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 OFFICE OF PUBLIC ACCOUNTABILITY
 PROCUREMENT APPEALS

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Attorneys for the Government of Guam

**IN THE OFFICE OF PUBLIC ACCOUNTABILITY
 PROCUREMENT APPEAL**

IN THE APPEAL OF:

KORANDO CORPORATION,
 Appellant,

) DOCKET NO. OPA-PA-18-002
)
) **APPELLEE DEPARTMENT OF PUBLIC**
) **WORKS RESPONSE TO KORANDO**
) **CORPORATIONS MOTION TO**
) **COMPEL, EXTEND THE TIME TO FILE**
) **COMMENTS TO AGENCY REPORT**
) **AND OTHER DATES AND FOR**
) **SANCTIONS**

Appellee Department of Public Works (“DPW”) hereby opposes Appellant Korando Corporation’s (“Korando”) Motion to Compel, Extend the Time to File Comments to Agency Report and other dates and for Sanctions in this matter, filed on March 19, 2018.

Korando’s Motion relates to the parties March 25, 2014, Contract for construction of the Bile/Pigua Bridge Replacement (Project No. GU-NH-NBIS(007) (the “Contract”). It also relates to the parties December 16, 2015 Stipulation and Order (“Stipulation and Order”).

ORIGINAL

In its Motion, Korando, while acknowledging that DPW has filed over 24,000 pages of materials and over 2,700 emails, claims that “prior to denying Korando’s claims, a proper review would involve an analysis and recommendation to Mr. Leon Guerrero, the Director of DPW, regarding Korando’s claim.” Korando’s Motion assumes that a detailed analysis and recommendation did not take place because DPW has not produced emails, a written analysis and similar documents. Korando’s assumption is incorrect. Further, its allegation that the government is acting in bad faith and made a “data dump” is both offensive and false.

Korondo submitted 3 claims the Stipulation and Order. The first, submitted over 10 months later, was dated October 18, 2016, the second dated via a January 24, 2017 letter, with enclosures (“Korando’s 01/24/17 Corrected Claim”), and finally an updated Change Order on October 17, 2017 (“Korando’s 10/17/17 Change Order”). On receipt of each of the 3 Change Orders DPW’s Director, Glenn Leon Guerrero, tasked Mr. John Moretto of DPW’s consultant Parsons Transportation Group (“PTG”) with reviewing Korando’s claims and preparing a draft response to each claim. Declaration of Glenn Leon Guerrero, attached as Exhibit A. Declaration of John Moretto, attached as Exhibit B.

It is appropriate to note that Mr. Moretto serves as PTG’s Construction Manager on Guam and provides construction monitoring on Federal Highway Administration (“FHWA”) projects. J. Moretto Decl., ¶ 4.

PTG provided draft responses for DPW’s Director and others involved with the Project consideration following all 3 of Korando’s claims. G. Leon Guerrero Decl., ¶ 6 - 10. J. Moretto Decl., ¶ 6 – 10, 13. Following Mr. Moretto’s preparation of draft responses, copies of which are on file with the Office of Public Accountability and have been provided to Korando, DPW’s

Director and upper management, John Moretto and other PTG staff members and FHWA's regional representative, Ms. Richelle Takara, discussed and analyzed each claim through a series of meetings and telephone conversations. Id. DPW's analysis of Korando's 3 claims was done person to person and not via emails or written analysis. G. Leon Guerrero Decl., ¶ 10. J. Moretto Decl., ¶ 13.

In closing, DPW produced the complete procurement file. The detailed analysis and review of Korando's 3 claims was extensive, thoroughly analyzed and discussed over an extended period of time.

DPW does not object to a continuance of the April 23, 2018 Formal Hearing. The reasons for this are set forth in its March 28, 2018 Joinder of Korando's Amended Request and not in Korando's Motion.

DPW respectfully requests that the OPA order that:

1. Korando failed to file a timely response to DPW's Agency Report;
2. That Korando's Motion to Compel and Request for Sanctions is without merit; and
3. For such other relief that the OPA may determine just and proper.

Submitted this 30th day of March, 2018.

OFFICE OF THE ATTORNEY GENERAL
~~Elizabeth Barrett-Anderson~~, Attorney General

By:



THOMAS P. KEELER
Assistant Attorney General