

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

**Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL**

DATE: 09/27/12

TIME: 3:42 AM PM BY: JB

FILE NO OPA-PA: 12-015

PART I- To be completed by OPA

In the Appeal of)	NOTICE OF APPEAL
_____)	
(Name of Company), APPELLANT)	
_____)	
)	Docket No. OPA-PA _____

PART II- Appellant Information

Name: Darren Gutierrez

Mailing Address: P.O Box 1724
Hagatna Guam, 96932

Business Address: "

Email Address: gcrewguam@gmail.com

Daytime Contact No: 888-5271

Fax No.: 477-5271

PART III- Appeal Information

- A) Purchasing Agency: Guam Visitors Bureau
- B) Identification/Number of Procurement, Solicitation, or Contract: IFB-2012-601
- C) Decision being appealed was made on 9/17/2012 (date) by:
 Chief Procurement Officer Director of Public Works Head of Purchasing Agency

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

D) Appeal is made from:

(Please select one and attach a copy of the Decision to this form)

- Decision on Protest of Method, Solicitation or Award
- Decision on Debarment or Suspension
- Decision on Contract or Breach of Contract Controversy
(Excluding claims of money owed to or by the government)
- Determination on Award not Stayed Pending Protest or Appeal
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

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

LMS GUAM

Guam Tropical Landscaping

JJ Global Services

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 Public Accountability 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 Public Accountability within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 27 day of 09, 2012.

By: 
APPELLANT

or

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



September 26, 2012

RE: Procurement Appeal - IFB 2012-001

HAND DELIVERY

Mrs. Doris Flores Brooks
Office of Public Audit
Suite 401 DNA Building
238 Archbishop Flores Street
Hagatna, Guam 96910

Hafa Adai Mrs. Brooks:

This letter is our official Bid Contest for IFB 2012-001. G-Crew Maintenance received a letter on September 17, 2012 regarding "Notice of Intent to Award Contract" to LMS Guam.

1. G-Crew Maintenance turned in bid on August 31, 2012 before 3PM. At the time of bid opening G-Crew Maintenance was the lowest responsive and responsible bidder.
2. An email from GVB evaluation committee dated September 10, 2012 regarding Tumon Landscaping Bid, requesting clarification on various items in the bid package.
3. G-Crew Maintenance responded with a letter dated September 12, 2012 providing clarification on items requested.
4. A letter from GVB dated September 13, 2012 was sent informing G-Crew Maintenance that we were not the lowest bidder.
5. G-Crew Maintenance responded with a letter dated September 14, 2012 clarifying the GVB statement "*I conclude therefore that you have made an error in your bid*". In the BID SCHEDULE, Section 7.0, the language was unclear, ambiguous, and open for interpretation. In the "Quantity" column, "ALL" indicated as a value was interpreted as 52 weeks. Most line items indicated numbers as a value for calculating the Unit Cost. The calculation for the UNIT COST being: \$7,500.00 divided by 52 weeks = \$144.23 per week for UNIT COST.



6. GVB sent a letter to G-Crew Maintenance on September 17, 2012 stating that the calculation is not a realistic figure in Section 7.0 and it is not in the best interest of GVB to award the contract to G-Crew.

Furthermore, the letter dated September 13, 2012 rejecting the award for IFB-2012-001 to G-Crew Maintenance was a predetermine outcome and was acted in prejudice not affording G-Crew Maintenance the opportunity to explain itself on how we derived at our calculation.

I had also noticed that in the Section 7.0 under the "Unit" column it states "Lump Sum (for one year)" rather than stating "Each Occurrence" as shown on other line items listed on the Bid Schedule. In Section 7.0 under the "Quantity" column its states "ALL" rather than reflecting a value of 312 as a quantity to calculate the Unit Cost for Each Occurrence as shown on other line items listed on the Bid Schedule (Page BS-1). I had indicated the Lump Sum for a year at \$7,500.00 basing my calculation from the Unit column (Page BS-1).

Furthermore, the definition of "Quantity" refers to "total amount or number." (merriam-webster.com/dictionary).

It is G-Crew Maintenance intent for the bid amount of \$235,000.00 and not the insisted bid amount of \$272,499.76 by GVB in their letter dated September 13, 2012. As you can see G-Crew Maintenance had also complied with the 15% bid security as required by 5212 GCA Section "B" states: "*The bid security should be in an amount equal to fifteen percent (15%) of the total amount bid*". This clearly shows our intent was to bid the total price of \$235,000.00 and remains the same. On the contrary, the Total Cost as well as Total Bid Price always prevails because it's a yearly cost.

