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**OPA-PA-20-004 - GMHA Hearing Materials**

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Tue, Sep 1, 2020 at 11:56 AM

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Please see the below listed and attached documents submitted on behalf of the GMHA attached, and kindly confirm receipt.

1. Exhibit List; Pre-Marked Exhibits
2. Witness List
3. Statement of Issues
4. Admission of Facts

Thank you,

Minakshi

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**4 attachments**

 **2020-09-01 GMHA Exhibit List and Pre-Marked Exhibits.pdf**  
4597K

 **2020-09-01 GMHA Witness List.pdf**  
47K

 **2020-09-01 GMHA Statement of Issues.pdf**  
43K

 **2020-09-01 GMHA Admission of Facts.pdf**  
158K

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6 Counsel for Purchasing Agency *Guam Memorial Hospital Authority*

7 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**  
8 **GOVERNMENT OF GUAM**

9 IN THE APPEAL OF:

CASE NO: OPA-PA 20-004

JRN Air Conditioning & Refrigeration, Inc.

**ADMISSION OF FACTS**

10 Appellant.

11  
12 **COMES NOW** Purchasing Agency Guam Memorial Hospital Authority (“GMHA”), by and  
13 through its counsel of record, and submits its Admission of Facts pursuant to the Office of Public  
14 Accountability’s Scheduling Order issued on July 13, 2020. The GMHA admits the following facts as  
15 true and uncontroversial in this appeal:  
16

- 17 1. GMHA issued Invitation for Bid (IFB) 002-2020 for the Removal and Replacement of One (1)  
18 Boiler Unit and Piping System on October 11, 2010.
- 19 2. The three bids submitted in response to IFB 002-2020 were opened on November 19, 2019 at  
20 9:30 a.m.
- 21 3. JRN Air Conditioning & Refrigeration (“JRN”) and AMmanabat Corporation were within  
22 budget: JRN was the lowest bidder at \$475,000 and AMmanabat Corporation was the second  
23 lowest bidder at \$485,000.
- 24 4. IFB 002-2020 included a Special Reminder to Prospective Bidders (“Special Reminder”).
- 25 5. The first line item of the Special Reminder states, “Statement of Qualifications and Performance  
26 Data.”  
27  
28

- 1 6. The Special Reminder ends with two sentences in bold which state, “Failure to comply with any  
2 of the requirements above may be cause for disqualification and rejection of the bid. This reminder  
3 must be signed and returned in the bid envelope together with the bid.”
- 4 7. JRN’s representative signed, dated, and submitted as part of its bid the Special Reminder  
5 acknowledging that JRN had “read and understand its intent and implications.”
- 6 8. JRN’s bid did not include a Statement of Qualifications and Performance Data relevant to the  
7 IFB’s scope of work: the removal and replacement of one (1) boiler unit and piping system.
- 8 9. As part of its bid, JRN submitted two statements of qualifications specific to air conditioning sales  
9 and repair services that included lists of licenses, memberships, past and current projects, and  
10 supplier information.
- 11 10. GMHA did not immediately reject JRN’s bid as nonresponsible,
- 12 11. GMHA provided JRN with two opportunities, through letters dated December 5, 2019 and  
13 January 24, 2020, to provide its Statement of Qualifications and Performance Data relevant to the  
14 IFB’s scope of work: the removal and replacement of one (1) boiler unit and piping system.
- 15 12. In its December 5, 2019 letter, GMHA wrote to JRN: “We are unable to locate any statements,  
16 experience or projects related to boiler installation.”
- 17 13. JRN submitted two responsive letters to the GMHA dated December 10, 2019 and received on  
18 December 11, 2019, containing information about JRN’s boiler equipment supplier and its  
19 mechanical engineer.
- 20 14. In its January 24, 2020 letter, GMHA wrote to JRN, “your letter states that a Mechanical Engineer  
21 employed at JRN has experience in installation of boilers and that such experience can be found  
22 in his resume. However, the GMHA was unable to identify any such statements, experience, or  
23 projects related to boiler installation. Please provide qualification and performance data specific  
24 to boiler installation.”
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- 1 15. On January 29, 2020, JRN submitted an "Affidavit of Professional Experience" its Mechanical  
2 Engineer, Mr. Teddy G.R. Garcia, attesting to maintenance and other experience with boiler  
3 systems in the years 2004 and 2005, that was not previously included in his five-page resume  
4 submitted by JRN as part of its bid.
- 5 16. Title 2 GAR Div 4 §3116(b)(4) Duty Concerning Responsibility states, "Before awarding a  
6 contract, the Procurement Officer must be satisfied that the prospective contractor is responsible."  
7
- 8 17. On April 13, 2020, the GMHA issued its written determination of non-responsibility pursuant to  
9 5 GCA §5230 detailing the factors considered when determining responsibility pursuant to 26  
10 GAR Div 2 §16317(2)(b) and 2 GAR Div 4 §3116(b), including a prospective contractor's ability  
11 to meet all contractual requirements. The GMHA stated that JRN's bid and subsequent  
12 documentation were non-responsible because they "did not provide sufficient information to  
13 demonstrate your [JRN's] statement of qualification and performance data specific to boiler  
14 installation."  
15
- 16 18. On April 17, 2020, JRN submitted its protest and demand for copies of procurement records.
- 17 19. On May 15, 2020, GMHA acknowledged JRN's protest and stated that the requested procurement  
18 records would be made available pursuant to the Sunshine Reform Act of 1999.
- 19 20. On May 22, 2020, GMHA denied JRN's protest as being without merit.
- 20 21. On May 22, 2020, JRN sent a letter to the GMHA arguing denial of its protest was premature.
- 21 22. On June 2, 2020, GMHA responded to JRN explaining that its denial letter was not premature.
- 22 23. On June 2, 2020, JRN filed its appeal to the Office of Public Accountability.

23  
24 Respectfully submitted this 1<sup>st</sup> day of September 2020.

25 LAW OFFICES OF MINAKSHI V. HEMLANI, P.C.  
26 Counsel for Purchasing Agency  
27 *Guam Memorial Hospital Authority*

28   
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