



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 7/8/13

TIME: 4:40 AM PM BY: JB

FILE NO OPA-PA: 13-008

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

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: TRIPLE J ENTERPRISES, INC.
Mailing Address: P.O. Box 6066
Tamuning, Guam 96931
Business Address: 470 North Marine Corps Drive
Tamuning, Guam 96913
Email Address: jeffjones@triplejguam.com
Daytime Contact No: 648-6001
Fax No.: 646-9487

PART III- Appeal Information

- A) Purchasing Agency: Department of Public Works
- B) Identification/Number of Procurement, Solicitation, or Contract: GSA 0116-12
- C) Decision being appealed was made on 6-28-2013 (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:

Morrigo Equipment

Thomas Buses

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.

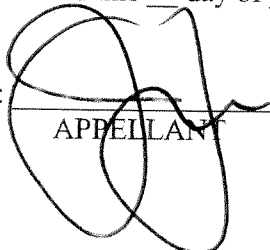
PART V- Declaration Re Court Action

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 8th day of July, 2013.

By:



APPELLANT

or

By: Jeffrey B. Jones, President

Appellant's Duly Authorized Representative

(Address) P.O. Box 6066 Tamuning, Guam 96913

(Phone No.) 648-6001

APPENDIX A



July 8, 2013

Office of Public Accountability
Ms. Doris Flores Brooks
Public Auditor
Suite 401 DNA Building
238 Archbishop Flores Street
Hagatna, Guam 96910

RE: Procurement Appeal GSA Bid No. 0116-12

Dear Ms. Brooks;

I am writing to formally appeal the decision of the General Services Agency in the matter of GSA Bid No. 0116-12. The timeline and facts as we know them are as follows:

- **August 14th 2012** - The invitation for bid was published in the Marianas Variety.
- **August 20th 2012** - Amendment #1 (extending the delivery date and canceling pre-bid conference requirement) was issued (attached)
- **August 23rd 2012** - Amendment #2 (to include "Special Provisions" Post Construction / Pre Shipment inspection") was issued on (attached)
- **August 24th 2012** – Triple J made a request to extend the bid opening date for one week and to seek clarification on the indefinite quantity provision and seek clarification on Amendment #1 canceling Pre-Bid Conference requirement. (Attached)
- **August 27th 2012** - Amendment #3 was issued on to change the bid opening date to. (attached)
- **September 4th 2012** – Triple J made another request for an extension of the bid opening date to September 13th 2012 due to the fact that there was no pre

TRIPLE J ENTERPRISES, INC.
P.O. BOX 6066 TAMUNING, GUAM 96931 TEL (671) 646-9126 • FAX: (671) 646-9487

bid conference and GSA did not allow adequate time from the date of bid issuance to submit any written questions regarding the specifications. (attached)

- **September 5th 2012** – GSA issues a letter rejecting our request for an extension of the bid opening date. (attached)
- **September 5th 2012** – Triple J files a protest on the grounds that GSA did not provide sufficient time to review specifications and amendments and submit questions, that GSA issue and amendment canceling the requirement for a pre bid conference and that GSA refused to accept a letter from us on August 27th 2012 asking for clarification on some of the bid specifications. (attached)
- **September 5th 2012** – GSA issues Amendment #4 changing the bid opening date to September 12th, 2012. (attached)
- **September 12th 2012** at 10:00 AM the bid opening occurred. Triple J submitted a primary and alternate bid as well as a notification on our primary offer that explained that the side emergency door as required by the GSA bid specifications (Emergency Exits page 35, item 6 & 7) could be accommodated but it would decrease the seating capacity by 1 person to 83 passengers. Alternatively a flip seat could be installed which would increase the seating capacity to 86 but the space from the barrier would be decreased from 20" to 12".

We went on to explain that the side emergency exit although required by the GSA specifications was not a Federal Requirement and that GSA should consider forgoing this specification if the 84 passenger capacity was its primary concern. That said, this change would have had to be made prior to the bid opening through a bid amendment or the bid would have had to be canceled and re-bid.

- **September 14th 2012** – Triple J submitted a request to GSA to review the bid proposal submitted by Morrico Equipment. Upon review we noted that Morrico had stated on their proposal that they complied with all specifications including the side emergency door exits and seating capacity as well as the required anti-corrosive rivets on all body panels. Further we did not notice any additional notations or options provided regarding the side emergency door exits and or the seating.
 - **October 9th 2012** - GSA issued a Bid Status notification (attached) rejecting our bid due to "Non-conformance with the bid specifications". Specifically our bid was rejected because our bid included "flip seats" in front of the Side Emergency Door exits. (attached)
-

At the time we did not protest because we knew that Morrico Equipment, the other vendor, had a lower price and we had reviewed their bid wherein they had stated that they complied with all specifications including the side emergency door exits. Further the bid required (page 28 DISCREPANCIES LISTED, see attached) "Should any bidder have deviations from these specifications in this bid and cannot meet requirement of the specification, he shall submit a letter and attach it to the bid explaining the deviations. Failure to do so will cause the bid to be rejected as being non-responsive".

- **June 3rd 2013** – We noticed the buses arrived and that they did not have the Side Emergency Door Exit as required by the bid. Immediately we filed a protest with GSA outlining our concerns that the buses did not have the required side emergency door exits nor did the buses have the required "anti-corrosive rivets" on all body parts as required on page 34 (under Construction item 3) (attached)

Furthermore we pointed out that these discrepancies should have been discovered during Post Construction / Pre Shipment inspection as required by Amendment # 2.