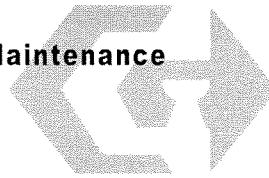
GVB states that my Unit Cost of \$24.03 per day is an unrealistic figure. As Owner of G-Crew Maintenance I physically work on the job site along with my Project Manager who is my brother eliminates overhead for this scope of services as our cost is built into the yearly total cost of this bid. G-Crew Maintenance owns a street/sidewalk sweeper that allows cost effective measures for maintaining both sides of San Vitores from Bishop Flores Circle to Westin (including JFK and Old Australian Cable Roads).

In the initial email from GVB dated September 10, 2012 there was no question as to item 7.0 in the Bid Schedule of a Unit Cost of \$24.03 per day.

In conclusion I hereby request that any and all future bids should be explicit and not allow ambiguity to be the reason for bid rejections. Therefore I feel G-Crew



Maintenance



Maintenance is the lowest responsive and responsible bidder and should be awarded IFB 2012-001.

Si Yu'us Ma'ase,

A handwritten signature in black ink, appearing to read 'DG'.

Darren Gutierrez
Owner

From: Doris Ada <doris.ada@visitguam.org>
Subject: TUMON LANDSCAPING BID - URGENT REQUEST NEEDED BY 9/11/12
Date: September 10, 2012 1:55:04 PM GMT+10:00
To: "G-Crew Maintenance / Darren Gutierrez" <gcrewguam@gmail.com>

Hafa Adai Darren:

I sent an earlier inquiry a few minutes ago but the following are more complete questions from the evaluation committee. Please provide an answer by September 11th, 5:00 PM (Guam time) as we need to finalize all bid evaluations that were submitted to GVB.

Thanks,
doris

Please provide clarification on the following:

- (1) Item 8.2 & 8.2 - what are the hourly rates for Supervisor, Labor, Backhoe, Dump Truck and Pick-up Truck?
- (2) Item 14.1 & 14.2 - that are the hourly rates for Supervisor, Labor, Backhoe, Dump Truck and Pick-up Truck?
- (3) Does G-Crew have a knowledgeable irrigation technician who can properly assess and correct water irrigation issues? Please provide documentation of technician's experience.
- (4) What is G-Crew's tree trimming experience - does your crew have adequate training to properly trim trees? Please provide documentation of crew's experience.
- (4) Does G-Crew have adequate manpower to properly handle extensive trimming of ornamental plants? Please list personnel and their experience with trimming ornamental plants.
- (5) The General Provisions state: "Contractor must retain certification in Commercial Pesticide Applicator categories #4 (Ornamental and Turf) and #6 (Right-of-Way)" Does G-Crew have a certified pesticide applicator required to perform extensive application of pesticide and fertilizer chemicals? Please provide name of person and their certification.

We need your response as soon as possible and appreciate your cooperation.

Regards,
Doris Ada
Special Projects & Membership Officer

Regards,
Doris Ada
Special Projects & Membership Officer

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 648-1492
dada@visitguam.org | www.visitguam.org Like us on Facebook



Maintenance

DA 9/12/12

September 12, 2012

RE: Tumon Landscaping Bid – IFB #2012-001

HAND DELIVERY

Guam Visitors Bureau
Attn: Doris Ada
401 Pale San Vitores Road
Tumon, Guam 96913

Hafa Adai Doris Ada:

In reference to your email dated September 9, 2012, please accept my written clarification on the following items addressed.

1. Item 8.1
 - a. Supervisor Rate: \$25.00 p/h
 - b. Labor Rate: \$20.00 p/h
2. Item 8.2
 - a. Backhoe Rate: \$250.00 p/h
 - b. Dump Truck Rate: \$250.00 p/h
 - c. Pickup Truck: \$100.00 p/h
3. Item 14.1
 - a. Supervisor Rate: \$25.00 p/h
 - b. Labor Rate: \$20.00 p/h
4. Item 14.2
 - a. Backhoe Rate: \$250.00 p/h
 - b. Bucket Truck Rate: \$250.00 p/h
 - c. Pickup Truck: \$100.00 p/h
5. Irrigation Technician: Gcrew Maintenance employs knowledgeable Irrigation Technicians who can properly assess and correct water irrigation issues. Please refer to Tab VI of the IFB for Contractor's License No. CLB11-0803 (**C-27 Landscaping Contractor**): *A specialty contractor whose contracting*



business is the execution of contracts requiring the ability to intelligently prepare plots of land for architectural horticulture and to provide decorative treatment and arrange gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construct conservatories, hot and green houses, drainage and sprinkler systems and ornamental pools, tanks, fabricate and place garden furniture, statuary and monuments in connection therewith.).

