O&M ENERGY
PARQUE EMPRESARIAL LA FINCA
P.º DEL CLUB DEPORTIVO, 1-EDIFICIO 5
28223 POZUELO DE ALARCÓN (MADRID)
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TEL. (34) 91 210 39 00
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December 14, 2009.

Doris Flores Brooks
Public Auditor
Office of the Public Auditor
238 Archbishop Flores Street
Suite 401, Pacific News Building
Hagatna, Guam 96910

RE: RESPONSE TO TEMES MOTION TO DISMISS

Dear Ms. Brooks,

Now comes, O&M ENERGY, S.A. (the Appellant) and submits this ***MOTION TO DISMISS & RESPONSE*** to challenge the Motion to Dismiss filed on December 09, 2009 with the Office of the Public Auditor (OPA) by Taiwan Electrical and Mechanical Engineering Services, Inc. (Temes) thru its counsel of record; The Law Offices of John S. Unpingco & Associates, LLC.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DENY TEMES MOTION TO DISMISS:

TEMES failure to show prejudice and burden of proof rests with them.

Under *2 - GAR - ADMINISTRATION DIVISIONS 4 - PROCUREMENT REGULATIONS* to wit:

"(8) A protest may be dismissed for failure to comply with any of the requirements of this section, except that a protest shall not be dismissed for failure to comply with this section where the contracting officer has actual knowledge of the basis of the protest, or the agency, in the preparation of its report, was not prejudiced by the protester's non-compliance".

- O&M ENERGY has filed its evidence and factual specific factual grounds under ***Comments to the Agency Report*** in a timely manner when in fact we were not served by the Guam Power Authority (GPA) until November 16, 2009. (Annex 3).

- All O&M Energy documentation submitted as part of the appeal process is complete and comprehensive. It claims that TEMES proposal was non-responsive and it should have been disqualified by GPA. In these documents O&M Energy raised a concise logically arranged and direct statement for appeal completed with supporting evidence, exhibits and documents to substantiate our claims for appeal within a timely manner (Notice of Appeal and Appellant's Comments on Agency report:

  http://www.guamopa.org/docs/procurement_appeals/09_008_Notice_of_Appeal.pdf

  http://www.guamopa.org/docs/procurement_appeals/09-008_OME_Comments_on_Agency_Report.pdf

- Below are detailed the main points raised during the process of appeal

OPERACIÓN Y MANTENIMIENTO ENERGY, S.A. Inscrita en el Registro Mercantil de Madrid, Tomo 12.571, Libro 0, Folio 214, Secc. 8, Hoja M-200849, Insc. 21, C.I.F. A-81860918

- Included in O&M Energy Appeal presented to OPA on October 23, 2009, (see OPA-09-008 Notice of Appeal, dated October 28, 2009, available at OPA website http://www.guamopa.com/docs/procurement_appeals/09_008_Notice_of_Appeal.pdf) and as a main argument in our protesting process, is the letters of protest submitted by O&M Energy to GPA on September 18th and July 30th, 2009, in which it is clearly stated that *"As stated in our previous communications to you, dated June 27th and 30th, 2009, a copy of which we are attaching, TEMES Inc. proposal should be considered irresponsible and non-responsive under the General Terms and Conditions".* In this communications to GPA, O&M Energy presents a detailed analysis of the non-responsiveness of TEMES proposal.

- Therefore, there is a *"genuine issue of material fact"* inhere, since the responsiveness and responsibility of the bidder are of paramount relevance, together with the lowest price of the bid, to the contract award decision process.

- All these facts reiterate the initial Appeal of O&M Energy, based on the non-responsiveness of TEMES proposal.

    - As shown in Annex 1 (including Bid Evaluation Committee memos dated August 3rd and 18th, and GPA correspondences with TEMES dated August 10th and 13th, 2009) TEMES bid included conditions in disagreement with the bid terms. Furthermore, GPA valued TEMES proposal as non-responsive and so it was communicated to TEMES.