- **June 4th 2013** – GSA rejected our protest on the grounds that the 84 passenger capacity was more important than the side emergency door exit and that the flip seats were deemed to be "more dangerous". GSA went on to say that although the buses did not have the emergency side door exit they did have an "upper emergency door exit" which is absurd as there is no such thing. What they were referring to were the emergency roof hatches which are a separate bid specification requirement. GSA also stated the director of DPW acknowledged that there was an oversight by his office in not addressing these issues while the buses were still at the manufacturer even though it was raised by DPW personnel while there on site. In addition GSA stated that the DPW staff that were sent to the manufacturer did catch errors but "the errors were not fixed". In GSA's final paragraph they state that our observations are correct and that the manufacturer did not comply with the specifications even after they were pointed out by DPW personnel but because our protest was after the award we are limited to Remedies After Award as stated in 5 GCA Section 5452. And that the bidder has not acted fraudulently or in bad faith so the contract is ratified as in the best interest of the Territory. (attached)

- **June 10th 2013** – Triple J replied to GSA's rejection notice and addressed and refuted each point that GSA gave as reasons why the buses should be accepted. We further questioned GSA's assertion that the winning bidder and/or manufacturer did not act fraudulently or in bad faith. The reason we questioned

this was based on the fact that the bidder stated that they complied with all the bid specifications when they did not and they even stated they complied with a specific bid specification (riveted body panels) that is not available from this manufacturer. Further when DPW personnel pointed out the discrepancies they still were not corrected prior to shipment. If that is not "bad faith" we are not sure of GSA's definition. Finally we requested that either the winning bidder correct the deficiencies and if that is not possible Triple J should be awarded the bid as the most responsible bidder. (attached)

- **June 28th 2013** - GSA rejected our request for reconsideration and stood by their decision to deny our protest and stated we had the right to seek any administrative or judicial review authorized by law. (attached)

- **July 3rd 2013** – Triple J acknowledges receipt of GSA's rejection of our protest and informed GSA that we would be filing an appeal with the Office of the Public Auditor. We further requested, under the Sunshine Act all correspondence between GSA and DPW on this matter. (attached)

As you can see from the above chronology of events many of the questions, concerns and discrepancies could have been avoided if GSA had not canceled the pre-bid conference where many of these issues could have been discussed and vetted. Unfortunately for whatever reason the pre-bid conference never occurred and GSA allowed an unreasonably short time for questions to be posed. In one specific instance GSA refused to accept a written request for clarification of the bid requirements.

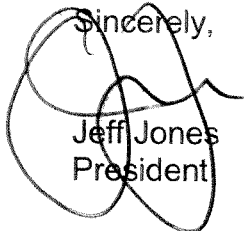
GSA's position that our protest has no merit because the award was already made is illogical and ignores the fact that we could not have protested prior to the arrival of the buses because we could not have known of the deficiencies. On the other hand DPW was derelict in their responsibilities when they inspected the buses prior to shipment, noted the deficiencies and still allowed the buses to be shipped. Moreover if deficiencies were in fact noted and supposed to be corrected before shipment and were not then there is further grounds for GSA and DPW to reject the buses and force the vendor and manufacturer to perform according to the contract and bid specifications. The fact that the buses are on Guam is irrelevant because if DPW had rejected them at the factory job they would not be here.

In closing we are asking that GSA reverse the award on grounds that the buses do not meet the required specifications and the bidder failed to list their discrepancies as required by the bid. The failure to do so as stated in the bid is the rejection of the bid as non-responsive. In addition it is our position that the bidder and/or the manufacturer of the buses did not, in fact act in good faith neither during the bid

process nor after the award and their bid should be rejected and they should be suspended from participating in future Government of Guam school bus bids on these grounds. Finally Triple J should be awarded the bid as the most responsive bidder.

Alternatively if the government feels it is in its best interest to overlook all of these deficiencies and discrepancies, we would be willing to discuss a settlement to compensate Triple J for its lost income and opportunity as well as its extra expenses incurred in this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "Jeff Jones", written over the typed name and title.

Jeff Jones
President

cc: Chief Procurement Officer, GSA
Director of Public Works, DPW

INVITATION FOR BID

ISSUING OFFICE:

GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM
148 ROUTE 1, MARINE DRIVE
PITI, GUAM 96915

Robert H. Kono

CLAUDIA S. ACFALLE
Chief Procurement Officer

DATE ISSUED: 8/14/2012

BID INVITATION NO: GSA-0116-12

BID FOR: **SCHOOL BUS (84 PASSENGER)**

SPECIFICATION: **See Attached**

DESTINATION: **DEPARTMENT OF PUBLIC WORKS - TRANSPORTATION**

* REQUIRED DELIVERY DATE: 120 Days Upon Receipt of Purchase Order. For a period of one (1) year on an as needed basis. This is an indefinite quantity bid.

INSTRUCTION TO BIDDERS:

INDICATE WHETHER: INDIVIDUAL PARTNERSHIP CORPORATION

INCORPORATED IN: 1984

This bid shall be submitted in duplicate and sealed to the issuing office above no later than (Time) 10:00am Date: 8/29/12 and shall be publicly opened. Bid submitted after the time and date specified above shall be rejected. See attached General Terms and Conditions, and Sealed Bid Solicitation for details.