6. **Tree Trimming Experience:** Gcrew Maintenance has been in business since August 2008, and has maintained multiple Government, Commercial and Residential contracts. Please refer to Tab VI of the IFB for Contractor’s License No. CLB11-0803 and Project Management List. Gcrew Maintenance currently maintains the GVB Highway Landscape Maintenance Project – IFB 2011-002.
7. **Adequate Staffing:** Gcrew Maintenance employs a staff of 20 plus personnel. Gcrew Maintenance currently maintains the GVB Highway Landscape Maintenance Project – IFB 2011-002 as well as maintains multiple Government, Commercial and Residential contracts providing services for extensive landscaping, tree trimming and care of ornamental plants. Please refer to Tab VI of the IFB for the Contractor’s License No. CLB11-0803, Organization Chart and Project Management List.
8. **Commercial Pesticide Applicator #4 (Ornamental & Turf) & #6 (Right-of-Way):** Gcrew Maintenance possesses current certification in Basic Training (Core), Restricted Pesticides (Category: CO-7) and Basic Training-A (BT-A Class).

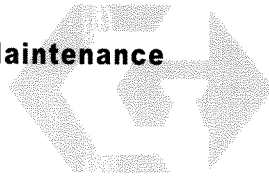
**Guam Environmental Protection Agency
Basic Training (Core) Identification Card**

Name	Identification No.
Michael Charfauros	0312-008
Nicholas Tydingco	0312-007
Ralph Marquez	0811-110
Jordan Ngiralmu	0811-096
Paul “Duce” Romias	0811-106

**Copies of Identification Cards provided*



Maintenance



**Guam Environmental Protection Agency
Application of Restricted Pesticides / CO-7**

Name	Identification No.
Jordan Ngiralmou	0312-008
Paul "Duce" Romias	1110-033C

**Copies of Identification Cards provided*

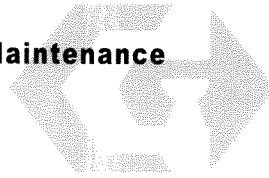
**Guam Environmental Protection Agency
Basic Training-A (BT-A) Qualification Identification Card**

Name	Identification No.
Darren Gutierrez	0312-2053
William Laurent	0312-2052
Simery Koni	0312-2047
Faraway Renuk	0312-2057
Ruth Tosima	0312-2048
Makario Raymond	0312-2049
Ponun Tosima	0312-2055
Akenes Onan	0312-2050
Masauo Ruda	0312-2051
Alfred Fred	0312-2056
Deruo Billimon	0312-2062
Brace Mony	0312-2061
Norbert Simi	0312-2059
Surely Ludwig	0312-2063
Pesa Tosima	0312-2058
Myleen Aizawa	0312-2054
Penri Hetin	0312-2060

**Copies of Identification Cards provided*



Maintenance



Should you have any additional questions regarding this matter, please don't hesitate to contact me at 487-5274 or email me at joeygutierrez@gmail.com.

Si Yu'us Ma'ase,

A handwritten signature in black ink, appearing to read 'Joey Gutierrez'.

Joey Gutierrez
Project Manager
Gcrew Maintenance

TUMON LANDSCAPE MAINTENANCE

BID SCHEDULE

NO.	DESCRIPTION/BID ITEMS	FREQUENCY	QUANTITY	UNIT	*UNIT COST	*TOTAL COST
30	Trim and Edge Groundcovers at Road Medians, 5,800 Square Yards	Every Other Month (6X Per Year)	6	Each Occurrence	\$1,250. ⁰⁰	\$7,500. ⁰⁰
30	Grass Cutting & Edging, 22,100 Square Yards	2X Per Month (24X Per Year)	24	Each Occurrence	\$4,291.67	\$103,000. ⁰⁰
30	Prune Shrubs at Road Shoulders Including Weeding, 10,100 Linear Feet	Every Other Month (6X Per Year)	6	Each Occurrence	\$833.33	\$5,000. ⁰⁰
40	Prune Trees					
41	At Medians (41 Trees)	Once Per Quarter (4X Per Year)	4	Each Occurrence	\$1,250. ⁰⁰	\$5,000. ⁰⁰
42	At Road Shoulders (100 Trees)	Once Per Quarter (4X Per Year)	4	Each Occurrence	\$1,250. ⁰⁰	\$5,000. ⁰⁰
50	Prune and Defruit Coconut Trees					
51	At Medians, 75 Coconut Trees	Once Per Quarter (4X Per Year)	4	Each Occurrence	\$1,250. ⁰⁰	\$5,000. ⁰⁰
52	At Road Shoulders, 297 Coconut Trees	Once Per Quarter (4X Per Year)	4	Each Occurrence	\$2,500. ⁰⁰	\$10,000. ⁰⁰
60	Weeding at Medians, 3,900 Square Yards	Once Per Month (12X Per Year)	12	Each Occurrence	\$500. ⁰⁰	\$6,000. ⁰⁰
70	Sweeping / Blowing at Roadway, Turning Lanes, Sidewalk and Curb & Gutter including bus stops and seating areas	6X Per Week (Monday Thru Saturday)	ALL	Lump Sum (For One Year)	\$144.23	\$7,500. ⁰⁰

