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E-Filing: OPA-PA-24-001; Guam Solid Waste Authority Agency Report

GSWA Admin <admin@gswa.guam.gov>

Mon, May 6, 2024 at 4:12 PM

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Hafa adai,

Please find the attached Agency Report for Invitation for Bid #GSWA-004-24.

A hard copy will be hand delivered to your office today. Kindly confirm receipt of this email.

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Si Yu'os Ma'åse,

GSWA Admin

Guam Solid Waste Authority

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GSWA-004-24 Agency Report - Signed.pdf

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II. AGENCY STATEMENT

GSWA denies Morrico's allegations.

1. Morrico's protest is untimely.

Morrigo claims without explanation that the issues protested became known on December 13, 2023. As such, it claims it timely submitted its protest.

Morrigo argues that the specifications are too restrictive. The specifications were published on November 3, 2023. See Guam Daily Post IFB Publication Dated November 3, 2023, Procurement Record No. 5. Morrigo should have submitted its protest within 14 days of publication.

Furthermore, GSWA informed bidders that the John Deere model 244P was used to form the basis for *some* of the specifications on November 15, 2023. See Procurement Record No. 90. Morrigo was on notice that wheel size, fan and broom specifications were crucial to GSWA's operations and would not be changed. See Procurement Record No. 86, 99, and 100. At the latest, Morrigo should have submitted a protest on or before November 29, 2023.

Instead Morrigo waited to see if it was awarded the procurement. The statute requires a written protest within 14 days after knew or should have known the facts giving rise to the protest. 5 GCA 5425.

Morrigo's protest is untimely and the appeal should be dismissed.

2. GSWA did not solicit a brand name product and the IFB specifications were not unduly restrictive.

The IFB did not specify a brand name in its specifications nor were the specifications unduly restrictive. Although the procurement record cites John Deere as a reference in developing its specifications, the IFB specifications are not unique to John Deere. Other brands such as Caterpillar and Volvo can meet the specifications without modification.

Morrigo's bid modifications were not *de minimus*. The product offered did not have the wheel clearance, the hydraulically driven, proportionally controlled fan or belt-driven fan, and broom. See Bid Status, Procurement Record No. 253. Again, these specifications are not exclusive to a John Deere model but are necessary to meet GSWA's operations. The wheel specifications are necessary to navigate Guam's terrain. Furthermore, the type of waste that GSWA would handle to clean up illegal dump sites and green waste require a reversible hydraulic fan. Morrigo's product did not meet

these necessary specifications.

Procurement law was not violated. Morrigo's prayer for relief should be denied.

Submitted this 6 th day of MAY 2024.

GUAM SOLID WASTE AUTHORITY

By:



IRVIN SLIKE
General Manager