17 the Agency's actions in this procurement.
- 18 3. Mr. PeterJohn Camacho, GMHA. Mr. Camacho will testify, inter alia, as to the  
19 Agency's actions in this procurement.
- 20 4. Dr. Miran Rabati, GMHA, will testify, inter alia, as to the requirements of  
21 performance for the equipment and services procured.
- 22 5. Dr. Dr. Senthil Palaniappun, GMHA, will testify, inter alia, as to the requirements  
23 of performance for the equipment and services procured.
- 24 6. Dr. Nicole Dhanraj, GMHA, will testify, inter alia, as to the requirements of  
25 performance for the equipment and services procured.

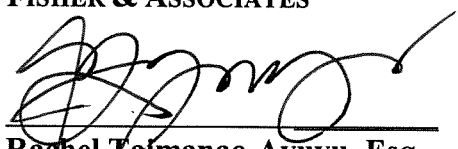
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- 7. Dr. Tuan Nguyen, GMHA, will testify, inter alia, as to the requirements of performance for the equipment and services procured.
- 8. Dr. Kozue Shimabukuro, GMHA, will testify, inter alia, as to the requirements of performance for the equipment and services procured.
- 9. Any witness called by Interested Parties in this Appeal.

**PROPOSED EXHIBITS**

All exhibits which may be used by Agency have been submitted in either the Agency Report, the Procurement Record, or are otherwise part of the record.

**FISHER & ASSOCIATES**



**Rachel Taimanao-Ayuyu, Esq.  
For Guam Memorial Hospital Authority**