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In the Appeal of Pacific Federal Management, Inc. - Docket No. OPA PA-24-005

Jennifer S. Mendiola <jsmendiola@bsjmlaw.com>

Fri, Feb 21, 2025 at 4:01 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

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Dear Mr. Hernandez:

Please see attached (1) **Appellant's Remedies Brief**; and (2) **Appellant's Proposed Findings of Act and Conclusions of Law** for e-filing in the above-referenced matter. Kindly confirm receipt via return e-mail.

Thank you. Should you have any questions or concerns, please let us know.

Regards,

Jennifer S. Mendiola,

Secretary to Mr. Johnson and Ms. Baza

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NOTICE: We have moved. Please note that our location and mailing address are now:

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Thank you.

LexMundi Member

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2 attachments

2025.02.21 Appellant's FFCL re PFM OPA-PA-24-005.pdf
261K



2025.02.21 Appellant's Remedies Brief re PFM OPA-PA-24-005.pdf
186K

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

10 In the Appeal of)	Appeal No. OPA PA-24-005
)	
11 PACIFIC FEDERAL MANAGEMENT,)	APPELLANT’S REMEDIES
12 INC.,)	BRIEF
)	
13 Appellant.)	
14 _____)	

15 Appellant **PACIFIC FEDERAL MANAGEMENT, INC.** (“PFM”) submitted its appeal to the Office
16 of Public Accountability (“OPA”) on October 29, 2024 regarding the Invitation for Bid No. GIAA-C07-
17 FY24, Project No. GIAA-FY22-02-1, AIP No. 3-66-0001-TBD, for the Terminal Building Roof
18 Replacement and Renewable Energy System – Phase I at the Guam International Airport (the “IFB”).
19 The Agency Statement and Report were filed by the **GUAM INTERNATIONAL AIRPORT AUTHORITY**
20 (“GIAA”) on November 15, 2024. On November 25, 2024, Appellant submitted its comments on the
21 Agency Statement. Hearing briefs were submitted by PFM, GIAA, and interested party **GREEN**
22 **COMMUNITY DEVELOPMENT DBA SURFACE SOLUTIONS** (“Surface Solutions”) on January 15, 2025.

23 A formal hearing was held before the Public Auditor, Benjamin J.F. Cruz on January 29, 2025.
24 At the hearing, the Public Auditor ordered that the parties may submit proposed findings of fact and
25 conclusions of law as well as remedies briefing by February 21, 2025.
26
27
28

1 **REMEDIES**

2 **A. THE PUBLIC AUDITOR SHOULD ORDER THAT CORE TECH INTERNATIONAL, WHICH WAS**
3 **NOT THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, SHOULD NOT BE AWARDED**
4 **THE IFB.**

5 When a government agency issues an invitation for bid, the “contract shall be awarded with
6 reasonable promptness by written notice to the lowest responsible bidder whose bid meets the
7 requirements and criteria set forth in the Invitation for Bids and whose bid amount is sufficient to comply
8 with Article 13 of this Chapter, if applicable.” 5 G.C.A. § 5211(g).

9 As established through the briefings and the formal hearing on January 29, 2025, PFM submitted
10 proof that it was authorized to perform the work of the IFB in all required categories. PFM should have
11 been deemed a responsive and responsible bidder, and thus, Core Tech, which was not the lowest
12 responsive and responsible bidder, should not have been selected to be awarded the IFB. Core Tech’s
13 bid was not the lowest because Core Tech’s \$20,068,296.00 bid was \$4,145,430.59 higher than PFM’s
14 \$15,922,865.41 bid, and \$12,168,496.00 higher than Surface Solution’s \$7,898,800.00 bid. As a result,
15 Guam law dictates that the award should not have gone to Core Tech.

17 **B. THE PUBLIC AUDITOR SHOULD ORDER THAT GIAA BE REQUIRED TO REVIEW ALL BID**
18 **SUBMISSIONS, DETERMINE THE RESPONSIVENESS OF ALL BIDDERS, AND AWARD THE**
19 **IFB TO THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER.**

20 As stated above, an invitation for bid shall be awarded to the lowest responsive and responsible
21 bidder. 5 G.C.A. § 5211(g). As Core Tech was not the lowest responsive and responsible bidder, GIAA
22 should be ordered to review all bid submissions, determine the responsiveness of all bidders, and award
23 the IFB to the lowest responsive and responsible bidder in accordance with Guam procurement law.

24 **C. IN THE ALTERNATIVE, THE PUBLIC AUDITOR SHOULD ORDER THAT GIAA CANCEL OR**
25 **RE-ISSUE THE IFB TO ALIGN WITH THE POLICY OF GUAM PROCUREMENT LAW TO**
26 **MAXIMIZE COMPETITION AND THE EFFICIENCY OF GOVERNMENT FUNDS.**

27 “If prior to award it is determined that a solicitation or proposed award of a contract is in violation
28 of law, then the solicitation or proposed award shall be: (a) cancelled; or (b) revised to comply with the

1 law.” 5 GCA § 5451. As stated above, the notice to award the IFB to Core Tech was in violation of Guam
2 law. GIAA has indicated that PFM’s protest was pre-award, which is why the procurement was stayed.
3 Because the notice of award to Core Tech violated Guam procurement law, the solicitation should be
4 cancelled and/or revised and re-issued in accordance with 5 GCA § 5451. In future solicitations, GIAA
5 should confirm contractors licensing requirements with the Contractor’s Licensing Board prior to
6 requiring licenses as part of the solicitation to ensure that the IFB is not unduly restrictive and does not
7 unnecessarily restrict competition.
8

9 **CONCLUSION**

10 Based on the above and the pleadings and hearings set forth to date, the Public Auditor should
11 order that PFM submitted proof of valid contractor’s licenses showing that it held licenses in all required
12 categories and that Core Tech International Corporation, which was not the lowest responsive and
13 responsible bidder, should not be awarded the IFB; that GIAA be required to review all bid submissions,
14 determine the responsiveness of all bidders, and award the IFB to the lowest priced responsible and
15 responsive bidder; or in the alternative, that GIAA cancel or re-issue the IFB in a manner that aligns with
16 the policy of Guam procurement law to maximize competition and the efficiency of government funds.
17

18 Respectfully submitted this 21st day of February, 2025.
19

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22 

23 By: _____
24 **R. MARSIL JOHNSON**
25 *Attorneys for Appellant Pacific Federal Management, Inc.*