NO.	DESCRIPTION/BID ITEMS	FREQUENCY	QUANTITY	UNIT	UNIT COST	TOTAL COST
8.0	Repair of Irrigation System for Phase I & II	As Required	1	*Contingent Sum	\$10,000.00	\$10,000.00
8.1	Labor Rate for Repair Technician Note: Labor will be paid on an hourly basis as required.	*Hourly Rates: Supervisor: \$ <u>25.00 P/h</u> Labor: \$ <u>20.00 P/h</u>	N/A	N/A		
8.2	Equipment Rate Note: Equipment will be paid on an hourly basis as required.	*Hourly Rates: Backhoe: \$ <u>250.00 P/h</u> Dump trucks: \$ <u>250.00 P/h</u> Pick-up Truck: \$ <u>100.00 P/h</u>	N/A	N/A		
8.3	Material Cost Note: Materials shall be paid at cost upon submission of official receipt plus 35% mark-up		N/A	N/A		
9.0	Garbage Collection	Daily for 1 Year	ALL	Lump Sum (For One Year)	\$ 87.67	\$ 32,000.00
10.0	Routine Soil Analysis at all medians to determine quality of existing topsoil	Once Per Year	ALL	Lump Sum	\$ 1,500.00	\$ 1,500.00

NO.	DESCRIPTION/BID ITEMS	FREQUENCY	QUANTITY	UNIT	UNIT COST	TOTAL COST
11.0	Fertilizer Application for Groundcover and Shrubs	Once Per Quarter (4X Per Year)	4	Each Occurrence	\$ 750.00	\$ 3,000.00
12.0	Add Mulch at Medians	2X Per Year	2	Each Occurrence	\$ 750.00	\$ 1,500.00
13.0	Power Washing (Sidewalks, Benches, Trash Receptacles, Bus Stops, Curbs)	2X Per Year	2	Each Occurrence	\$ 1,500.00	\$ 3,000.00
14.0	Miscellaneous repair and/or replacement of landscape and hardscape items	As required	1	*Contingent Sum	\$30,000.00	\$30,000.00
14.1	Labor rates. Labor will be paid on an hourly basis as required.	Hourly Rates Supervisor: \$ 25.00 P/h Labor: \$ 20.00 P/h				
14.2	Equipment rates.	Hourly Rates Pickup truck \$ 100.00 P/h Bucket truck \$ 250.00 P/h Backhoe \$ 250.00 P/h				
14.3	Material Cost Note: Materials shall be paid at cost upon submission of official receipt plus 35% mark-up					
			Total Bid Price		\$ 235,000.00	

* The Contingent Sums shall be included in the Total Bid Price. No work shall commence and be charged to these Contingent Sums unless authorized in writing by GVB's General Manager or an authorized representative.

* Contractor to fill in hourly labor and equipment rates based on industry standards, including markup. Material shall be paid at cost plus 35% mark-up.

* Unit & Total Cost in the Bid Schedule shall include all contractor mark-ups and GRT.



GUAM VISITORS BUREAU

50th ANNIVERSARY · 1963 - 2013

September 13, 2012

Mr. Darren Gutierrez
President
G-Crew Maintenance
PO Box 1724
Hagatna, Guam 96910

RE: GVB IFB 2013-001


Håfa Adai Mr. Gutierrez:

Thank you for your response to my letter of September 12, 2012 concerning your ability to perform if awarded a contract in the referenced procurement.