The undersigned offers and agrees to furnish within the time specified, the articles and services at the price stated opposite the respective items listed on the schedule provided, unless otherwise specified by the bidder. In consideration to the expense of the Government in opening, tabulating, and evaluating this and other bids, and other considerations, the undersigned agrees that this bid remain firm and irrevocable within 60 calendar days from the date opening to supply any or all the items which prices are quoted.

NAME AND ADDRESS OF BIDDER:
TRIPLE J ENTERPRISES, INC.
DBA: TRIPLE J MOTORS

P.O. BOX 6066

TAMUNING, GUAM 96931

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS BID:



JAY P. JONES
SENIOR VICE PRESIDENT

AWARD: CONTRACT NO.: _____ AMOUNT: _____ DATE: _____

ITEM NO(S). AWARDED: _____

CONTRACTING OFFICER:

CLAUDIA S. ACFALLE
Chief Procurement Officer

NAME AND ADDRESS OF CONTRACTOR:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS CONTRACT:

472-4217

Eddie Baza Calvo
Governor

GENERAL SERVICES AGENCY
Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915

Ray Tenorio
Lt. Governor



Benita Manglona
Director, Dept. of Admin.

Anthony C. Blaz
Deputy Director

August 20, 2012

Invitation for Bid GSA-0116-12

SCHOOL BUS (84 PASSENGER)

AMENDMENT #1

1. Amend to change "REQUIRED DELIVERY DATE" on page 3 of the Invitation for Bid to read the following:

FROM:

120 Days Upon Receipt of Purchase Order. For a period of one (1) year on an as needed basis. This is an indefinite quantity bid.

TO NOW READ:

210 Days Upon Receipt of Purchase Order. For a period of one (1) year on an as needed basis. This is an indefinite quantity bid.

2. Amend to delete the following verbiage on page 48


"Pre-Bid Conference"

*All deviations and concerns shall be clarified during pre-bid conference. Any deviation addressed after award of subject bid shall not be entertained.

what Pre Bid ?

IS
THERE
ONE
?


All others remains unchanged.


ROBERT KONO
Chief Procurement Officer (Acting)

for

COPY

Please Print
ACKNOWLEDGEMENT COPY (Re-fax to GSA)

Received BY: 

Date: 8/22/12

Vendor Name: Triple J.

Fax #'s: 472-4217 / 475-1727 / 1716

Eddie Baza Calvo
Governor



Benita Manglona
Director, Dept. of Admin.

GENERAL SERVICES AGENCY
Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915

Ray Tenorio
Lt. Governor

Anthony C. Blaz
Deputy Director

August 23, 2012

Invitation for Bid GSA-0116-12
SCHOOL BUS (84 PASSENGER)

AMENDMENT #2

1. Amend to include the following on page 45

"Special Provisions" Post Construction/ Pre shipment inspection:

Upon completion, buses shall be inspected by DPW and bidder representative prior to shipment from manufacturer's factory/assembly plant and consist of the following criteria:

1. Workmanship
2. Quality Conformance
3. First Production Vehicle

The successful bidder shall provide for round trip airfare and accommodations for two (2) representatives for the Department of Public Works for a post construction inspection at place of construction prior to Freight on Board (F.O.B.) Guam

1. Transportation: Guam to Factory and Return
From Lodging to factory and return (i.e. rental vehicle)
2. Lodging: Four (4) Days to include meals – 3 per day.
Lodging shall be located within a reasonable
Distance from factory.
3. Quantity: Two (2) Employees

All others remains unchanged.

Please Print
ACKNOWLEDGEMENT COPY (Re-fax to GSA)

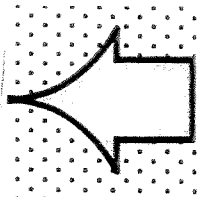
Received BY: CAF.

Date: 8/27/12

Vendor Name: Triple J. East

Fax #'s: 472-4217 / 475-1727 / 1716

Robt H. Kono 8/24/12
ROBERT KONO
Chief Procurement Officer (Acting)



**SIGN
HERE**



August 24, 2012

To: Procurement Office Personnel
CC: Claudia S. Acfalle / GSA Chief of Procurement

Re: GSA-0116-12 (8-29-12) DPW 84 Passenger School Buses 5-Ea

Due to the rather extensive request for additional items and services to be provided to the Department of Public Works we need to request a one week extension on the bid opening to allow our bus manufacture more time to review and provide answers on these request.

Some of these additional items and services will add substantial cost over and above the cost of the buses themselves so this needs to be thoroughly evaluated by the manufactures and vendors.

Additionally we need to request clarification on the flowing:

1. Indefinite Quantity for One Year: Does this requirement allow for inflation and cost adjustments by the vendor, or is the price to remain the same for one year?
2. Amendment No 1 Dated 8/20/12 Referred to a Pre-Bid Conference: Is there a Pre-Bid Conference Scheduled? I did ask this question on my acknowledgment form but have not received an answer as of this date.

Thank you,

Charlie Reynolds
Fleet & Commercial Sales Manager

TRIPLE J MOTORS
P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 648-6010 • FAX: (671) 648-6051
Cell: (671) 687-1280

*** TX REPORT ***

JOB NO. 0651
ST. TIME 08/28 15:50
PGS. 1
SEND DOCUMENT NAME

TX INCOMPLETE -----
TRANSACTION OK 4724217
ERROR -----

08-28-12:03:18PM:

472-4217

:671 472 4217

1/ 1

Transmission Report

Date/Time 08-27-2012 05:58:30 p.m. Transmitt Header Text
Local ID 1 671-475-1727 Local Name 1 GSA BUYERS XEROX

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Eddie Baza Celyo
Governor



Benita Mangiona
Director, Dept. of Admin.