    - O&M Energy prepared a study and analysis (see OPA-09-008 Notice of Appeal, dated October 28, 2009, available at OPA website http://www.guamopa.com/docs/procurement_appeals/09_008_Notice_of_Appeal.pdf, letters attached from O&M Energy to GPA dated September 18th and July 30th, 2009) for its protest to GPA, which demonstrates that such a plant cannot be operated with such a budget. This is not speculation. This is based on industry standards and knowledge of the business in which O&M Energy operates internationally. Furthermore, it was demonstrated in the Procurement Records (which obviously were not available to O&M Energy at the time of preparing the Appeal) that such a budget for Operating Expenses could not be presented in a responsible and responsive way, since it is shown in them (see Annex 1) that the Price Bid of TEMES was conditioned to certain exclusions of relevant importance in terms of costs. Furthermore, there is a history of TEMES as PMC Contractor that shows the pattern of expenditures incurred during its PMC contract years, and they are in a range over a 100% higher (see Annex 2: Historic data on PMC performance provided in the bidding documentation by GPA). Specifically we effectively raised the applicable sections for Standards for Determination of the Lowest Bidder referencing Section (d) with respect to the *"quality of performance of the Bidder with regards to awards previously made to him"*, and more significantly stating (in same section d) that *"the ability of the bidder to provide future maintenance services for the subject of the award"*. According to GAR.DIV.4; CHAP 3, subsection 3109 (n)(3)(c), *"any bidder´s offering which does not meet the acceptability requirements shall be rejected as non-responsive"*. All these were points raised by O&M Energy in its Appeal, with the logical exception of TEMES bid exceptions which were unknown to O&M Energy at the time of the Appeal preparation. This, on the other side, demonstrates that O&M Energy's analysis on the budget presented by TEMES (which was built on our extensive knowledge of the market) was founded on solid base and logical. And never based on speculation.

- Furthermore, and in coincidence with O&M Energy's opinion, GPA considered TEMES bid as non-responsive. First, the Bid Evaluation Committee found *"five qualifications not in compliance with the bid document requirements"*, therefore *"considering TEMES to be a non-responsive bidder"* after reviewing their priced proposal (see Bid Evaluation Committee memo to Staff Attorney dated August 3rd, 2009, included in Annex 1). Then GPA General Manager wrote a letter to TEMES on August 10th, 2009 in which he communicates to TEMES the same consideration (see letter included in Annex 1). We believe that such coincidence between our analysis and the one of the Bid Evaluation Committee, although coming from different sources of documentation available, eliminate any shadow of speculation in our assessment.

- A "responsive bidder" is defined in 5 GCA 5201 (g) as *"a person who has submitted a bid which conforms in all material respects to the Invitation for Bids"*. TEMES cannot be considered a responsive bidder since its bid was not conforming to the terms included in the Invitation for Bids, as demonstrated by the correspondence shown in Annex 1. Furthermore, TEMES having a history as contractor for the PMC for several years cannot claim to be not familiar with the terms and conditions specified in the Invitation for Bids, which has been repeating similar or almost identical terms and conditions over its different editions.

- A "responsible bidder" is defined in 5 GCA 5201 (f) as " a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance". Again, the abovementioned facts must have caused TEMES to be considered a non-responsible bidder.

- At this point in time we would like to reiterate that our request for additional information included in O&M Letter dated July 30th, 2009 to GPA are still unfulfilled. In this letter we have raised specific areas for grounds of appeal and under (see OPA-09-008 Notice of Appeal, dated October 28, 2009, available at OPA website *http://www.guamopa.com/docs/procurement_appeals/09_008_Notice_of_Appeal.pdf*) to wit:

  - *" We assert the plausible claim that TEMES is not the lowest responsible and responsive bidder and did not submit a Bid which conforms in all material aspects to this Multi-Step Bid as defined in the General Terms and Conditions found under Section # 17 pertaining to Sections (d)and (g) as well as other material deviations which we will further reserve the right to present forthwith after we are afforded a fair opportunity to review the complete Procurement Files of TEMES as well as GPA BID REVIEW COMMITTEE findings and arguments "*

  Specific responses from Staff Attorney to Bid Evaluation Committee regarding the questions raised around this considerations of TEMES bid (memo issued on August 18th) were not made available as requested in several occasions since we consider these response of relevant importance to understand the decision process. Same occurs with data on past performances of TEMES as PMC, including penalties and incentives accrued during the contract years, and their liquidation.

