



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-20-004 Notice of Status Hearing and Agency Report Final Deadline

Lillian.Perez-Posadas <lillian.perez-posadas@gmha.org>
Reply-To: lillian.perez-posadas@gmha.org
To: Jerrick Hernandez <jhernandez@guamopa.com>
Cc: wnk@gmha.org, dfp@gmha.org, theo.pangelinan@gmha.org

Tue, Jun 30, 2020 at 5:01 PM

Hafa Adai Jerrick,

Attached is our Agency Report relevant to tomorrow's Status Hearing.

Thank you,

lillian

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PROCUREMENT APPEALS
DATE: 6/30/2020
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FILE NO OPA-PA: 20-004

From: Jerrick Hernandez <jhernandez@guamopa.com>
Sent: Friday, June 26, 2020 10:03 AM
To: lillian.perez-posadas@gmha.org; julienne@mirandanucum.com; dfp@gmha.org
Cc: Benjamin Cruz <bjcruz@guamopa.com>; theo.pangelinan@gmha.org; Thyrza Bagana <tbagana@guamopa.com>
Subject: OPA-PA-20-004 Notice of Status Hearing and Agency Report Final Deadline

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GMHA Agency Report on the OPA-PA-20-004 Status Hearing .pdf
157K



Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



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Appellee GUAM MEMORIAL HOSPITAL AUTHORITY (GMHA), 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 June 02, 2020, by JRN. Please see attached.**

(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 as part of Procurement Record to the Office of the Public Auditor ("OPA") on June 23, 2020. Please see attached.**

(c) A copy of the solicitation, including the specification or portions thereof relevant to the protest: **Previously submitted as part of Procurement Record to the Office of the Public Auditor ("OPA") on June 23, 2020. Please see attached.**

(d) A copy of the abstract of bids or offers or relevant or portions thereof relevant to the protest: **Previously submitted as part of Procurement Record to the Office of the Public Auditor ("OPA") on June 23, 2020. Please see attached.**

(e) Any other documents which are relevant to the protest, including the contract, if one has been awarded, pertinent amendments, and plans and drawings: **Previously submitted as part of Procurement Record to the Office of the Public Auditor ("OPA") on June 23, 2020. Please see attached.**

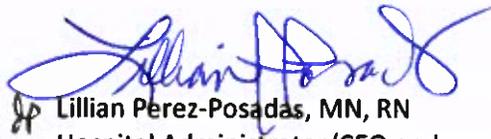
(f) The decision from which the Appeal is taken, if different than the decision submitted by Appellant: **Previously submitted as part of Procurement Record to the Office of the Public Auditor ("OPA") on June 23, 2020. Please see attached.**

(g) A statement answering the allegation of the Appeal and setting forth findings, and recommendations in the matter together with any additional evidence or information deemed necessary in determining the validity of the Appeal. The statement shall be fully responsive to the allegations of the Appeal: **Please see attached.**

(h) If the award was made after receipt of the protest, the report will include the determination required under 2 G.A.R. 9101(e): **Please see attached.**

(i) A statement in substantially the same format as Appendix B to this Chapter, indicating whether the matter is the subject of a court proceeding: **Previously submitted as part of Procurement Record to the Office of the Public Auditor ("OPA") on June 23, 2020.**

RESPECTFULLY SUBMITTED this 30th day of June, 2020, by:



Lillian Perez-Posadas, MN, RN
Hospital Administrator/CEO and
Chief Procurement Officer



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STATEMENT ANSWERING ALLEGATIONS OF APPEAL

(As required by 2 G.A.R. § 121059(g))

I. RELEVANT BACKGROUND

A. GMHA SOLICITS BIDS FOR GMHA IFB 002-2020, REMOVAL AND REPLACEMENT OF ONE (1) BOILER UNIT AND PIPING SYSTEM

On October 11, 2019, Guam Memorial Hospital Authority opened Invitation for Bid, GMHA IFB 002-2020, Removal and Replacement of One (1) Boiler Unit & Piping System (Tab-Appendix C). Three companies submitted bids in response to the IFB, JRN Air Conditioning & Refrigeration, Ammanabat Corporation, and J&B Modern Tech. All bidders submitted bids/proposals for the invitation for bid prior to 9:00am the time scheduled for submission.

On October 11, 2019, at 9:30am, the Invitation for Bid was opened and the sealed bid proposals of the three (3) bidders were opened in the presence of company representatives. Once the Invitation for Bid was closed, a copy of each bidder's proposal was given to Zaldy, Tugade, GMHA Acting Facilities Maintenance Manager, for his review and recommendation.

Upon review of bid proposals by the GMHA Acting Facilities Maintenance Manager, dated Nov. 25, 2019 (Appendix D), he stated that lowest bidder's (JRN) proposal is \$475K and within budget; and shows qualification in HVAC and refrigeration, but none on Boiler Systems. They did not address or submit any document referencing #13 of "Special reminders to prospective bidders." In addition, we couldn't find their qualification statement and experience or projects related to boiler installation."