GENERAL SERVICES AGENCY
Government of Guam
148 Rante 1 Marina Drive Corp
Piti, Guam 96915

Ray Tenorio
LI Governor

Anthony C. Biaz
Deputy Director

AUGUST 27, 2012

Invitation for Bid GSA-0116-12
SCHOOL BUS (84 PASSENGER)

AMENDMENT #3

- 1. Amend to change "Bid Opening" date from: August 29, 2012 at 10:00am to now
Read: September 6, 2012 at 2:00pm

All others remains unchanged.

ROBERT KONO
Chief Procurement Officer (Acting)

Pls refer to GSA@475-1727
ACKNOWLEDGEMENT COPY

RECEIVED BY:
DATE: 8/28/12



September 4, 2012

To: Procurement Office Personnel
CC: Claudia S. Acfalle / GSA Chief of Procurement

Re: GSA-0116-12 (9-06-12) DPW 84 Passenger School Buses 5-Ea

As you are aware there was not a pre-bid conference held to allow vendors the opportunity to present questions and clarifications pertaining to the above bid for School Buses. Additionally we were given only 2 days from the time of the bid release to submit any written questions.

As anticipated additional questions and complications have arisen from the DPW specifications that require further communication and information gathering with the manufactures and other companies involved in order for us to complete our bid proposal. Therefore we must request a postponement of the above bid for one more week until Sept 13, 2012.

Thank you for your attention to this request.

Sincerely

Charlie Reynolds
Fleet & Commercial Sales Manager

TRIPLE J MOTORS
P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 648-6010 • FAX: (671) 648-6051
Cell: (671) 687-1280

Eddie Baza Calvo
Governor

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Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915

Ray Tenorio
Lt. Governor



Benita Manglona
Director, Dept. of Admin.

Anthony C. Blaz
Deputy Director

September 5, 2012

Triple J Motors
Attn: Charlie Reynolds
P.O. Box 6066
Tamuning, Guam 96931
Tel: (671) 648-6010 / Fax: (671) 648-6051

Re: GSA-0116-12 (SCHOOL BUS 84 PASSENGER)

Dear Mr. Reynolds,

Hafa Adai! I am in receipt of your letter dated September 4, 2012 in regard to the bid for the School Bus 84 Passenger GSA-0116-12. **The request to extend the bid will not be granted due to the closing of the fiscal year end is nearing.**

The bid release was on August 14, 2012 as advertised in the Marianas Variety. The deadline to submit any questions and concerns was on August 17, 2012 before the close of business this is four (4) days which is ample time to forward concerns.

Also the opening date was extended from August 29, 2012 to September 6, 2012 that gave the prospective bidders ample time to do research for their bid offer.

If you need further clarification please feel free to contact our office at 475-1707.

Robert H. Kono
ROBERT KONO
Chief Procurement Officer (Acting)

GSA@475-1727 Pk re fax
ACKNOWLEDGEMENT COPY

RECEIVE BY _____

DATE _____

Company Name _____



September 5, 2012

To: Claudia S. Acfalle / GSA Chief of Procurement
CC: Procurement Office Personnel / Assigned Bid Person

Re: GSA-0116-12 (8-29-12) (Amended to 9-6-12) DPW 84 Passenger School Buses
5-Ea

This purpose of this letter is to file our **official protest** of the above bid opening for the following reasons.

1. Unfortunately the following statement in the bid package did not allow adequate time for vendors & manufactures to review the bid very detailed bid specifications and requirements. The bid was issued on the 15th therefore a 2-day period did not allow vendors adequate time for vendors to properly review the bid package or prepare any questions. In our opinion it is unfair for GSA to issue amendments to vendors after the cut-off date of which they are allowed to respond with questions that may arise from such amendments.

Bid Statement Reference: Page 2 of Bid Package: All questions and concerns shall be submitted no later than Aug 17, 2012 before close of business.

2. On August 20 GSA issued an Amendment which deleted the Reference to the Pre-Bid on P. 48. Since there was no date indicated, our acknowledgment letter stated "What Pre-Bid"? "Is There One"? We did not receive a reply to these questions. Additionally in our opinion it is unfair for GSA to issue amendments to vendors after the cut-off date of which they are allowed to respond with questions that may arise from such amendments.
3. On August 27 we attempted to submit a letter to GSA for request of additional clarifications of other bid specifications brought to our attention by our bus manufacture, however GSA refused acceptance of this letter on the basis of the cut-off time allowed for submitting questions. However on the same day Aug 27 GSA issued Amendment No 2 which requires DPW employees to travel to the factory to inspect the buses after completion. This amendment was also issued to vendors without them having the right to submit any questions or clarifications related to this request.

Sincerely,



Charlie Reynolds
Fleet & Commercial Sales Manager

TRIPLE J MOTORS

P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 648-6010 • FAX: (671) 648-6051
Cell: (671) 687-1280

*** TX REPORT ***

JOB NO. 0767
ST. TIME 09/05 15:30
PGS. 1
SEND DOCUMENT NAME GSA amendement 4

TX INCOMPLETE -----
TRANSACTION OK 4724217
ERROR -----

09-05-12:03:24PM:

:671 472 4217

1 / 1

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY
Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915

Ray Tenorio
Lt. Governor

Benita Manglona
Director, Dept. of Admin.

