



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 06/10/13

TIME: 12:00 AM PM BY: RG

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

FILE NO OPA-PA: 13-007
* PENDING REVIEW TO DETERMINE
WHETHER OPA CAN ACCEPT
THIS AS AN APPEAL. Ry
** CASE # OPA-PA-13-007 ASSIGNED
ON 6/17/13. Ry

PART I- To be completed by OPA

In the Appeal of _____)
)
)
(Name of Company), APPELLANT)
)
)
)

NOTICE OF APPEAL

Docket No. OPA-PA _____

PART II- Appellant Information

Name: Able Industries of the Pacific
Mailing Address: _____
Business Address: 341 S. Marine Corps Dr. # 204
Email Address: Kleinschneider@AbleInd.org
Daytime Contact No: 671-689-3000
Fax No.: 671-646-4219

PART III- Appeal Information

- A) Purchasing Agency: GIAA
- B) Identification/Number of Procurement, Solicitation, or Contract: GIAA-IFB-001 F113
- C) Decision being appealed was made on 05/03/13 (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:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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 10 day of June, 2013.

By: _____

APPELLANT

Ken Leon Baerrens, CEO

or

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



June 10, 2013

Doris Flores-Brooks, Public Auditor
Office of Public Accountability
238 Archbishop Flores Street – Suite 401
Hagatna, Guam 96910

RE: Denied Contract for Services in Violation of GCA 5001 (d)

Ms. Brooks,

According to **GARR 12103 (a) The Public Auditor shall have the power to review and determine de novo any matter properly submitted to her or him.** Towards that section, Able Industries of the Pacific (AIP) is requesting the assistance of your office in appealing the award of the custodial services contact to multiple bidders in violation of **GCA 5001(d).**

Statement of Facts:

On March 18, 2013, I personally met with Charles Ada, Executive Manager of the Guam International Airport Authority (GIAA) and hand delivered a letter (ATTACHMENT !) to inform him that AIP was requesting to be awarded the terminal contract for custodial services (GIAA IFB NO. GIAA-001-FY13) under GCA 3110.1 Procurement from Nonprofit Corporations which states that: **“A contract may be awarded for a supply or service without going through the competitive scaled bid procedure with the contractor is a non-profit corporation.”**

The intent is further made clear and unambiguous in **GCA 5001(d)** which reads as follows:

“Policy Concerning Sheltered Workers or Persons with Disabilities. *If any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities , or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that*

nonprofit corporation or government entity *if* the supply or service is available within the period required by the procuring entity.”

He informed me that he was going to have the legal counsel for GIAA review the document and related law before he could address our request.

On March 29, 2013, AIP was informed by letter sent the day of; and received after the bid opening that GIAA was going to proceed with the bid process. (ATTACHMENT B)

While waiting for a response from GIAA, AIP submitted a bid for the custodial service contract, and was notified by fax (ATTACHMENT C) our company was disqualified from consideration for contract award due to lack of a bid bond in direct violation of GCA 3110.1 which states: **“Furthermore, the supply or service must be available within the period required by the procurement authority. Contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Sections 3310D(e) (:~) and 3109(c)(4).”**

On May 23, 2013, I submitted a request to Charles Ada, requesting clarification on the policy for awarding contracts to nonprofits (ATTACHMENT D).

On May 28, 2013, I submitted an appeal to the contract award, and an appeal to reverse our disqualification. On that same day, I met with executives from GIAA to discuss why AIP was not awarded the contract in light of GCA 3110.1 and was provided with no regulation or legal based response. Also on May 23rd, I submitted a written request to the Frank Taitano, Supply Procurement Manager, that GIAA provide the legal justification for not awarding this contract. (ATTACHMENT E).

In denying our bid, GIAA did not cite legal justification for not awarding this contract to Able Industries of the Pacific under the requirements of GCA 5001(d) and we believe this is a violation of the Government of Guam Procurement Laws.

On June 4, 2013, I received a letter from GSA (ATTACHMENT F) stating that the GIAA was NOT required to consider awarding the contract to nonprofits under GARR 3110.1, but did not address the issue of GCA 5001 (d).

