



OFFICE OF THE PUBLIC AUDITOR

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

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RECEIVED
OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT DIVISION
JAN 22 2009

TIME: 10:30AM
BY: AC
FILE NO. OPA-PA-09-001

PART I- To be completed by OPA

In the Appeal of)
Mega Limited Corp.) NOTICE OF APPEAL
(Name of Company), APPELLANT)
Docket No. OPA-PA-09-001

PART II- Appellant Information

Name: Mega Limited Corp.
Mailing Address: P. O. Box 8620
TAM GU 96931
Business Address: #134B, Kongga Rd.
Chalan Pago, GU 96910
Daytime Contact No: Zumin Zhang / 6893293

PART III- Appeal Information

A) Purchasing Agency: Guam International Airport Authority (GIAA)
B) Identification/Number of Procurement, Solicitation, or Contract: IFB # 6TAA-COI-FY09
C) Decision being appealed was made on 1/14/09 (date) by:
___ Chief Procurement Officer ___ Director of Public Works X 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)
X 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:

<u>United Mechanical</u>	<u>GEMCCO</u>
<u>Asia Tiger Inc.</u>	<u>etc.</u>
<u>Modern International Inc</u>	_____
<u>KMN Corporation</u>	_____
<u>Guam Construction Corp.</u>	_____

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 19th day of Jan., 2009.

By: [Signature] / Zumin Zhang, President
APPELLANT

or

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



OFFICE OF THE PUBLIC AUDITOR

**Appendix B: Declaration Form
PROCUREMENT APPEAL**

In the Appeal of
Mega Limited Corp.
(Name of Company), APPELLANT

Docket No. OPA-PA-09-001

DECLARATION RE COURT ACTION
(To be signed by the Government Purchasing Agency.)

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 19th day of Jan., 2009.

By: [Signature]
DECLARANT

Zumin Zhang/president
Print Declarant's Name



OFFICE OF THE PUBLIC AUDITOR

Appendix D: Hearing Request/Waiver Form
PROCUREMENT APPEAL

In the Appeal of)
)
)
Mega Limited Corp.)
)
(Name of Company), APPELLANT)
)
_____)

HEARING
REQUEST/WAIVER

Docket No. OPA-PA 09-01

Please select one:

- Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.
- Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

Submitted this 19th day of Jan., 2009.

By: (Please select one)

- APPELLANT
- ___ Chief Procurement Officer
- ___ Director of Public Works
- ___ Head of Purchasing Agency

Zhu / president
Signature

Zumin Zhang
Print Name

MEGA UNITED CORPORATION
P.O. BOX 8620 TAMUNING, GUAM 96931

NOTICE OF PROCUREMENT APPEAL

TO: Mrs. Doris F. Brooks	FROM: Mr. Zumin Zhang
COMPANY: Office of the Public Auditor	DATE: 1/17/2009
FAX NUMBER: 472-7951	TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER: 475-0390	SENDER'S REFERENCE NUMBER: Toilet Ventilation Renovation
RE: BID Award	YOUR REFERENCE NUMBER: PO#GIAA-FY08-03-1

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Dear Mrs. Brooks,

GIAA had issued IFB#GIAA-C01-FY09 for "Toilet Ventilation Renovation, Project #GIAA-FY08-03-1" in November 2008. A pre-bid conference was held on Nov.17, 2008. Bid opening was finally held on Dec.11, 2008. Our company was the lowest bidder at \$58460 with second lowest bidder United Mechanical at \$73880. We had submitted all required documents with bid bond; and was clearly the winner for the project. On January 15, 2009 We received a fax from GIAA procurement office notifying us that the award is recommended for United Mechanical at \$73880. Our company's winning bid was inappropriately rejected under the haphazard excuse of so called "Failure to submit resumes of personnel and listed projects are not of similar nature to this project".(Pls. see attached fax from GIAA) We hereby formally file a procurement appeal with your respected office and ask your immediate intervention to correct such irregularity on this capricious procurement practice of GIAA based on following grounds.

