

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

| | |
|-------|-------|
| N/A | |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

PART IV- Form and Filing

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;
2. A statement specifying the ruling requested;
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.

PART V- Declaration Re Court Action

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this ___ day of July, 2009.

By: 
APPELLANT

or

By: _____
Appellant's Duly Authorized Representative
(Address)
(Phone No.)

GUAM PACIFIC ENTERPRISE, INC.

P.O. Box 23128

GMF Guam 96921

Tel#(671)649-6994/7/8/Fax#(671)649-6988

July 23, 2009

The Public Auditor/Doris Flores Brooks
Hagatna, Guam 96910

Subject: Appeal/GPA Liquidation Damages

Dear Ms. Brooks;

I am appealing the Liquidation damages that GPA imposed which is not in accordance with the 5GCA Chapter 5. In April 13, 2009, I requested a delivery extension. The following day April 14, 2009, I received a notice of default to cure and secure a delivery extension which did not satisfy my request. Therefore, I fax my delivery extension request again. Then in April 22, 2009, I received a letter from Ms. Jaime Pangelinan Supply Management Administrator denying my request due to urgency of item awarded. GPA's reason is unreasonable, disturbing inconsistent with the law and has no merit. My point here was not they specified urgency? But they waited for my delivery regardless of the date. If urgency is their justification they should have terminated the P.O. and award to another vendor that can supply the materials faster and inexpensive than our company. It is obvious that the delayed delivery did not cause damaged to the Territory of Guam, granting extension is warranted. The unreasonable application of LD has been the agency's habitual practice. They also do not pay interest on due accounts and late in releasing bid bonds in form of cashiers' check, because they deposited the bid bond instead of holding it in trust as specified in the law.

Thank you, I appreciate your time and kind consideration on this matter.

Sincerely,



SEDFREY M. LINSANGAN
President

Part 3 Appeal Information:

B) Identification Number Of Procurement Solicitation, Or Contract:

**GUAM POWER AUTHORITY
P.O. Number**

- 1.) **P.O.#13394 OP**
- 2.) **P.O.#12355 OP**
- 3.) **P.O.#12132 OP**
- 4.) **P.O.#12306 OP**
- 5.) **P.O.#12132 OP**
- 6.) **P.O.#12414 OP**
- 7.) **P.O.#12140 OP**
- 8.) **P.O.#9177 OP**
- 9.) **P.O.#99177 OP**
- 10.) **P.O.#5215 OP**
- 11.) **P.O.#5213 OP**

C.) Decision being appealed was made on _____ (date) by:
 _____ Chief Procurement Officer _____ director of Public Works Head of Purchasing Agency

| GPE Invoice Number | Invoice Amount | GPA Payment Date Received | Payment Check No. | Amount Paid | Liquidated Damages |
|--------------------|----------------|---------------------------|-------------------|-------------|--------------------|
| 35194 | 5,987.64 | 7/08/09 | Chk#43980 | 5,314.03 | 673.61 |
| 25403 | 1,029.50 | | | | |
| 25648 | 12,068.10 | 6/03/08 | Chk#039338 | 13,038.41 | 59.19 |
| 28154 | 985.68 | 8/25/08 | Chk#040367 | 616.05 | 369.63 |
| 26342 | 121.90 | | | | |
| 26493 | 191.30 | 6/24/08 | Chk#039663 | 302.84 | 10.36 |
| 24146 | 3,875.20 | 3/25/08 | Chk#038726 | 3,623.31 | 251.89 |
| 10379 | 2,988.70 | 7/18/05 | Chk#028305 | 2,450.73 | 537.97 |
| 10335 | 3,186.30 | 6/17/05 | Chk#027936 | 2,811.91 | 374.39 |
| 7473 | 12,374.04 | | | | |
| 7474 | 12,926.40 | 4/05/02 | Chk#015434 | 22,011.38 | 3,289.06 |

GPE, INC.

Guam Pacific Enterprise, Inc.

FACSIMILE TRANSMITTAL SHEET

| | |
|----------------------------------|--|
| TO: Procurement Manager | FROM: Sed M. Linsangan |
| COMPANY: Guam Power Authority | DATE: 4/13/09 |
| FAX NUMBER: Supply Administrator | TOTAL NO. OF PAGES INCLUDING COVER: 3 |
| PHONE NUMBER: | SENDER'S REFERENCE NUMBER: |
| RE: Request for Extension for | YOUR REFERENCE NUMBER: P.O. # 13394 OP |


URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

To Jamie Pangelman,

I'm requesting a delivery extension up to May 12, 2009 due to manufacturer's shipping estimate did not materialized. Time for delivery is 10 weeks ARO which should fall on April 16, 2009.