- Later on in the process, TEMES was invited by GPA to eliminate its exceptions to the price bid (letter Aug 10th, 2009, included in Annex 1) without changing the price in order to be awarded the contract. It is understood that *"any modification of a bid received after the time and date set for the opening is late"*, 2 GAR, Div. 4, Chap 3. Changing the conditions of TEMES implied a change in the bid, since the conditions or exceptions were integral to the priced bid at the time of the opening. So the removal of TEMES conditions at a later date cannot be acceptable. All this is in violation of General Terms and Conditions, Section #3 (Taxes); Section #6 (Compliance with specifications and other solicitation requirements), Sections #17 (d) and (h); Section #23 (Award, Cancellation & Rejection... *"Taking into consideration the evaluation factors set forth in this solicitation. No other factors or criteria shall be used in the evaluation")*

- It was on July 27th, 2009 that O&M Energy submitted its first letter of protest to GPA, after the opening of the bids on July 22nd (see attachment included in OPA-09-008 Notice of Appeal, dated October 28, 2009, available at OPA website *http://www.guamopa.com/docs/procurement_appeals/09_008_Notice_of_Appeal.pdf*). In that letter we were already mentioning that TEMES bid was non-responsive. It is clear that all interchange of communications and requests to modify TEMES bid was performed during the month of August (see Annex 1) after the reception of that letter of protest by GPA from O&M Energy and the probability of O&M Energy protesting the decision on a certain basis already drafted in our communication may certainly have influenced these actions between GPA and TEMES. In order to avoid the possibility of such events, the law does not allow for any change in the price bids after the opening. This was not respected in this case, allowing TEMES to substantially modify its conditions once O&M Energy has shown the basis for its discontent.

  According to Guam Procurement Regulations, Sections 3-202.11.1 and 3-202.11.2, and cited:

  - *3-202.11 Late Bids, Late Withdrawals, and Late Modifications*
  - *3-202.11.1 Definition: Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated for opening is late.*
  - *3-202.11.2 Treatment: No late bid, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of territorial personnel directly serving the procurement activity.*

  GPA's letter to TEMES seeking withdrawal and priced bid modifications does not conform to the above rules and applicable policies as contained in the prevailing GPA General Terms and Conditions and Sealed Bid Solicitation Instructions governing this Award.

- Aside from all these irregularities committed, we understand and bring to OPA's consideration that the magnitude in the price difference is of essence and not only affecting a possible reduction in TEMES margins or benefit but O&M Spending Budget for Cabras 1 and 2. This Spending Budget must be used to keep the plant in an acceptable condition, as GPA and TEMES know very well, and a reduction in this budget of over 50% (see Annex 2) as compared to previous years of TEMES tenure (6) is unreasonable and difficult to explain from the perspective of an experienced and acting in good faith operator.

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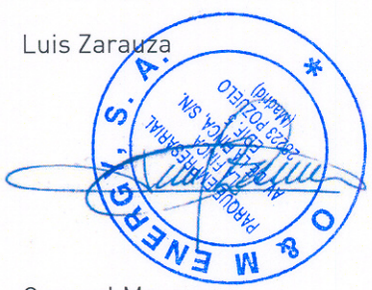
- For all the above foregoing reasons we pray for the dismissals of the TEMES Motion To Dismiss and as indicated above as afforded by the Guam Procurement Regulations.

- The award to TEMES should be cancelled and the award should be made to O&M ENERGY as the lowest responsible and responsive bidder with all applicable remedies including all bid preparation costs and any remedies we are lawfully entitled to.