The proposal of Ammanabat, the 2nd Lowest bidder, came in at \$485K and within budget. This bidder addressed #13 of "Special reminders to prospective bidders;" and has a Contractor's License, but did not include a Business License. This bidder provided both experience and projects undertaking boiler installations. The proposal of J&B Modern, the 3rd lowest bidder, came in at \$825K. The provided a Business and a Contractor's License, but couldn't find in their qualification statement any experience or projects related to boiler installations; and they did not address or submit any document referencing #13 of "Special reminders to prospective bidders."

Mr. Tugade's recommendation was to select Ammanabat, the 2nd lowest bidder, as they met the experience and qualification requirements; and the lowest bidder did not meet the experience and qualification requirements. However, if the lowest bidder, JRN, could provide the required experience and qualification documentation, then GMHA would consider such documentation after the Bid Opening and prior to Award. The 3rd lowest bidder, J&B Modern Tech, should be reject due to high cost.

A Written determination of Non-Responsibility, Bid Status & Deposit Return was issued to JRN on April 13, 2020. A Protest letter dated April 17, 2020, was hand delivered at GMHA Materials Management Office in response to this written determination.

A letter dated May 18, 2020 responding to JRN's protest of certain determinations and award of IFB 002-2020-Removal and Replacement of One Boiler Unit and Piping System was issued. In the letter it addressed that "On April 13, 2020, the GMHA issued a written determination of non-responsibility pursuant to 5 GCA § 5230, setting forth the reason for which JRN's bid was non-responsive. Prior to making its determination, the GMHA issued two letters to JRN dated December 05, 2019 and January 24, 2020. Both letters unequivocally advised that JRN failed to respond to Line #13 - Special Reminders to Bidders i.e., JRN did not provide a statement of qualification and performance data specific to boiler installation."

Also on December 5, 2019, letter advised that while JRN submitted qualifications and performance data for air conditioning sales and repair services, the GMHA was unable to locate the same for boiler installation. The January 24, 2020 letter advised that the additional documents submitted failed to provide JRN's statement of qualifications and performance data specific to boiler installation.

Specifically, the certification signed by Mauro R. Navarte (JRN's proffered mechanical engineer) states that JRN had an agreement to retain him for services including "specialty system such as Steam or Hot Water Boilers." The affidavit submitted by JRN similarly stated that the company had entered into a contract with Mr. Navarte to provide professional services including "specialty system such as Steam or Hot Water Boilers." However, neither document provides information regarding JRN's qualifications or performance data (for example, past or current projects) specific to boiler installation; the documents merely state that Mr. Navarte had been retained to provide such services.

While the affidavit submitted by Teddy Glenn Roman Garcia appears to detail his personal experience, it does not provide any information related to JRN'S qualifications or performance data specific to boiler installation.

The letter goes on to state that JRN was well aware of the type of documentation that would have satisfied the IFB's requirement. This was evidenced by the fact that JRN submitted

two statements of qualifications with its bid that included lists of licenses, memberships, past and current projects, and supplier information which were specific to air conditioning sales and repair services.

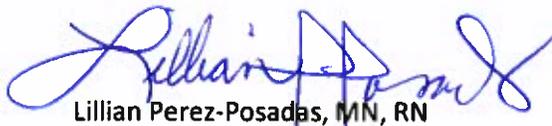
Therefore, "The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror. 26 GAR, Div. 2, § 16317(1). Since December 5, 2019, JRN was provided with two opportunities to submit the required qualification and performance data. It was ultimately determined in April 2020 that JRN's bid was non-responsible.

So, accordingly as stated in our letter dated May 18, 2020, JRN's protest was denied as being without merit. They were advised that, if they chose to, they could seek administrative and judicial review of the decision pursuant to 5 GCA §5425(c)(2).

CONCLUSION

GMHA requests that the appeal of JRN Air Conditioning & Refrigeration be dismissed, and that the Public Auditor award all legal and equitable remedies that GMHA may be entitled to as a result.

RESPECTFULLY SUBMITTED this 30th day of June, 2020, by:


Lillian Perez-Posadas, MN, RN
Hospital Administrator/CEO and
Chief Procurement Officer



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**STATEMENT IN SUBSTANTIALLY THE SAME FORMAT AS APPENDIX B TO THIS CHAPTER,
INDICATING WHETHER THE MATTER IS THE SUBJECT OF A COURT PROCEEDING:**

II. SUBJECT OF COURT PROCEEDING

A. No. This Appeal is not a Subject of Court Proceeding.

RESPECTFULLY SUBMITTED this 30th day of June, 2020:

A handwritten signature in blue ink, appearing to read "Lillian Perez-Posadas".

Lillian Perez-Posadas, MN, RN
Hospital Administrator/CEO and
Chief Procurement Officer