Anthony C. Blaz
Deputy Director

September 5, 2012

Invitation for Bid GSA-0116-12
SCHOOL BUS (84 PASSENGER)

AMENDMENT #4

- 1. Amend to change "Bid Opening" date from: September 6, 2012 at 2:00pm to now
Read: September 12, 2012 at 10:00am

All others remains unchanged.


ROBERT KONO
Chief Procurement Officer (Acting)

Please Print
ACKNOWLEDGEMENT COPY (Re-fax to GSA)
Received BY: Mardie Lujan
Date: 9/5/12 3:24 pm
Vendor Name: Triple J Motors
Fax #'s: (671) 472-4217 / 475-1727 / 1716

**SIGN
HERE**



September 12, 2012

Re: Note on Specifications for our Primary & Alternate Bid: GSA-0116-12 (9-06-12)
DPW 84 Passenger School Buses 5-Ea

Please note the following information pertaining to one of the bus specifications.

Listed under Body- P35 item 6 & 7:

Although it is **NOT A FEDERAL REQUIREMENT** Blue Bird Can install the Left Side Emergency Door, however this will reduce the seating capacity from 84 passengers to 83 unless a Jump-Seat is installed. If the Jump Seat is used the Passenger Capacity is increased to 86, however the space from the barrier would be 12 inches, not 20 inches.

We recommend, since it is not a federal requirement, to forgo the Side Emergency Door and the bus will not only have 84 passengers it will be one foot shorter than if with the side emergency door, 39 Ft vs 40 Ft. Keep in mind the bus will already be equipped with emergency rear door, emergency roof hatches, and emergency side windows.

Re: Alternate Bid: The purpose of our alternate bid is to reduce the total cost by \$31,335 by offering the government the option to forgo some of the requirements that are not a part of the Buses themselves. This is the full service diagnosis equipment, the engine and transmission on-island training and the factory trip. This in no way affects the Manufactures Warranty, or the Mechanical Servicing we will be providing.

Thank you,



Charlie Reynolds
Fleet & Commercial Sales Manager

TRIPLE J MOTORS

P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 648-6010 • FAX: (671) 648-6051
Cell: (671) 687-1280

4. Lower, as well as upper door panels, shall be of approved safety glass. The bottom of each lower glass panel shall not be more than **10 inches** from the top surface of the bottom step. The top of each upper glass panel shall not be more than **6 inches** from the top of the door.

COMPLY

5. Vertical closing edges on entrance doors shall be equipped with flexible material to protect the children's fingers.

COMPLY

6. There shall be no door to the left in driver compartment.

COMPLY

7. All doors shall be equipped with padding at the top edge of each door opening. Pad shall be at least **three inches** wide (high) and **one inch** thick and extend the full width of the door opening.

COMPLY

8. If air powered doors are used, the amber warning lights shall be activated from a momentary switch.

COMPLY

Emergency Exits

Emergency Doors: (2 inch black lettering will be placed on the exterior middle of rear exit and read the following: "Stop When Red Lights Are Flashing").

1. The rear emergency door shall be hinged on the right side and on the front side of left side exit. Exits shall open outward and be labeled inside to indicate how it is to be opened. A device shall be used that holds the door open to prevent the emergency door from closing during emergencies.

COMPLY

2. The upper and lower portions of the emergency doors shall be equipped with approved safety glazing.

COMPLY

3. There shall be no steps leading to an emergency door.

COMPLY

4. The words **EMERGENCY DOOR**, in letters at least two inches high, shall be placed at the top of or directly above the emergency doors or on the doors in the metal panel above the top glass, both inside and outside of the bus. The words **EMERGENCY EXIT** in letters at least **2 inches** high shall be placed on the exterior body directly above each emergency window.

COMPLY

5. The emergency doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least **three inches** wide (high) and **one inch** thick, and extend the full width of the door opening.

COMPLY

6. The side emergency door must meet the requirements as set forth in FMVSS 217 (a), regardless of its use with any other combination of emergency exits.

COMPLY

7. The left side emergency door shall have a **20 inch** unobstructed passageway and no flip seat is to be used. Appropriate crash barrier shall be provided.

COMPLY

8. There shall be no obstruction higher than **1/4 inch** across the bottom of any emergency door opening.

COMPLY

Additional Emergency Exits:

1. All school buses shall be equipped with two emergency window exits per side, and two roof hatches.

COMPLY



ORIGINAL
COPY

September 14, 2012

To: Claudia S. Acfalle / GSA Chief of Procurement
CC: Procurement Office Personnel / Assigned Bid Person

Re: GSA-0116-12 Opened on Sept 12, 2012 - DPW 84 Passenger School
Buses 5-Ea

As a participant in the above school bus bid Triple J Ent Inc. would like to request the opportunity to review the bid proposal submitted by Morrigo Equipment Inc on the above date.

Thank you for your attention to this request.

Sincerely,

Charlie Reynolds
Fleet & Commercial Sales Manager

RECEIVED
JACKSON
SEP 14 PM 2:10

TRIPLE J MOTORS

P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 648-6010 • FAX: (671) 648-6051
Cell: (671) 687-1280

GENERAL SERVICE AGENCY
 (Ahensian Setbision Hinirat)
 Government of Guam
 P.O. Box FG, Agana, Guam 96910
 Tel: 477-1710-13 Fax: 472-4217 / 475-1716/27

Accountability * Impartiality * Competence * Openness * Value

BID STATUS

Date: **October 09, 2012**

Triple J Motors
 P.O. Box 6066
 Tamuning, Guam 96931
 Tel: (671) 648-6010 Fax (671) 648-6051

BID INVITATION NO.: GSA-0116-12
 School Bus 84 Passenger

OPENING DATE: September 12, 2012

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; or
- Insufficient number of bidders.

