



Jerrick Hernandez <jhernandez@guamopa.com>

Appeal No. OPA-PA21-015 Reply to Agency Report

GPE INC <guampacific@gmail.com>

Fri, Jan 7, 2022 at 2:26 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

Cc: "Camacho, Anthony" <arcamacho@triton.uog.edu>, "Gumataotao, Emily" <eggumataotao@triton.uog.edu>, Cynthia Guerrero <cguerrero@triton.uog.edu>

Dear Mr. Hernandez,

Please see attached Reply to Agency Report. My reply is timely because the record that UOG emailed to me on Dec. 23 and Dec. 29 can not be opened. When my worker coordinated with UOG, they sent the wrong Agency Report. I only found the Agency Report in your OPA websites last Monday January 03, 2022.


Please confirm receipt of this email.

Very Respectfully,

Sedfrey M. Linsangan
President
Guam Pacific Enterprise, Inc.
Tel: (671) 649-6994/7/8



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Pro Se

BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM

In the Appeal of	Appeal No. OPA-PA 21-015
Guam Pacific Ent. Inc.	Reply to Agency Report
Appellant	
v.	
University of Guam	

Memorandum of Points and Authorities

VOG IFB allowed bidders to submit their concerns, questions and inquiries to VOG President for resolution. I raised more than 12 concerns to VOG and it was confirmed that they received all of my concerns. It was emailed to 3 emails because the email that they indicate in the bid is wrong due to period after edu.

I got response from all my concerns accordingly after following up but the most important which is the 15% Bid bond was sent to me after working hours, day after the bid. The unfavorable decision I got starts the time that I was aggrieved, because they rejected my concern. VOB reasoned out they have to adhere to the local law. Therefore on the 3rd of December is the start of the 14th day period for me to file a protest, not on the 5th of November that I brought my concerns to them. My Protest is timely since it is in the window of 14 day period which I filed on Dec. 8, 2021. VOB did not respond accordingly on my 15% bid bond concern. Pursuant to Subsection (a) of Section 5425 of CH. 56 CA. (Right to Protest)

" Any actual or prospective bidder, offeror, or contractor who may be aggrieved in connection with the method of source selection, solicitation or award of contract may protest to the Chief Procurement Officer, Director of Public Works or the Head of purchasing agency. The protest shall be submitted in writing within (14 days) after such aggrieved person knows or should know of the facts giving rise thereto."

Discussion

15%. Bid bond concern was brought to them on Nov 5, 2021. I do not know yet of the facts if they would decide favorably on my concern. The only time I knew it was on Dec. 3, 2021. Therefore my Protest is timely.

My other argument is Section 5501, Federal Funds that will be used on this bid. Even I filed more than 14 days after December 3, 2021, the Federal funds on filing protest conflicts with the 14 day period mandated by the Guam law. 14 day period is arbitrary and not applicable on protest that involves Federal funds.

Protest was Valid

As prescribed by VOG Regulations, Section 9.2.3.2, protestor may file a protest on any phase of solicitation or award. . . .

VOG violated their own rules and procurement law for not accepting my protest.

My protest complies with the minimum requirements. Since we are in pandemic, it was sent by email. VOG have done the same by email due to COVID

It is VOG Procurement that did not adhere to Chapter 5 GCA, Section 5625, Standard Conduct and Statement of Policy. VOG is responding to my concerns with out any signatory or the name of the person who authors the memo. I address my concerns to the President pursuant to VOG Instruction but I did not get any respond from him. Only the VOG procurement but with no signatory. This is a violation of Ethical Standard and public trust by VOG. The question is why it took ^{1 month} for VOG to respond on my 15% bid bond concern. Is it strategy to keep me away from participating because I will not have enough time to participate on the bid?