On June 6, 2013, I met with Patrick Kono of the GSA to discuss the bid situation at the airport in response to our company’s protest to contract award and disqualification. I was informed verbally by Patrick Kono that the GIAA did not receive a protest from Able. I showed him a copy of the protest, and he informed that the GIAA’s position is

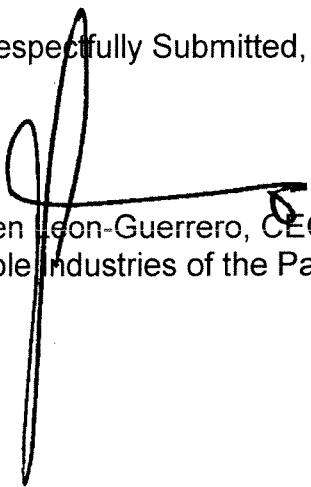
since I did not use the word "PROTEST" in the subject matter of our submission; the airport did not consider the submission a protest.

At that same meeting, I requested clarification on GCA 5001 (d) from GSA (ATTACHMENT F) and was informed by Mr. Kono, that GIAA was correct in rejecting our request for consideration under GARR 3110.1 saying that the GARR overrides the GCA. I do not believe that the rules override the law.

On June 6, 2013, I received a letter from Charles Ada GIAA Executive Manager that denied our appeal and provided no citation for justification to not comply with GCA 5001 (d). (ATTACHMENT G)

I am requesting that your office put award of the contract on hold until such time as the provisions of GCA 5001 (d) have been clarified by appropriate reviewing legal authority.

Respectfully Submitted,



Ken Leon-Guerrero, CEO
Able Industries of the Pacific

CC: Thomas Tarpley
Mark Williams

Attachment A



WON PAT
INTERNATIONAL AIRPORT AUTHORITY
MAR 18 2013
3:35 PM
Dolan

March 18, 2013

Charles Ada
General Manager
Antonio B. Won Pat Guam International Airport Authority
355 Chalan Pasaheru, Route 10A, Tamuning, Guam 96931

RE: Custodial Service Bid Letter of Interest

Mr. Ada,

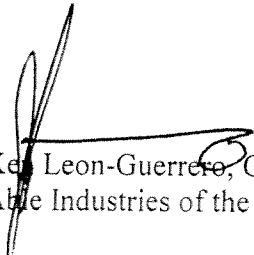
I am requesting that our non-profit organization be considered for award of the custodial services contract under GCA Section 3110.1 which outlines the conditions a services contract may be awarded to a nonprofit without going through the bid procedure when the contractor is a nonprofit organization employing sheltered or disabled workers. (Attachment 1 –GCA Code 3110.1)

Able Industries is a Guam based nonprofit Community Rehabilitation Program (CRP) providing employment for people with disabilities. (Attachment 2 – Nonprofit Certificate)

We currently are the company handling the base wide custodial contract for Andersen Air Force Base including the air terminal. (Attachment 3 – Letters of Commendation and CPARS Reports)

I would like to discuss this possibility with you before the airport makes a final decision on awarding the contract.

Respectfully,



Ken Leon-Guerrero, CEO
Able Industries of the Pacific

Attachment 1

CHAPTER 3

SOURCE SELECTION AND CONTRACT FORMATION

- §3101. Definitions of Terms Used in this Chapter.
- §3102. General Provisions.
- §3103. Relations Between Agencies.
- §3104. Unsolicited Offers.
- §3105. Novation or Change of Name.
- §3106. Contracting for Installment Purchase Payments.
- §3107. Purchase of Items Separately from Construction Contract Provision.
- §3108. Methods of Source Selection.
- §3109. Competitive Sealed Bidding.
- §3110. Procurement from Nonprofit Corporations
- §3111. Small Purchases.
- §3112. Sole Source Procurement.
 - §3112.1 Blanket Purchase Agreements.
 - §3112.11 In General.
 - §3112.12 Establishment of Blanket Purchase Agreements.
 - §3112.13. Purchases under Blanket Purchase Agreements.
 - §3112.14. Review Procedures.
 - §3112.15 Completion of Blanket Purchase Agreements.
- §3113. Emergency Procurement.
 - §3113.1. Purchase of Drugs by Generic Names.
 - §3113.2. Government to Purchase Drugs from Manufacturer.
 - §3113.3. Authority
- §3114. Competitive Selection Procedures for Services Specified in §2112 (Authority to Contract for Certain Services and Approval of Contracts) of these Regulations.
- §3115. Cancellation of Invitations for Bids or Requests for Proposals.
- §3116. Responsibility of Bidders and Offerors.
- §3117. Prequalification of Suppliers
- §3118. Cost or Pricing Data.
- §3119. Types of Contracts.
- §3120. Approval of Accounting Systems.
- §3121. Multi-Term Contracts.
- §3122. Multiple Source Contracting.
- §3123. Inspections.
- §3124. Right to Audit Records.
- §3125. Finality of Determinations.
- §3126. Reporting of Anticompetitive Practices.
- §3127. Retention of Procurement Records
- §3128. Record of Procurement Actions Taken Under §3105 (Sole Source Procurement) and §3106 (Emergency Procurement)
- §3129. Record of all (other) Procurement Actions.
- §3130. Certification of Records.
- §3131. Public Record.
- §3132. Rules for Procurement Records

proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall inform the bidder in writing what portions of the unpriced technical offer will be disclosed and that unless the bidder protests under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations, the offer will be so disclosed. Such technical offer shall be opened to public inspection subject to any continuing prohibition on the disclosure of confidential data; and

(d) unpriced technical offers of bidders who are not awarded the contract shall not be opened to public inspection unless the Procurement Officer determines in writing that public inspection of such offers is essential to assure confidence in the integrity of the procurement process; provided, however, that the provisions of Subsection 3109(v)(2)(c) of this Section shall apply with respect to the possible disclosure of trade secrets and proprietary data.

* §3110.1 Procurement from Nonprofit Corporations. A contract may be awarded for a supply or service without going through the competitive sealed bid procedure when the contractor is a non-profit corporation employing sheltered or disabled workers.

As a condition of the award of the contract the contractor must certify that labor on the project will be performed by disabled persons except that supervisory personnel do not have to be disabled. Furthermore, the supply or service must be available within the period required by the procurement authority. contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Sections 33109(c)(3) and 3109(c)(4).

SOURCE: Section 3-203 in existing regulations were repealed by P.L. 18-8:8. This material replaces previous material. New material added to meet the requirements of 5 GCA §5001(d) and §5217. 3-203.01 through 3-203.17 also repealed by P.L. 18-8:8)

5 GCA GOVERNMENT OPERATIONS
CH. 5 GUAM PROCUREMENT LAW

(d) Policy Concerning Sheltered Workers or Persons with Disabilities. *If* any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities, or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that nonprofit corporation or government entity *if* the supply or service is available within the period required by the procuring entity

Attachment 2



Department of Revenue and Taxation
Government of Guam
P.O. Box 2796
Agana, Guam 96910



Certification of Tax Exemption

This is to certify that

ABLE INDUSTRIES OF THE PACIFIC

an Educational Association having fully complied with the necessary requirements set forth under section 10521 of the Business Privilege Tax Act of Guam, is hereby declared tax exempt, which exemption will continue indefinitely unless revoked on the basis of further information obtained by audit or otherwise.

3/19/97

DATE

#919

J.T.D.
JOSEPH T. DUENAS
COMMISSIONER OF REVENUE AND TAXATION

Attachment 3



DEPARTMENT OF THE AIR FORCE
DETACHMENT ONE, THIRTEENTH AIR FORCE
YOKOTA AB, JAPAN

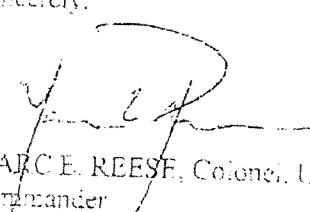
Colonel Marc E. Reese
Commander
Unit 5096
APO AP 96328 5096

Able Industries of the Pacific
P.O. Box 13071
Naval Activities
Santa Rita, Guam

Dear Santy Ratuita,

I want to thank your team for their help keeping the restrooms in Building 21000 clean and provisioned. When we got here, the restrooms were disused and not very sanitary. Our Exercise COPE NORTH participants are working long hours in the building, and with limited restrooms available they were highly utilized. Having them cleaned twice a day has proven very effective and I appreciate your crews diligence in executing their responsibilities. Please thank them for me.

Sincerely,


MARCE E. REESE, Colonel, USAF
Commander

ATTACHMENT JL-1

PAST PERFORMANCE QUESTIONNAIRE COVER SHEET

(NOTE TO OFFEROR: For each past performance questionnaire to be completed by a client and submitted to the Government as a reference, provide a copy of this cover sheet with your proposal identifying the client's point-of-contact information. Ensure correct phone numbers and email addresses are provided for the client point of contact.)