Rejected due to:

- Late submission of bid;
- No bid security or insufficient bid security;
- Not meeting the delivery requirement as stated in the IFB;
- Non-conformance with the specifications: (See Remarks)**
- Inability to provide future maintenance and services to the equipment;
- High price
- Others

Note: Non-conformance due to the requirement states "No Flip Seat to be used".

Bid recommended for award:
MORRICO EQUIPMENT LLC in the total amount of \$587,995.00

REMARKS:

Thank you for your participation with this bid. Please send your authorized representative to pickup your original bid status.

Pls refer to GSA @ 475-1727
ACKNOWLEDGEMENT COPY
 RECEIVE BY [Signature]
 DATE 10-9-12
CHARLIE REYNOLDS

[Signature] 10/9/12
 CLAUDIA S. ACFALLE
 Chief Procurement Officer

****PRIMARY BID****

ITEM NO.	DESCRIPTION	QTY	Unit	Unit Price	Total
----------	-------------	-----	------	------------	-------

1.1	School Bus (84 Passenger) Type D, Forward Control Front engine (Latest Model) <i>As per the following specifications:</i>	5	ea.	\$ 146,222.	\$ 731,110.
-----	--	---	-----	-------------	-------------

(DPW4\04\12)

GENERALS:

These specifications have been written to describe minimum equipment and performance requirements to be supplied by the equipment manufacturer bidding. Reasonable test may be conducted upon delivery before acceptance.

The successful bidder shall furnish all necessary and desirable information instructions for the proper operation of the equipment.

The Government of Guam reserves the right to accept and/or reject any and all bids, to waive any defects, irregularities, or specification discrepancies and to award the bid as council deems to be in the best of the government.

Each School Bus shall be new / unused, current model year production.

Each School Bus shall be supplied with all standard equipment and accessories indicated in manufacturer's published literature/brochure unless specifically deleted as stated in this specification. Optional equipment necessary to meet the requirements of this specification shall be installed.

Standard: Each School Bus shall meet the applicable requirement for U.S. Department of Transportation (DOT), U.S. EPA, School Bus Safety and Federal Motor Vehicle Safety Standards (FMVSS).

Certification: Each School Bus shall display a **durable, legible** certification data plate mounted in the driver's compartment of the vehicle. On this data plate the manufacture shall certify that the bus is in compliance with the applicable DOT and FMVSS, and is manufactured from all new components. All chassis body information shall appear on this certification data plate. *The bus body data plate shall specify the maximum design capacity of the body; (Number of passengers bus can transport)*

DISCREPANCIES LISTED:

Should any bidder have deviations from these specifications in this bid and cannot meet requirement of the specifications, he shall submit a letter and attach it to the bid explaining the deviations. Failure to do so will cause the bid to be rejected as being non-responsive.

SCHOOL BUS CHASSIS SPECIFICATIONS

SPECIFICATIONS:

BIDDING ON / REMARKS:

Air Cleaner

1. The engine intake air cleaner shall be properly installed to meet engine specifications with a restriction indicator.

COMPLY



RECEIVED
700 JUN -4 AM 10:40

RECEIVED
700 JUN -4 AM 10:40

Claudia S. Acfalle
Chief Procurement Officer
General Services Agency
Government of Guam
148 Route 1 Marine Corps Dr
Piti, Guam 96915

June 3, 2013
RECEIVED *Per*

Dear Ms Acfalle;

The purpose of this letter is to **officially protest the award of GSA-0116-12** and acceptance of the ten (10) new school buses recently received by the Department of Public Works for GSA

As a participant in the above procurement we are concerned that the buses received do not meet the following minimum required specifications:

1. **Emergency Exits No's 1 thru 8 page 35 (Side Emergency Door)**

Our bid included the Side Emergency Door, however we were rejected since it would reduce the passenger capacity from 84 to 83. We did however offer an "industry standard federally approved flip seat" which would have increased the capacity to 86.

2. **Construction: #3 The Body Panels** are required to be fastened by anti-corrosive rivets. The buses received have Body Panels fastened by screws instead of rivets. This makes a substantial difference in the construction.

An additional requirement per Amendment #2 was for two DPW personnel to travel (bidder expenses paid) to the bus manufacturer for (4) Days for the purpose of inspecting the buses for "workmanship, quality conformance, first production vehicle". In light of the visit we are wondering why these deficiencies were not noted during the inspection and prior to shipment to Guam.

I am sure you can understand our frustration that our bid was rejected for a specification that was, in the end not provided by the winning bidder.

I look forward to your reply and resolution to this matter.

Sincerely,

Jeff Jones
President

C.C. Office of the Public Auditor
Office of the Attorney General

TRIPLE J MOTORS

P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 648-6010 • FAX: (671) 648-6051
Cell: (671) 687-1280

Battery Compartment (Lockable with 2 spare keys)

1. Battery/batteries shall be securely attached on a slide-out or swing-out tray in a closed, vented compartment in the body skirt, so that the battery is accessible for convenient servicing from the outside. The battery compartment door or cover shall be hinged at the front and secured by an adequate and conveniently-operated latch or other type fastener.

COMPLY

Color (In accordance with colorimetry specifications of Federal Standards).