Please see attached letter from our supplier S & C Electric.

Sincerely,
Guam Pacific Enterprise, Inc.


Sedfrey M. Linsangan
President



S&C ELECTRIC COMPANY

GENERAL OFFICES CHICAGO

Specialists in High-Voltage Switching and Protection

9801 NORTH RIDGE BOULEVARD
CHICAGO, ILLINOIS 60628-3887, USA
TELEPHONE: (888) 762-1300
FAX: (773) 381-4818

FAX / TRANSMITTAL

FAX # 773-381-4818

TO: Steve Arzle - HD Supply

DATE: March 18, 2009

FAX NO.: 503-653-2279

OUR REF:

FROM: Susan Glas

YOUR REF:

REFERENCE: Letter for Global

S.O. OR Q-

COPIES:

PAGES: 2 (Including this
Cover Sheet)

Hi Steve—

I had e-mailed this to Brian, but apparently Peter Clark from Global is in a big hurry on this. Perhaps you can get this to him.

Please let me know if you have questions or need anything else on this.

Thanks.

Suo Glas
S&C Electric Company
Phone: 888-762-1300



S&C ELECTRIC COMPANY

Excellence Through Innovation

6801 North Ridge Boulevard
Chicago Illinois 60676-3097
Telephone (773) 338-1000
Fax (773) 338-3657

March 18, 2009

Brian Cullion
HD Supply
9151 SE McBrod
Portland, OR 97222

Subject: HD Supply PO # 406458-00

Dear Brian—

Just a note to let you know that the (6) each of Cat # 192504, ordered by Global on your PO # 406458-00 are scheduled to ship on 4/9/09.

As always, all shipping estimates are subject to prior sales of material and/or manufacturing capacity.

Please don't hesitate to call, or write, if you have questions.

Thank you.

Very truly yours,

S&C ELECTRIC COMPANY

Susan Glav

Senior Inside Sales Representative



ATURIDÁT ILEKTRESEDÁT GUAH,
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

nc.

April 14, 2009

Date Faxed:

Guam Pacific Enterprise, Inc.
P.O. Box 23128
GMF, Guam 96921

1st: 4/14/09
2nd:
3rd:

Attention: Sedfrey M. Linsangan
Fax: 649-6988

Re: Notice of Delivery Default and to Cure

Buenas. Pursuant to Section 6-101.09, 56CA, "Liquidated Damages" be duly notified that the following purchase order contract(s) are in default on the required delivery date.

| <u>OP Number</u> | <u>Required Delivery Date</u> | <u>Item Ordered:</u> |
|------------------|-------------------------------|---|
| 13394 | 04/13/09 | 6-Each: 34.5 kV Rated Disconnect Switch |

You are hereby notified that you have ten (10) days from the day you receive this notice to cure the default or secure a delivery extension. Liquidated damages (L.D) will be assessed in the amount of 1/4 of 1% of the current balance for each day issuance of notice. Deliveries made within the "curing time" will not be assessed L.D. However, please be advised that after the ten days and delivery is not made, the purchase order may be processed for termination and considered in default. You will be duly notified of this termination.

If you receive this notice in error because contract is completed, please disregard, however, kindly fax certifying documents to the Procurement Office at (671) 648-3054/55. Your attention and cooperation is greatly appreciated. Thank you

Jamie L.C. Pangflinan
JAMIE L.C. PANGFLINAN
Supply Management Administrator

cc: Procurement PO Files

Please Acknowledge Receipt via Phone Fax to: (671) 648-3165
 Note: If not acknowledged after 3rd confirmed attempt, it will be considered received

Received By: *[Signature]* Date: 4/14/09

17 Pages
APR 14 2009
FAXED



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 HAGATNA, GUAM U.S.A. 96932-2977

April 22, 2009

Sedfrey M. Linsangan
Guam Pacific Enterprises
P.O. Box 23128
GMF, Guam 96921

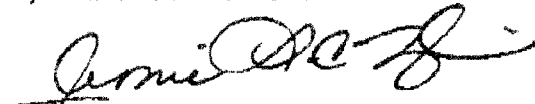
RE: Purchase Order No.: 13394
Notice of Delivery Default and to Cure

Buenas Mr. Linsangan,

The Guam Power Authority would like to acknowledge receipt of your company's request to extend the above subject purchase order delivery from April 13, 2009 to now read May 12, 2009. Please note at this time the Authority is scrutinizing all request for extensions based of projected planning within the Authority to ensure Customer Reliability and to support the Island Wide Power System.