I note that your bid schedule offers a total cost of \$7,500.00 at item 7.0, "sweeping/blowing at roadway. . ." As you know, this task must be performed 312 times during the contract year, see Item 7.0 on the bid schedule. In actuality, you have offered a unit cost of \$24.03 ($\$7,500.00 \div 312$) while your bid schedule reflects an offered unit cost of \$144.23. Were your bid to accurately reflect your offered unit cost (\$144.23), your total bid price would be \$272,499.76. This of course is not the lowest responsible and responsive offer. I conclude therefore that you have made an error in your bid. I conclude as well that this mistake is not minor and cannot be corrected without prejudice to other offerors.

Accordingly, your bid is rejected by the Guam Visitors Bureau. I hope you will understand that we do not take this action lightly. We recognize that potential vendors expend time and effort in preparing responses to solicitations. We appreciate your efforts herein and hope that you will seek to participate in future solicitations. We wish you the best.

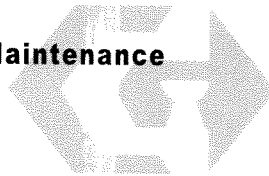
Senseramente',



Joann G. Camacho
General Manager



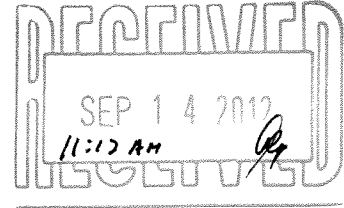
Maintenance



September 14, 2012

HAND DELIVERY

Joann G. Camacho
General Manager
Guam Visitors Bureau
401 Pale San Vitores Road
Tumon, Guam 96913



GUAM VISITORS BUREAU

RE: GVB IFB 2012-001

Hafa Adai Mrs. Joann Camacho:

Please accept this letter in response to your letter dated September 13, 2012 rejecting my Information for Bid offer of \$235, 000.00.

I would like to address item 7.0, "sweeping/blowing at roadway..." reflecting my bid schedule offer of \$7,500.00, offering a unit cost of \$144.23 which was calculated at a weekly rate and not a daily rate. Under the column "Quantity" I interpreted "ALL" as 52 weeks ($\$7,500 \div 52 = \144.23) based on the verbiage provided under the column "Frequency" (6x Per Week). I do not feel that the language under item 7.0 was clear and is open to interpretation. I still feel that I have the lowest bid offer based on my explanation of how I derived at my calculation and the total bid offer still stands at \$235, 000.00. I would like to ask that the board reconsider this rejection and hope my explanation helps resolve this matter.

Thank you in advance for your attention to this matter and I look forward to hearing from you soon.

Si Yu'us Ma'ase

/Darren Gutierrez/
Darren Gutierrez
President
Gcrew Maintenance



GUAM VISITORS BUREAU

50th ANNIVERSARY · 1963 - 2013

September 17, 2012

Mr. Darren Gutierrez
President
G-Crew Maintenance
PO Box 1724
Hagatna, Guam 96910

RE: GVB IFB 2013-001

Håfa Adai Mr. Gutierrez:

In response to your letter dated September 14, 2012, you stated that the language under Item #7.0 was unclear. However, your calculation of \$144.23 per week (6-day schedule) to sweep & blow the entire stretch on both sides of San Vitores from Bishop Flores Circle to Westin (including JFK and Old Australian Cable Roads) would amount to \$24 a day for this task. We do not believe this is a realistic figure.

To that end, GVB reserves the unqualified right, in its sole and absolute discretion, to reject any and all bids, or to accept that bid, if any, which in its sole and absolute judgment will, under all circumstances best serve GVB's interests.

Please be aware as well that where a potential offeror perceives an ambiguity in the invitation for bids, it is incumbent upon them to request clarification prior to the time set for receipt of bids.

Thank you for your efforts and understanding.

Senseramente',


Joann G. Camacho
General Manager



GUAM VISITORS BUREAU

50th ANNIVERSARY · 1963 - 2013

NOTICE OF INTENT TO AWARD CONTRACT

Tumon Landscape Maintenance Project

IFB 2012-001

September 17, 2012

TO: LMS Guam: Bob Salas
Guam Tropical Landscaping: Antonio Rivera
JJ Global Services: Grace Petry
G-Crew: Darren Guterrez

After completing the review of all bids submitted in response to the Invitation for Bid #2012-001 for Tumon Landscape Maintenance, the Guam Visitors Bureau has selected LMS Guam as the lowest responsive and responsible bidder. GVB intends to award the contract effective October 1, 2012.

The Bureau appreciates the efforts of all respondents. Thank you for your participation and interest in this project.

Senseramente,



Joann G. Camacho
General Manager