1. The school bus body shall be painted **National School Bus Gloss Yellow**.

COMPLY

2. The body exterior paint trim, bumpers, lamp hoods, rub rails and lettering shall be **black**.

COMPLY

3. The roof of the bus must be painted **white** not to extend below the drip rails on the sides of the body.

COMPLY

Construction

1. Construction shall be of prime commercial quality steel or other material with strength at least equivalent to all-steel as certified by the bus body manufacturer. All such construction materials shall be fire resistant. *No exterior structural, fiberglass roof or side panels are allowed.*

COMPLY

2. Construction shall be dust proof and watertight, so the bus does not leak under normal operating conditions.

COMPLY

3. All body panels, skirts and rub rails to include interior ceiling and wall linings shall be fastened by **anti-corrosive rivets**.

COMPLY

Defroster\Defogger

1. Manufacturer's standard windshield defogger system conforms to SAE standards J0381 & 382.

COMPLY

Doors

Service Door: (Manual operation preferred)

1. The service door shall be in the driver's control, and designed to afford easy release and provide a positive latching device on manual operating doors to prevent accidental opening. When a hand lever is used, no part shall come together that will shear or crush fingers. Manual door controls shall not require more than **25 pounds** of force to operate at any point throughout the range of operation.

COMPLY

2. The service door shall have a minimum horizontal opening of **24 inches** and a minimum vertical opening of **68 inches**.

COMPLY

3. The service door shall be a **jack knife type**.

COMPLY

Eddie Baza Calvo
Governor

GSA

GENERAL SERVICE AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
Director

Anthony C. Blaz
Deputy Director

June 4, 2013

Memorandum

Mr. Jeff Jones
President
Triple J Enterprises
PO Box 6066
Tamuning, Guam 96931

Re: Protest on GSA Bid No. 0116-12

Dear Mr. Jones:

I am in receipt of your protest in regards to GSA Bid No. 0116-12, School Buses for the Department of Public Works. In your protest, you indicated that you were willing to offer a side emergency door that did not offer an 84 seat capacity, but rather an 83 seat capacity. Secondly, you indicated that you offered as an alternative, an "industry standard federally approved flip seat", which would offer 86 seat capacity.

Your second point was that buses that have arrived have body panels fastened by screws instead of rivets as required in the bid specifications.

Further you indicated that two (2) DPW personnel who were to travel to the bus manufacturer for the purpose of inspecting the buses did not catch these deficiencies and as such, were not noted prior to shipment to Guam.

Response to Inquiry No. 1: The Department of Public Works determined that its major need was for an 84 seat bus. The Department did not want a "flip seat" as they viewed such seating as more dangerous and less appropriate for use. The side door that is missing from the buses that are being accepted, have an upper emergency door exit, which they felt was a reasonable.

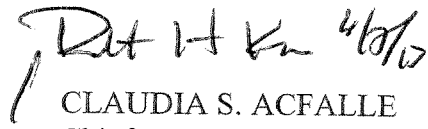
Response to Inquiry No. 2 In discussion with the Director of the Department of Public Works, he acknowledges that this was an oversight by his office in addressing this issue while the buses were at the manufacturer's even though it was raised by the DPW personnel on site.

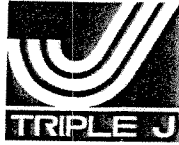
Response to Inquiry No. 3: The DPW personnel who were sent to the Bus Manufacturer did catch errors. However, the errors were not fixed.

COMMITTED TO EXCELLENCE

You are correct in pointing out that 1) the buses do not have a side door and 2) the changing the side door to an upper door, and the rivets to a screw were a deviation from the contract. However, none of the required items were deleted from the bus. The only change that was made was moving the side doors to the roof of the bus. Secondly the objecting of the rivets was identified by the two (2) DPW personnel that conducted an on-site or final inspection at the manufacturer's, however, upon inspection the buses arrived in Guam, the screws were not corrected by the manufacturer. However, since your protest was filed after the bid was awarded, your remedies are limited to that of Remedies After Award as stated in 5 GCA Section 5452. The bidder has not acted fraudulently or in bad faith, the contract is ratified as it is determined that it is in the best interest of the Territory.

You have the right to seek any administrative or judicial review authorized by law upon receipt of this notice.


CLAUDIA S. ACFALLE
Chief Procurement Officer



FILE

June 10, 2013

RECEIVED
Claudia S Acfalle
Chief Procurement Officer
General Services Agency
Government of Guam
148 Route 1 Marine Corps Drive
Piti, Guam 96915

Dear Ms. Acfalle;

With respect to GSA's June 04, 2013 response to our Protest Letter of GSA Bid No. 0116-12 for School Buses, it seems the following facts and discrepancies may not have been fully understood by GSA. Please allow me to clarify.

With regard to the required side emergency door which is stated to have been "replaced with an upper emergency door exit" this cannot be the case as there is no such thing as an "upper emergency door". The only emergency safety devices on the roof are the required roof hatches referenced on page 35 & 36 of the bid specifications under, "Additional Emergency Exits". These roof hatches are not doors and, because of their distance from the floor, can only be used by children if the bus has fallen onto its side. If there were a fire or other emergency situation the children would not be able to safely use a "roof hatch" as an emergency exit.

Triple J's bid proposal included these required emergency roof hatches as well as the required Emergency Side Doors, (2) on each side, and the Required Rear Emergency Door. If Triple J had known that the side emergency exit requirements were going to be waived and not actually required as stated in the bid we could have offered a bus that met the 84 seat capacity without the need for a flip seat. However in order to comply with the emergency side door safety requirement AND still comply with the 84 seat capacity we had no choice but to offer the flip up seat option - which was the only reason our bid was rejected.