First of all, this project is rather small and does not require complicated mechanical technicality; the old ventilation fans will be replaced with exact same new units and It is very apparent that a general contractor can handle this project. This was also the reason why a lot of general contractors joined the bid.

Secondly there are no requirements in the bid documents and pre-bid conference that exclude general contractor to bid and take on this project. Specifically there were no indications express or implied that only mechanical contractors can bid or take this project. Otherwise we will not have to waste our money and time to bid on this project.

Third, We had and will have well-qualified AC technician in our capacity to supervise any mechanical related work; We also had subcontract experiences with mechanical contractors in the past and there are no reasons to believe that we cannot carry out such simple work.

Fourth, We will definitely have all required insurances before commencement of this project; those insurances will give enough guaranty for the successful completion of the

project; The prejudice of non-delivery of a general contractor after the bid closing on the part of GIAA clearly destroyed the fairness and creditability of the agency, and constituted solid procurement violation.

Fifth, GIAA chose a lot higher bid for award and overspend more than \$15000 of Government money. The prudence and financial management skill of GIAA are clearly beyond reasons of ordinary people especially at this period of hard economic times.

We need to be fairly treated and expect correction of such irregularity in the procurement process. Otherwise proper compensation should be given to our company if GIAA really do not want our company to take on this project. We sincerely entreat the office of public auditor to act fairly and squarely on this appeal.

Best Regards

Zumin Zhang/President



Attached Documents:

Bid Status from GIAA

Copy of Bid Bond

Project Cost Breakdown

Construction Contractor's Brief Introduction and Key Supervisory Personnel
(i.e. Resumes of personel)

Statement of Experience of Bidders

Bid Set from GIAA

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Antonio B. Won Pat
International Airport Authority, Guam
P.O. Box 8770, Tamuning, Guam 96931
Tel: (671) 646-0300 Fax: (671) 646-8823 or (671) 646-2048

BID STATUS

Date: 01/14/09

MEGA UNITED CORP
P. O. Box 8620
Tamuning, Guam 96931
Tel: 7689-3293 Fax: 734-0098

BID INVITATION NO.: GIAA-C01-FY09 OPENED: December 11, 2008

DESCRIPTION: TOILET VENTILATION RENOVATION, PROJECT NO. GIAA-FY08-03-1

The following is the result of the above-mentioned bid. Refer to the items checked below.

- Cancelled (in its entirety, or partially cancelled) due to:**
 - () Insufficient funds
 - () Change of specifications;
 - () Best interest of the Government
 - () Others:

- Rejected due to:**
 - () Late Submission of bid;
 - () No bid security or insufficient bid security amount submitted; as required by Section 11 of the General Terms and Conditions;
 - () Not meeting the delivery requirements as stated in the IFB;
 - (X) Non-conformance with the specifications/bid requirements**
 - () Inability to provide future maintenance and services to the equipment;
 - () High price; or
 - () Others:

Incomplete requirements as part of the Statement of Experience of Bidders Form. Failure to submit resumes of personnel and the listed projects are not of similar nature to this project (mechanical works).

- Bid is recommended for award to:**

United Mechanical for \$73,880.00

REMARKS:

GIAA appreciates your participation in this process and look forward to your interest in our future bids. Please send your authorized representative to GIAA Procurement Office to pick-up your Bid Guarantee. Kindly acknowledge receipt below and fax back to (671) 646-2048. Your non-submittal of the acknowledged receipt shall mean actual receipt of this notice based on the date of our fax transmission indicating "confirmed or successful", of which a copy will be on file.

