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RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 4/11/13

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FILE NO OPA-PA: 13-072

8 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**
9 **PROCUREMENT APPEAL**

10 IN THE APPEAL OF

APPEAL NO. OPA-PA-13-002

11 PHIL-GETS (GUAM)
12 INTERNATIONAL TRADING CORP.
13 dba J&B MODERN TECH,

SUBMISSION OF AGENCY REPORT

Appellant.

14 The appeal filed by Phil-Gets (Guam) International Trading Corp. dba J&B Modern Tech
15 (“J&B”) involves the Guam Department of Education’s (“GDOE”) issuance of a March 27, 2013,
16 Determination and Notice of Suspension (“the Suspension”). The Suspension relates to GDOE
17 Invitation for Bid (“IFB”) No. 050-2011. All actions that led to the issuance of the Suspension
18 occurred after the publication and evaluation and award of the IFB. There has been no allegation
19 in the appeal that the award of the contract under the IFB was done in contrivance to the Guam
20 Procurement Law or the Guam Procurement Regulations. Due to the limited nature of the appeal,
21 GDOE is including in the Agency Report only the documents relevant to the Suspension. GDOE
22 reserves the right to supplement the Agency Report.

23 The Guam Department of Education (“GDOE”), the purchasing agency in this matter,
24 hereby submits the following exhibits as the Agency Report required by 2 GAR §12105:

- 25 a. A copy of the protest:

26 *Not applicable*

1 b. A copy of the bid or offer submitted by the Appellant and a copy of the bid or
2 offer that is being considered for award or whose bid or offer is being protested, if any had been
3 submitted prior to the Appeal:

4 ***Appellant's bid (J&B)***
5 **Bates Stamp Nos. GDOE 00185-00337**

Exhibit 4

6 *A copy of the Appellant's bid is being provided to the Office of*
7 *Public Accountability (OPA) pursuant to 2 GAR §12105(b). A*
8 *portion of Appellant's bid, specifically, Attachments A, B, C, D,*
9 *E, F, and G (Bates Stamp Nos. GDOE 00237-00285) has been*
10 *designated as proprietary and is exempt from public disclosure*
11 *at this time pursuant to 2 GAR §3109. GDOE therefore*
12 *requests, pursuant to 2 GAR §§12104(c)(4) and 12106, that such*
13 *sections be sealed and protected from public disclosure by the*
14 *OPA unless Appellant waives any claim regarding the non-*
15 *public nature of the document.*

16 *The sections containing proprietary information are designated*
17 *herein with a red tab. These sections will not be served on*
18 *Appellant unless GDOE is ordered to do so by the OPA.*

19 c. A copy of the solicitation, including the specifications or portions thereof relevant
20 to the Appeal:

21 ***Not applicable.***

22 d. A copy of the abstract of bids or offers or relevant or portions thereof relevant to
23 the Appeal:

24 ***Not applicable.***

25 e. Any other documents which are relevant to the Appeal; including the contract, if
26 one has been awarded, pertinent amendments, and plans and drawings:

27 *A copy of the Purchase Order is included in the*
28 *Procurement Record as Exhibit 2, Bates Stamp Nos.*
 GDOE 002-006.

1 f. The decision from which the Appeal is taken, if different than the decision
2 submitted by Appellant:

3 *A copy of the March 27, 2013 Determination and Notice of*
4 *Suspension is included in the Procurement Records as Exhibit*
5 *2.*

6 g. A statement answering the allegation of the Appeal and setting forth findings,
7 actions, and recommendations in the matter together with any additional evidence or information
8 deemed necessary in determining the validity of the Appeal. The statement shall be fully
9 responsive to the allegations of the Appeal:

10 ***GDOE's Agency Statement***
11 **Bates Stamp Nos. GDOE 00338-00355**

Exhibit 5

12 h. If the award was made after receipt of the Appeal, the report will include the
13 determination required under 2 GAR §9101(e):

14 ***Not applicable.***

15 i. A statement in substantially the same format as Appendix B to this Chapter,
16 indicating whether the matter is the subject of a court proceeding:

17 ***Declaration Regarding Court Action***
18 **Bates Stamp No. GDOE 00356**

Exhibit 6

19 Dated this 11th day of April, 2012.

20 Respectfully submitted,

21 **GUAM DEPARTMENT OF EDUCATION**

22 By: 
23 **ANDREW T. PEREZ, ESQ.**
24 *Legal Counsel*