You also mention in your response that DPW determined that the flip up seats "were more dangerous and less appropriate for use". Please be advised that the flip seats are federally approved for use in school buses and are not dangerous at all. In fact flip seats with an emergency side exit are much safer than regular seats without any emergency side exits. Regardless of the importance, and potential safety issues involved, the side exits were still not provided by the awarded vendor. This is a fundamental deviation from the basic safety requirements of the bid specifications that should not be permitted by GSA.

TRIPLE J MOTORS

P.O. BOX 6066 • Tamuning, GU • TEL: (671) 648-CARS



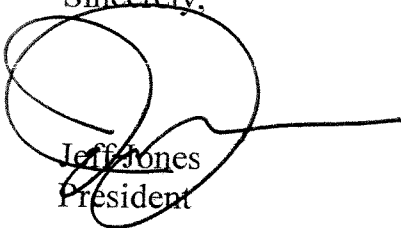
With regard to the rivet vs. screw issue, the explanation that this was an issue that was identified by the inspectors but was not corrected by the manufacturer cannot be accurate based on our research. Thomas uses screws in the manufacturing of their buses. They do not build buses with outside rivets - it is simply not part of the engineering or design of their products. Therefore they could not have agreed to correct this issue when discovered by the inspectors.

With regards to our protest being filed after the award, we believed that GSA would only award the bid if the vendor complied with all specifications. It was only after the buses arrived on island that we became aware of the discrepancies. We immediately filed our protest at that time.

Lastly we feel that the statement that "the bidder did not act fraudulently or in bad faith" may not be accurate. The bidder knew that their configuration did not offer side exits and they knew that their bus was not built with screws instead of rivets as required by the bid. As the authorized representative of their manufacturer, these issues would have been clear to them. Despite evidence to the contrary, we still contend that lack of fraud or bad faith is not justification for GSA or DPW to accept tax payer funded vehicles that do not meet minimum bid requirements, especially when the specifications are safety and construction related.

In closing we ask that GSA and DPW reject the buses for delivery until or unless the bidder can correct the deficiencies. If the deficiencies cannot be corrected the bid should be awarded to Triple J as the most responsible bidder.

Sincerely,



Jeff Jones
President

cc. Office of the Attorney General
Office of the Public Auditor

TRIPLE J MOTORS
P.O. BOX 6066 • Tamuning, GU • TEL: (671) 648-CARS

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

Ray Tenorio
Lieutenant Governor

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Director

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Anthony C. Blaz
Deputy Director

Memorandum

Mr. Jeff Jones
President
Triple J Enterprises
PO Box 6066
Tamuning, Guam 96931

Re: Reconsideration on GSA Bid No. 0116-12

Dear Mr. Jones:

I am in receipt of your memorandum dated June 11, 2013,, in which you asked for reconsideration of the General Services' Agency response to your protest dated June 4, 2013, In you memorandum, you indicated what you perceived to be more information for our consideration.

We have carefully considered your memorandum, and have concluded that the facts you raised, are not sufficient to change our position and therefore, we stand by our initial denial of your protest.

You have the right to seek any administrative or judicial review authorized by law.


CLAUIDA S. ACFALLE
Chief Procurement Officer

ACKNOWLEDGEMENT COPY

RECEIVE BY _____

DATE _____

Tel: 648.6010
Fax: 648.6051
Cell: 687.1280

COMMITTED TO EXCELLENCE



Ms. Claudia S. Acfalle and/or
Mr. Robert Kono
Chief Procurement Officer
General Services Agency
Government of Guam
148 Route 1 Marine Corps Dr
Piti, Guam 96915

July 3, 2013

Dear Ms Acfalle and/or Mr. Robert Kono

Re: Denial of protest on GSA Bid No. 0116-12

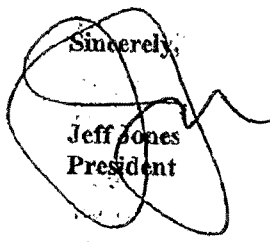
Thank you for your undated memorandum regarding the above referenced bid which I received on June 28, 2013 by facsimile.

Your memorandum confirmed your decision to deny our protest of GSA Bid no. 0116-12. Please be informed that we will be seeking administrative review of this matter by the Office of The Public Auditor (OPA) and are currently packaging our appeal to present to the OPA in accordance with their requirements.

Accordingly, we hereby request a stay of procurement until the OPA has had the opportunity to rule on the validity of our protest so as to not further exacerbate and complicate this dispute for all parties concerned.

Furthermore we also request under the Sunshine Act of Guam any and all correspondence regarding this matter (including emails) between GSA and its employees, procurement officers (acting or otherwise) and the Department of Public Works, its director, deputy director (acting or otherwise) and its employees.

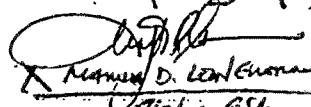
We thank you in advance for your cooperation in this matter and we look forward to an expedient resolution to this matter for all concerned.

Sincerely,

Jeff Jones
President

C.C. Office of the Public Auditor
Office of the Attorney General
Department of Public Works

FILE COPY

GSA Acknowledgment

7-3-13

Manuel D. Leutenant
7/3/13 GSA

Return fax
648-6051

RECEIVED
JUL 03 2013 12:14 PM
GSA

P.O. BOX 6066 • TAMUNING, GUAM 96931 • TEL: (671) 646-9126 • FAX(671) 646-9487