CARLOS H. SALAS
Acting Executive Manager

cc: Admin/Proc

Acknowledge Receipt

Sign Here: _____
Print Name: _____
Date: _____

1154586 6 99-78
1211

OFFICIAL BANK CHECK

First Hawaiian Bank
P.O. Box 3200 Honolulu, HI 96847-8916

DATE: **11/24/2008**

MAITE

AMOUNT

\$9,000.00

PAY **NINE THOUSAND DOLLARS AND 00 CENTS**
TO THE
ORDER OF **GUAM INTERNATIONAL AIRPORT AUTHORITY**
BID FOR TOILET VENTALATION RENOVATION

NOTICE TO CUSTOMER

In the event this Official Bank Check is lost, misplaced, or stolen, please call the branch where it was purchased for instructions on submitting a claim.

CUSTOMER RECEIPT

NOT NEGOTIABLE

Airport Toilet Ventilation Renovation

ITEM	DESCRIPTION	QUANTITY	U/P or Note	AMOUNT
1	Design Fee etc.	1 Lot		\$2,000.00
2	Bid Documents	1 Lot		\$100.00
3	Bid Bond	1 Lot		\$150.00
4	Performance & Payment Bond	1 Lot		\$1,000.00
5	General Liability Insurance	1 Lot		\$250.00
6	GRT 4%			\$2,000.00
7	Exhaust Fan & Ventilator	11 Each		\$21,500.00
8	Ventilator Removal & Installation	11 Each	\$1000/each	\$11,000.00
9	SSTL Wall Cap Replacement	1 Each		\$500.00
10	Exhaust Grille Refurbishment	87 Each	\$80/each	\$6,960.00
11	Misc. Accessories & Work	1 Lot		\$1,000.00
12	Overhead & Profit	1 Lot	20%	\$12,000.00
	TOTAL AMOUNT			\$58,460.00

STATEMENT OF EXPERIENCE OF BIDDERS

The bidder has been engaged in the contracting business, under the present business name, for years. Experience in work of a nature similar to that bid in this Proposal extends over period of 9 years.

The bidder is required to provide below or by the separate attachment a list of current major projects in progress and projects within the last 10 years illustrative of the Bidder's previous experience in construction work similar in nature to this project, including but not limited to project locations, names of Owners and contract persons representing the Owners, Contractor's bid prices, final construction costs, sizes and materials of construction, Bidder's initial construction schedules and actual completion schedule.

Bidders shall also furnish names and resumes of key personnel, particularly the Project Manager, Project Engineer and Superintendents whose assignment to this Project is anticipated.

The references provided will assist the Owner in judging the Bidder's experience, skill and business standing, and his ability to conduct work as completely and as required under the terms of Contract.

Year	Location, Magnitude & Type of Work	Owner/Contractor
2008	TAM, \$1.428 Million, 3-Storey Executive House (General Contractor)	Rose Ferguson
2008	TAM, \$718,000, 2-storey Residential House (General Contractor)	Daniel Chu
2008	Maitz, \$458,000, 2-storey House; General Contractor	Rino T. Manzano
2007	TAM, \$665,000, 2-storey House; General Contractor	Jose C & Araceli Caniaga
2007	Piti, \$550,000, 2-storey House; General Contractor	Walter J. Tranowski
2007	Maitz, \$398,000, 2-storey House; General Contractor	John Borlas
2006	Piti, \$525,000, 2-storey House; General Contractor	Alex Griffin
2005	Pededo, Headstart classrooms; \$274,800 (General Contractor)	DOE (Now GPSS)
2005	Yigo; \$139,000, Concrete Demolition Tower (General Contractor)	Andersen Airforce
2004	Yigo; \$89,000, Concrete Barricade (General Contractor)	Andersen Airforce
2003	Mangilao; \$255,000, 1-storey House (General Contractor)	Frank Muna
2002	Mangilao; \$350,000 2-storey House (General Contractor)	Kenneth Gurtke
2001	MISC. Ghura Section 3 House Reno. \$288,000 (General Contractor)	Ghura
2000	TAM, \$55,000 Boy Scout Renovation	Boy Scout, Guam

THIS STATEMENT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE BID.