Yours respectfully,

Luis Zarauza



General Manager

O&M Energy

ANNEX I

GUAM POWER AUTHORITY
ATURIDAT ILEKTRESEDAT GUAHAN
P O BOX 2977, HAGATNA, GUAM 96932-2977

TO: Staff Attorney

FROM: Bid Evaluation Committee

DATE: 03 August 2009

SUBJECT: Re-Bid for Multi-Step Bid (IFB) GPA-013-07, Performance Management Contract (PMC) for the Cabras 1&2 Steam Power Plant

This is the Committee's response to TEMES qualifications to their priced proposal. The Committee has determined that there are five qualifications not in compliance with the bid document requirements and amendments as noted in the attached table. Therefore, the Committee considers TEMES to be a non-responsive bidder. We recommend that GPA request TEMES to rescind these qualifications or risk being disqualified.

Andriano E. Baldjadia
Manager of Generation (A)

Honorio (Jun) Estira, Jr.
Special Projects Engineer

Rodrigo A. Bumagat
Account III, Accounts Payable Supervisor

Joven G. Acosta, P.E.
Engineering Supervisor

Jennifer G. Sablan
Special Projects Engineer

Salvador E.A. Maruga
Special Projects Engineer

Francis J. Iriarte, P.E.
Special Projects Engineer

cc: file

Table 1 TEMES Priced Proposal Qualifications and Bid Committee's Responses.

Item No.	Qualifications	Response
1.	The proposed routine O&M spending for each contract year does not include the training expense which is allocated in the CIP/PIP projects.	No. Section 5.1 of Volume II requires that The PMC shall include estimated training costs in their O&M price proposal for GPA's consideration and approval.
2.	The proposed routine O&M spending for each contract year does not include raw water expense and PIP budget.	No. Amendment V requires that water which was initially the responsibility of GPA would now be transfer to the PMC as part of O&M Expenses. Ok for PIP.
3.	GPA shall pay TEMES for the routine O&M spending on a reimbursable basis and a charge of five percent (5%) of the Routine O&M spending for administration, finance fees and interests.	No. Amendment III does not allow cost-plus reimbursable for O&M expenses.
4.	GPA shall reimburse TEMES for any gross receipts taxes actually imposed upon TEMES which related to the routine O&M spending.	No. Amendment V requires that the PMC is responsible for payment of any tax such as GRT, custom duties, … associated with O&M and CIP/PIP as part of its procurement authority. These costs must be included in their annual O&M Spending Budget and in their proposed CIP/PIP projects.
5.	The performance guarantees are proposed based on timely completion of all CIP/PIP projects in tender document Volume III, Table 26 and all CIP/PIP projects recommended by TEMES as scheduled.	No. Section 2 of Appendix F requires that EAF shall be solely based on the proposed annual O&M budget.

GUAM POWER AUTHORITY
ATURIDAT ILEKTRESEDAT GUAHAN
P O BOX 2977, HAGATNA, GUAM 96932-2977

TO: Staff Attorney

FROM: Bid Evaluation Committee

DATE: 18 August 2009

SUBJECT: Re-Bid for Multi-Step Bid (IFB) GPA-013-07, Performance Management Contract (PMC) for the Cabras 1&2 Steam Power Plant

After completing review of TEMES's letter dated August 13, 2009, the Committee is at an impasse on the next appropriate step to take and therefore requesting your legal opinion on the following questions:

1. Can GPA disqualify TEMES for not including true-up adjustment expenses in its priced proposal? True-up adjustment expenses are costs directly associated with sudden unexpected failure of a major piece of equipment. This is included in Table 27 of Volume III for Historical O&M Spending (specifically non-Labor costs) which is the basis for the bidders to determine their O&M Spending Proposal. TEMES did not include any anticipated true-up expenses in their priced proposal and so their bid may not be comparable to the other bidders.