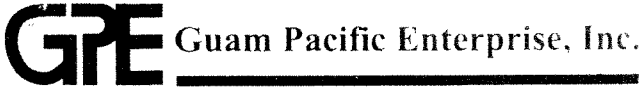
Based on the urgency of item awarded, the Authority hereby denies your request. The delivery date of April 13, 2009 shall remain in full force.

Should you have any other questions, you may contact me at 648-3054/5.


JAMIE L.C. PANGELINAN
Supply Management Administrator

Acknowledge By:

_____ Date _____



INVOICE

Invoice No. 35194

Construction Materials Specialist
P.O. Box 23128 G.M.F. Guam 96921
Tel.: (671) 649-6994/6997 6998 • Fax: (671) 649-6988

Sold To: Guam Power Authority
GUAMPO P.O. Box 2977
Hagatna GU 969322977

| Invoice Date | Sales Person | Terms | Purchase Order | Pg |
|------------------|--------------------|-------|----------------|-----------|
| 05/29/09 10:39:3 | alvon | | 671/647-5783 | |
| Qty | Item #/Description | | Unit Price | Ext Price |

6 EAP
JA
5/29/09

| | | |
|--------------------------------|----------|------------|
| STATION EQUIPMENT REPAIR PARTS | \$997.94 | \$5,987.64 |
| DISCONNECT SWITCH ASSEMBLY | | |
| DISCONNECT SWITCH SMD-20 | | |

34.5 KV RATED DISCONNECT SWITCH
S & C POWER FUSE TYPE SMD -20 FOR OUT DOOR
DISTRIBUTION
VERTICAL OFFSET STYLE.
S & C MODEL NO: 192504

PO: 13394 OP

DELIVER TO GPA WAREHOUSE SUPPLY
TEL # 635-2073

| | |
|--------------------|----------|
| Non Taxable SubTot | 5,987.64 |
| Taxable SubTotal | 0.00 |
| Sales Tax | 0.00 |
| Total | 5,987.64 |
| Total Due | 5,987.64 |

Thank you for shopping at Guam Pacific Enterprise.

10% Handling Charge On All Returned Items: All goods are sold "AS IS, WHERE IS" unless otherwise stated.

Joseph Tudela / Joseph Tudela
Signature: Print Name

RECEIVED 29 May 2009 14:00 to 14:15

GUAM POWER AUTHORITY
DISBURSEMENT ACCOUNT
 P.O. BOX 2977
 AGANA, GUAM 96910

BANK OF GUAM
 P.O. BOX 50
 AGANA, GUAM

043980

CHECK NO. 00043980

| DATE | AMOUNT |
|----------|---------------|
| 07/06/09 | *****5,314.03 |

VOID IF NOT CASHED IN 3 MONTHS

PAY

7553

FIVE THOUSAND THREE HUNDRED FOURTEEN AND 03/100 *****

G.P.A. DISBURSEMENT ACCOUNT

ORDER OF:
 GUAM PACIFIC ENTERPRISES
 P. O. BOX 23128
 GMP,
 GU
 96921

Deborah M. Saung

SIGNATURE HAS A COLORED BACKGROUND - BORDER CONTAINS MICROFILM

⑈043980⑈ ⑆121405115⑆ 06010018500⑈

GUAM POWER AUTHORITY
 DISBURSEMENT ACCOUNT
 P.O. BOX 2977
 AGANA, GUAM 96910

Check No. - 43980
 Check Date - 07/06/09

DETACH STATEMENT BEFORE DEPOSITING Stub 1 of 1

| ICE NUMBER | DATE | DESCRIPTION | GROSS AMOUNT | DEDUCTIONS | AMOUNT PAID |
|------------|--------|-------------|-----------------|------------|-----------------|
| 194 | 060309 | 35194 | 673.61- | | 673.61- |
| 194 | 052909 | 35194 | 5,987.64 | | 5,987.64 |
| | | | 5,314.03 | | 5,314.03 |

INV# 3594