VOG Rushing the Intent to Award
What is the rush for VOG to issue

a Notice of Intent of Award on the same day of the bid? There is no rational basis to rush since the lowest bidder did not submit the brochures or literature. It needs to be evaluated first if it complies with the scope of the bid and with Buy American Act. Are they rushing the award to discourage bidders to protest? The method they use in examining the brochures of the lowest bidder is not appropriate for more than half a million project. Emily just sent email to Mr Guerrero to review the brochures. There is no deliberations in checking all the criteria that's why they missed the most important requirement which is the Buy American Act. Carriers facilities are located in Mexico and China.

The award should be rescinded due to Guam Procurement Regulation and Laws and Federal Statutes, Laws, Executive Orders. The award should be considered null and void and a rebid is just. U.S. manufacturers, American workers should be the one benefitting with the Federal Financial Assistance Awards in order to help the U.S. economy and provide decent wages to American workers and support small business owners that represents U.S. manufacturers.

Prose can Represent his Company.

Pursuant to Section 1900 of Chapter 19 of Public Law 21-122 (1992) Office of Public Auditor. "There is an instrumentality of the government of Guam independent of the executive, legislative and judicial branches.

ches known as the Office of the Public Auditor. " OPA is an independent body that does not need to adhere to the rules and practices of Superior Court of Guam and other branches of government. It was established in 1992 and practice of Pro Se in this body are allowed. It needs a legislative action to change the long practice of OPA on Pro Se matters. As I've said, I represented my company on 2 occasions in 2006 and 2015 against GPA and GSA. OPA is free from interference of the judicial, executive and legislative body. Hence, UOG counsel claim has no merit.

15%. Bid Bond does not Apply to
Federal Funds disbursements

The 15% Bid bond conflicts with the Financial Assistance Awards, Cares Act, American

Rescue Act funds, Buy American Act., Made in American Act, Executive Orders intention and purpose because it substantially burden American small business owners and the manufacturers that they are representing.

There are precedents that 15% bid bond was waived on procuring supplies and services that is more than 25 thousands. The Governor of Guam past and present had spent the federal funds in so many ways without requiring the 15% bid bond. Hundred of millions of dollars were spent on hotels, tables, furnitures, equipment to the vendors without the 15% bid bond. But it is not a violation since it is Federal Funds. Therefore Bid bond should be waived for federal funds expenditures because it conflicts with the

authorizing statutes, laws and Section 5501. Federal Funds of Chapter 5 GCA.

"Where a procurement involves the expenditure of federal assistance or contract funds, or other federal funds as defined by Section 20 of the Organic Act of Guam, all persons within the government of Guam shall comply with such federal law and regulations which are applicable and which may be in conflict with or may not be reflected in this Chapter."

Ghura had waived the 15% Bid Bond

I had a meeting with Ghura's procurement officer, Ms. Breta Balmeo to resolve my protest on Buy American Act, 15% bid bond and imposed delivery time that is unrealistic.

She mentioned that Ghura had waived the 15% bid bond if federal funds are used especially to the disabled contractors and vendors. She told me that they can waive the bid bond for me but not the Buy American Act at this time.

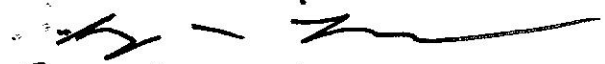
I responded that I cannot compromise and that I will not withdraw my Protest.

Since the former procurement offices of Ghura, Mr Bernard Lastimosa, 15% bid bond at Ghura was not required for almost 30 years until he retired. The new procurement offices enforce the Bid bond and was adhered by the present one .

Conclusion ,

All my claims are valid and is consistent or appropriate with the Federal Laws , Executive Orders , and Guam Law .

Dated : Dec 7, 2022

Respectfully Submitted

Sedfrey M. Linsangan
Pro Se



Jerrick Hernandez <jhernandez@guamopa.com>

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GPE INC <guampacific@gmail.com>
To: Jerrick Hernandez <jhernandez@guamopa.com>

Fri, Jan 7, 2022 at 2:46 PM

In the 1st paragraph it should read "day before the bid" not after the bid.

Thank you
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 **Correction on pg. 2.pdf**
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