2. Can the Committee request further clarification from O&M and Korea East-West Power regarding their priced, O&M maintenance proposals. In the bid, GPA provided several years of actual O&M expenses by type/object codes, and asked the bidders to base their priced proposals using these data. Since these actual costs include significant non-routine expenses and repair costs due to unexpected equipment failures, we would like for the bidders to indicate whether their priced proposals include such costs in addition to routine O&M costs. For example, contract year 2008 included unexpected expenses such as circulating water pump casing repairs, welding services for air preheater repairs, and replacement of corroded main air lines of sealed air booster blower system which are considered "non-routine". If the response is that their bids include unexpected, non-routine expenses then their bids are not comparable to the TEMES bid. If their reply is that their bids are only for routine O&M costs, then TEMES' bid is on the same basis, and may be compared to each other. This is important information to know in the case of a protest.

3. Can GPA cancel this bid and rebid on the basis of that GPA did not sufficiently clarify what made up the historical O&M Spending in Table 27 of Volume III thus creating uneven or unfair competition? Or that GPA was not sufficiently clear to bidders that the historical O&M spending provided in Table 27 of Volume III is made up of all costs, i.e., routine O&M and expenses for unexpected repairs and non-routine maintenance expenses. Based on the review of the price proposals it has come to committee's attention that although total expenses were provided to all bidders, disclosure of routine vs. non-routine expenses was not provided and TEMES as the current PMC contractor is

the only bidder with this insight. The bid documents only indicate that the values in Table 27 were the actual maintenance expenses and is the basis for the bidders to determine their O&M Spending Proposal.

4. Is it justified to award TEMES the contract with the strong possibility of a protest?

Andriano E. Balajadia
Manager of Generation (A)

Rodrigo A. Bumagat
Account III, Accounts Payable Supervisor

Jennifer G. Sablan
Special Projects Engineer

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Special Projects Engineer

GUAM POWER AUTHORITY
ATURIDÅT ILEKTRESEDÅT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Tel: (671) 648-3180; Fax: (671) 648-3290

August 10, 2009

Via Fax: 011-886-2-86658180

Mr. C.H. Liu, Vice-President
Taiwan Electrical and Mechanical Engineering Services, Inc.
8th floor, 119 Paochung Road
Hsintien City
Taipei 231, Taiwan, R.O.C.

RE: Price Proposal of TEMES for Cabras 1&2 PMC, GPA-013-07

Dear Mr. Liu:

The GPA evaluation has carefully reviewed the TEMES price proposal submitted for Multi-Step Bid (IFB) GPA-013-07, Performance Management Contract (PMC) for the Cabras 1&2 Steam Power Plants. In reviewing the TEMES price proposal the committee noted several exceptions listed in the price proposal. These items were specified in the GPA bid and were required to be included. GPA hereby notifies TEMES that its price proposal has been provisionally deemed non-responsive, which will require the disqualification of TEMES in the event that TEMES fails to withdraw the exceptions noted below from its price proposal. A **responsive** bidder is a person who has submitted a bid which conforms in all material respects to the Invitation for Bids. 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).

Section 5.1.2 Operation & Maintenance (O&M) Spending 1.1) a. "The proposed routine O&M spending for each contract year does not include the training expense which is allocated in the CIP/PIP projects. Section 5.1 of Volume II requires that the PMC shall include estimated training costs in their O&M price proposal. 1) b. "The proposed routine O&M spending for each

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contract year does not include raw water expense and PIP budget." Amendment V requires that water which was initially the responsibility of GPA would now be transferred to the PMC as part of O&M expenses. 2) "GPA shall pay TEMES for the routine O&M spending on a reimbursable basis, and a charge of five percent (5%) of the Routine O&M spending for administration, finance fees and interests." Amendment III does not allow for cost-plus reimbursable for O&M expenses. 3) "GPA shall reimburse TEMES for any gross receipts taxes actually imposed upon TEMES which related to the routine O&M spending." Amendment V requires that the PMC is responsible for payment of any taxes such as GRT, custom duties, ... associated with O&M and CIP/PIP as part of its procurement authority. These costs must be included in the annual O&M spending budget and in the proposed CIP/PIP projects. Proposed Performance Guarantees, Unit Availability (%) 5.2.1 1. "The performance guarantees are proposed based on timely completion of all CIP/PIP projects in tender document Volume III, Table 26 and all CIP/PIP projects recommended by TEMES as scheduled." Section 2 of Appendix F requires that EAF shall be solely based on the proposed annual O&M budget.

