OFFICE OF THE PUBLIC AUDITOR

PROCUREMENT APPEALS

IN THE MATTER OF, INFRATECH INTERNATIONAL, LLC. Appellant.	**APPEAL NO: OPA-PA-11-019** **OPA-PA-11-020** **OPA-PA-11-021** **DECISION AND ORDER RE PURCHASING AGENCY'S MOTON TO DISMISS FOR FAILURE TO STATE GROUNDS FOR APPEAL**

To: **Purchasing Agency:**
Department of Education, Government of Guam
C/O Rebecca Perez, Esq.
GDOE Office of the Superintendent
312 Aspinall Ave.
Hagåtña, Guam, 96932
Facsimile: (671) 472-5003

Appellant:
InfraTech International, LLC
C/O Ravindra B. Gogineni, Vice President, Appearing *Pro Se*
118 Aspengao Ct.
Barrigada Guam, 96913
Facsimile: (671) 734-1629

THIS MATTER came before the Hearing Officer on February 3, 2012 for a hearing on the Purchasing Agency's Motion to Dismiss for Failure to State Grounds for Appeal . The Appellant was represented by Ravindra B. Gogineni who appeared *Pro Se.* Marcus Y. Pido, Guam Department of Education (Hereafter Referred to as "DOE"), Supply Management Administrator, was present and represented by DOE's Legal Counsel, Rebecca M. Perez, Esq.

BACKGROUND

On December 14, 2011, Appellant filed the Notice of Appeal in this matter and attached a two (2) page untitled statement to said notice. Appellants statement described, in relevant part, DOE's issuance of GDOE-IFB-035-2011, GDOE-IFB-036-2011, GDOE-IFB-037-2011, GDOE-IFB-038-2011, and GDOE-IFB-039-2011 (Structural Repairs & Roof Coating for Various Schools) (Hereafter Referred to as "IFBs"), Appellant's protests concerning these solicitations, Appellant's allegation that DOE's solicitation process for the IFBs was not fair and lacked critical information to determine the lowest responsive and responsible bidder, and Appellant's six (6) reasons Appellant claims to support the aforementioned allegation.[1] On December 19, 2011, DOE filed its motion to dismiss this matter for Appellant's failure to state grounds for appeal alleging that Appellant failed to include a statement of the grounds for its appeal in Appellant's Notice of Appeal, as required by 2 G.A.R., Div. 4, Chap. 12, §12104.[2] On January 6, 2012, Appellant filed its Comments on the Agency Report and argued that the two (2) page statement, described above, attached to its Notice of Appeal was the statement required by the aforementioned procurement regulation.[3]

DISCUSSION

The Appellant was required to submit the statement as alleged by DOE. Generally, an appellant's notice of appeal shall contain a concise, logically arranged, and direct statement of the grounds of their appeals. 2 G.A.R., Div. 4, Chap. 12, §12104(b)(2). Further, an appellant's

[1] Notice of Appeal filed on December 14, 2011.

[2] Line 12, Page 2, DOE's Motion To Dismiss for Failure to State Grounds for Appeal filed on December 19, 2011.

[3] Line 1, Page 2, Appellant's Comment on the Agency Report filed on January 6, 2012.

failure to submit such a statement may result in dismissal of an appeal. 2 G.A.R., Div. 4, Chap. 12, §12104(b)(7). Here, the Hearing Officer's analysis now turns to whether the two (2) page untitled statement attached to the Appellant Notice of Appeal is the statement of the grounds for appeal required by 2 G.A.R., Div. 4, Chap. 12, §12104(b)(2).

The Appellant's statement constitutes a valid statement of the grounds for this appeal. Specifically, as stated above, the statement which is concise, as it is only two (2) pages, and logically arranged, details Appellant's general allegation that the DOE's solicitation of DOE's solicitation process for the IFBs was not fair and lacked critical information to determine the lowest responsive and responsible bidder, and six (6) reasons Appellant claims support the aforementioned general allegation. Thus, the Hearing Officer finds that the Appellant's statement, although untitled, but which contained a concise, logically arranged, and direct statement of the grounds for Appellant's appeal, complies with 2 G.A.R., Div. 4, Chap. 12, §12104(b)(2).

CONCLUSION

Based on the foregoing, DOE's Motion to Dismiss for Failure to State Grounds for Appeal is hereby DENIED.

SO ORDERED this 20th day of February, 2012 by:

ANTHONY R. CAMACHO, ESQ.
Hearing Officer