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December 10, 2009

Mr. Anthony Camacho  
Hearing Officer  
Office of Public Accountability  
Suite 401 Pacific News Building  
238 Archbishop Flores Street  
Hagatna, Guam 96910

RE: OPA-PA-09-007

RECEIVED  
OFFICE OF THE PUBLIC AUDITOR  
PROCUREMENT APPEALS

DEC 10 2009

TIME: 1:25 PM  
BY: M. Perez  
FILE No. OPA-PA -09-007

Dear Mr. Camacho:

First, I would like to thank you and the Office of the Public Auditor for your time and unbiased analysis. As we stated at the hearing, based upon the Official Statement, it appears that IBC submitted a bid and was rated highest by a narrow margin and subsequently during the negotiation process their price almost doubled from \$39 million to \$69 million. GEF's appeal is based upon the following points:

1. It appears that DPW is overpaying by a significant amount for project costs, financing costs, and life cycle costs. Our analysis indicates that in today's market GEF's total annual rent would be \$5.9 million and IBC's rent would be \$7.4 million.
2. In addition to those lower payments, the GEF facility will be fully paid for in 20 years and it will take 30 years to repay IBC.
3. DPW says that GEF's costs would have increased like IBC's. This is totally inaccurate. Because IBC had not done a transaction like this we believe that they did not include many of the costs that we knew were required because we recently completed a transaction like this. These costs include capitalized interest, debt service and insurance and maintenance reserves. We have looked at our proposal in preparation for the hearing and believe the price we bid would not change significantly.
4. The AG alleges that GEF has not gone to the market with these agreements and did not know what the costs are to finance this package, including capital reserves and capitalized interest. As a matter of fact, the documents that GEDA proposes to utilize for IBC were developed by GEF in connection with the previous financing of the four new schools. Further, GEF has gone to the market with the documents and went to the market prior to submitting its proposal and bid an accurate all-in cost of the financing so the AG's statements that GEF's costs would be higher are simply not accurate.

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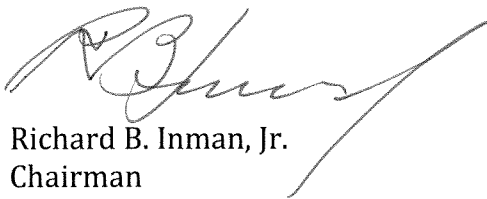


5. Because the bids are protected, we have based our analysis on the information in the Official Statement but we have not be able to verify it. But the SEC requires all Official statements and Preliminary Official Statements to be accurate and not misleading.
6. As a result of the testimony it appears that there is a great deal of uncertainty about where the \$69 million came from and whether or not the selection committee considered the size of the school offered as part of their criteria.
- 7.

We note that the Agency's response relies largely on undisclosed information. We therefore must rely on the OPA who has access to the information carefully consider the two proposals and determine which proposal provides the best value for the people of Guam. *We ask the Public Auditor to determine that GEF's current offer is significantly lower than IBC and DPW should terminate its negotiations with IBC and begin started negotiations with GEF.*

Thank you for your consideration of GEF's positions. Please email if GEF can answer any questions about the above. GEF's case is based solely on the POS, the RFP materials and the responses that have already been provided to the OPA, therefore we attach no further witness list or additional exhibits.

Sincerely,



Richard B. Inman, Jr.  
Chairman

Cc Doris Flores Brooks, Public Auditor  
Benjamin M. Abrams, Esq., Assistant Attorney General  
Joyce C.H. Tang, Esq.