Any modification of a bid received after the time and date set for opening of the bids at the place designated for opening is late. 2 GAR, Div. 4, Chap. 3, §3109(k)(2). The price can not be changed as a result of the removal of the exception listed in the TEMES price proposal. In the event that GPA does not receive a response from TEMES by August 17, 2009, indicating that the exception to the price proposal are removed, then the TEMES proposal will be deemed non-responsive and TEMES will be disqualified from Multi-Step Bid (IFB) GPA-013-07, Performance Management Contract (PMC) for the Cabras 1&2 Steam Power Plants.

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If you have any further questions regarding procurement issues, you may contact Ms. Jamie Pangelinan at 648-3054/55.

Sincerely,

JOAQUIN C. FLORES, P.E.
General Manager, Guam Power Authority

台灣機電工程服務社
TAIWAN ELECTRICAL AND MECHANICAL
ENGINEERING SERVICES. INC.
ENGINEERS · CONSULTANTS · CONSTRUCTORS
8TH FL., 119, PAOCHUNG ROAD, HSINTIEN CITY,
TAIPEI 231, TAIWAN, REPUBLIC OF CHINA
TEL : 886-2-86658182
FAX : 886-2-86658180

TEMS-0908-0277
August 13, 2009

ATTENTION: Mr. JOAQUIN C. FLORES, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977
FAX: 1 (671) 648-3165

RE : Price Proposal of TEMES for Cabras 1&2 PMC, GPA-013-07

Dear Mr. Flores,

This letter is written in response to your letter to Mr. Liu dated August 10, 2009 via fax with reference to price proposal submitted by Taiwan Electrical and Mechanical Engineering Services, Inc. ("TEMES") for Cabras 1&2 PMC, GPA-013-07.

Please be advised that subject to the provisions under the GPA-013-07 bid document as well as its subsequent Amendments, in particular Section 5.1 of Volume II, Question 16 and Answer of Amendment V, Section 2.2.2 of Volume II and Item 3 of Amendment No. III, Question 22 and Answer in Amendment V, Section 2 of Appendix F, the following remarks and condition in TEMES price proposal as noted in the second paragraph of your letter are hereby withdrawn:

1. TEMES' remark in Section 5.1.2 Operation & maintenance (O&M) Spending, 1. Routine O&M Spending 1)a;
2. TEMES' remark in Section 5.1.2 Operation & maintenance (O&M) Spending, 1. Routine O&M Spending 1)b;
3. TEMES' remark in Section 5.1.2 Operation & maintenance (O&M) Spending, 1. Routine O&M Spending 2);
4. TEMES' remark in Section 5.1.2 Operation & maintenance (O&M) Spending, 1. Routine O&M Spending 3); and
5. TEMES' condition stated in Section 5.2.1, Unit Availability (%), 1.

台灣機電工程服務社
TAIWAN ELECTRICAL AND MECHANICAL
ENGINEERING SERVICES, INC.

TEMS-0908-0277
August 13, 2009

Please be further advised that the price submitted by TEMES is not changed as a result of the removal of the remarks and condition as described above.

We trust you find the above satisfactory. Should you have any further questions, please feel free to contact Mr. Liu.

Sincerely yours,

S. J. Hsiao
President of TEMES

R97	Construction of Maintenance Shop	Capital					Unit 1&2	
R99	No. 1 Service Water Cooler Replacement	Capital	Unit 2		Unit 1			
New	DCS & BMS Upgrade Feasibility Study	Capital				Unit 1&2		
New	Heater Drain Pump Assembly	O&M				Unit 1&2		
New	No. 4 Feedwater Heater Replacement	Capital			Unit 2		Unit 1	
New	Main A/C System	Capital				Unit 1&2		
New	New Force Draft Fan (FDF) Motor	Capital				Unit 1&2		
New	Fuel Oil Tank Inspection	O&M				Unit 1&2		
New	Plant External Lighting	O&M						Unit 1&2
New	New Boiler Feed Pump (BFP) Motor	Capital			Unit 1			
New	Turbine Room Window Repairs	O&M						Unit 1&2
New	Plant Elevator Replacement	Capital				Unit 1&2		
New	New Circulating Water Pump (CWP) Motor	Capital						Unit 1&2
	Boiler Routine Inspection	O&M			Unit 1	Unit 2		Unit 1

5.8. Historic Spending Patterns

Table 23 summarizes the Calendar Year 2003 through Calendar Year 2008 historic spending patterns for the Cabras 1&2 Power Plant.

Table 27. Cabras 1&2 Power Plant Historic Spending Patterns

Object Code	Description	CY 2003 Actual $	CY 2004 Actual $	CY 2005 Actual $	CY 2006 Actual $	CY 2007 Actual $	CY 2008 Actual $
2	Overtime	861,903	585,073	667,970	712,705	466,962	839,566
15	Heavy Equipment Rental	3,690	2,620			2,620	1,684
17	Other Rentals	22,178	27,053	5,820	289	1,722	
25	Technical Services				18,142	5,955	108,456
26	EPA Services	22,055	53,370	69,545	112,368	100,370	59,625
27	Other Professional Services	181,195	248,852	340,724	50,291	39,811	64,833
29	Grounds Maintenance	512	24,600	65,019	59,891	49,343	49,436
32	Office Equipment Maintenance	751		842	100	6,748	
33	Power Plant Accessory Equip. Maint.	52,272	21,482	24,283	21,829	47,689	75,400
35	Other Maintenance				124,365	79,721	54,039
38	Water	291,031	183,155	242,590			
40	Telephone (Overseas)	2,316	6,138	10,017	8,225	8,807	7,514
43	Other Contractual Services	28,790	24,757	207,513	54,133	130,153	348,808
44	Boiler & Assoc. Equip. Parts (Inventory Issue)	316,133	150,231	282,341	269,168	112,150	268,198
45	Turbine & Assoc. Equip. Parts (Inventory Issue)						13,890
46	Accessory Equipment	57,161	143,609	195,290	298,144	454,439	529,129
48	EPA & Others						15,669
49	Conductors, Poles & Line Hardware	2,231	428			15,138	15,424
55	Diesel Plant Part	36,339	179	817	1,365	164,364	143,825
56	Chemicals	84,482	270,588	347,184	298,148	341,614	385,290
57	Gases	24,241	41,524	73,597	91,766	89,979	101,953
58	Lubrication	12,938	22,673	43,427	12,359	76,277	78,691
62	Other Materials	111,278	94,319	224,906	320,660	123,986	264,201
64	Janitorial Supplies	9,411	5,839				
65	Office Supplies	8,574	5,601	5,419	2,288	2,072	8,763
66	Safety Supplies	9,917	20,363	31,768	27,806	24,119	36,558
67	Printed Forms	5,179	5,132	7,782	841	1,559	1,255
68	Xerox Supplies	889	1,560	307	3,265	3,158	4,701
69	Uniform/Coveralls	6,445	3,816	2,356	3,153	4,289	1,276
70	Tools	19,582	22,812	30,026	31,754	41,792	21,490
72	Other Administrative/General Supplies	20,495	25,603	39,883	34,674	34,680	47,939
77	Training & Materials	10,648	483	840		132,893	432
80	Travel (Local)			10,829			
81	Off-Island Travel					11,700	
82	Others	429	1,680	5,040			
Total Non-Labor (Codes 15-82)		1,378,408	1,408,466	2,268,165	1,845,025	2,107,144	2,708,480

CIPs/PIPs		**92,462**	**9,886,025**	**4,486,274**	**1,144,670**	**2,922,724**
Fixed Management Fees	**1,570,000**	**1,596,690**	**1,623,834**	**1,651,439**	**1,679,513**	**1,789,570**
Grand Total	**2,948,408**	**3,097,618**	**13,778,025**	**7,982,737**	**4,931,328**	**7,420,773**

6. Plant Documentation Summary

The Authority has provided, on CD-R media, the following Cabras 1&2 Plant documents listed in Table 24.

Table 28. Cabras 1&2 Plant Document List

NO.	DESCRIPTION	TYPE
1	Auxilary One Line Diagram, EA-1010S1-7	DRAWING
2	Auxilary One Line Diagram, EA-1010S2-5	DRAWING
3	Cabras 1 Main Condenser A-Box Eddy Current Report	DOCUMENT
4	Cabras 1 Main Condenser B-Box Eddy Current Report	DOCUMENT
5	Cabras 1&2 Inventory Listing (10-23-01)	
6	Cabras 2 Feedwater Heaters 1,2,4,5 Eddy Current Report	DOCUMENT
7	Cabras 2 Main Condenser A-Box Eddy Current Report	DOCUMENT
8	Cabras 2 Main Condenser B-Box Eddy Current Report	DOCUMENT
9	Cabras Unit 1 Component and Net Unit Performance Test Report	DOCUMENT
10	Cabras Unit 1 Heat Exchanger Examination & Long Term Strategies	DOCUMENT
11	Cabras Unit 2 Heat Exchanger Inspection & Long Term Strategies	DOCUMENT
12	Circulating Water & Misc Piping at Intake Structure - Plan & Section, MT-1002-3	DRAWING
13	Circulating Water Piping Plan - Section & Detail, MT-1001-1	DRAWING
14	City Water & Misc Fire Protection - Piping Plan, Section & Details (Original), MT-1003-6	DRAWING
15	Diagram of Steam Seal Piping, MT-1005-2	DRAWING
16	Drainage Pit & Piping-Ground Floor Plan, MB-1009-8	DRAWING
17	Flow Diagram -Aux. Steam System, GPA-002-6, MB-1011	DRAWING
18	Flow Diagram -Boiler Drain & Blow-Off System, GPA-003-3, MB-1012	DRAWING
19	Flow Diagram -Chemical Feed & Sampling System, MG-3002-3	DRAWING
20	Flow Diagram - City, Fire, & Misc. Water, MG-1012-5	DRAWING
21	Flow Diagram - Cooling Water System, GPA-006-4, MB-1015	DRAWING
22	Flow Diagram - Drainage, MG-1013-5	DRAWING
23	Flow Diagram -Feedwater & Steam Flow, GPA-001-5, MB-1010	DRAWING

ANNEX III

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Attorney for the Guam Power Authority

11/16/09

OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

IN THE APPEAL OF	)	DOCKET NO. OPA-PA-09-008
	)	
O&M ENERGY, S.A.	)	**AGENCY REPORT**
	)	
Appellant.	)	
	)	

Appellee GUAM POWER AUTHORITY (GPA), by and through its attorney, D. GRAHAM BOTHA, ESQ., hereby submits its Agency Report in the form required under 2 G.A.R. §12105:

(a) A copy of the protest: ***Previously submitted to the Office of the Public Auditor ("OPA") on November 5, 2009, by GPA.***

(b) A copy of the bid or offer submitted by the Appellant and a copy of the bid or offer that is being considered for award or whose bid or offer is being protested, if any had been submitted prior to the protest: ***Previously submitted to the Office of the Public Auditor ("OPA") on November 5, 2009, by GPA.***

(c) A copy of the solicitation, including the specification or portions thereof relevant to the protest: ***Previously submitted to the Office of the Public Auditor ("OPA") on November 5, 2009, by GPA.***

(d) A copy of the abstract of bids or offers or relevant or portions thereof relevant to the protest: ***Previously submitted to the Office of the Public Auditor ("OPA") on November 5, 2009, by GPA.***