NOTE TO PERSONS COMPLETING THIS FORM: The completed questionnaire should be forwarded directly to:

Naval Facilities Engineering Command Marianas
Facilities Support Acquisition Division
PSC 455 Box 195
FPO AP 96540-2937

1. OFFEROR: Naval Facilities Engineering Command, Guam
2. FIRM BEING EVALUATED: ABLE INDUSTRIES OF THE PACIFIC
3. CONTRACT NUMBER: N40192-10-D-9002 WATERBLASTING
4. PROJECT DESCRIPTION: BLDG-4175 WATERBLAST CLEAN SIDEWALKS, STAIRS AND PAVEMENT
5. CONTRACT/TASK ORDER AMOUNT: \$4,942.00
6. PERFORMANCE PERIOD: 30 DAYS
7. REFERENCE ORGANIZATION NAME:
8. EVALUATOR'S CONTACT INFO: 339-1355
 - a. NAME & TITLE: Frank Esteves, Assets Mgr
 - b. PHONE NUMBER: c. FAX NUMBER:
 - d. EMAIL ADDRESS: frank.esteves@fe.navy.mil

**PLEASE CIRCLE THE ADJECTIVE RATING WHICH BEST REFLECTS
YOUR EVALUATION OF THE CONTRACTOR'S PERFORMANCE.**

1. Was this a competitive Contract?	YES			NO		
	PRIME			SUB		
2. Role of contractor.						
3. Ability to meet quality standards specified for technical performance.	<input checked="" type="radio"/> E	G	S	M	P	N
4. Compliance with contractual terms and conditions.	<input checked="" type="radio"/> E	G	S	M	P	N
5. Quality/integrity of technical data/report preparation efforts.	<input checked="" type="radio"/> E	G	S	M	P	N
6. Adequacy/effectiveness of quality control program and adherence to contract quality assurance requirements.	<input checked="" type="radio"/> E	G	S	M	P	N
7. Effectiveness of overall contract management (including ability to effectively lead, manage and control the program).	<input checked="" type="radio"/> E	G	S	M	P	N
8. Effectiveness of on-site management, including management of subcontractors?	<input checked="" type="radio"/> E	G	S	M	P	N
9. Contractor was reasonable and cooperative in dealing with your staff (including the ability to successfully resolve disagreements/disputes; responsiveness to administrative reports).	<input checked="" type="radio"/> E	G	S	M	P	N
10. Timeliness/effectiveness of contract problem resolution without extensive customer guidance.	<input checked="" type="radio"/> E	G	S	M	P	N
11. Ability to successfully respond to emergency and/or surge situations.	<input checked="" type="radio"/> E	G	S	M	P	N
12. Effectiveness of on-site management and control multidiscipline construction categories, including subcontractors.	<input checked="" type="radio"/> E	G	S	M	P	N
13. Effectiveness of material management.	<input checked="" type="radio"/> E	G	S	M	P	N
14. Effectiveness of acquisition management.	<input checked="" type="radio"/> E	G	S	M	P	N
15. Contractor proposed innovative alternative methods/processes that reduced cost, improved maintainability or other factors that benefited the client.	<input checked="" type="radio"/> E	G	S	M	P	N
16. Contractor safety record.	<input checked="" type="radio"/> E	G	S	M	P	N
17. Responsiveness regarding safety issues.	<input checked="" type="radio"/> E	G	S	M	P	N
18. If this is/was a Government cost type contract, the Contractor's timeliness in submitting monthly invoices with appropriate back-up documentation and monthly status reports/budget variance reports.	E	G	S	M	P	N

19. If this is/was a Government cost type contract, the Contractor's accuracy regarding monthly invoices with appropriate back-up documentation and monthly status reports/budget variance reports.	E	G	S	M	P	N
20. Ability to hire/apply a qualified workforce to this effort.	E	G	S	M	P	N
21. Ability to retain a qualified workforce on this effort	E	G	S	M	P	N
22. If this is/was a Government contract, has/was this contract been partially or completely terminated for default or convenience or are there any pending terminations? Indicate if show cause or cure notices were issued, or any default action in comment section below.	E	G	S	M	P	N
23. Have there been any indications that the contractor has had any financial problem?	E	G	S	M	P	N
24. In summary, provide an overall rating for the work performed by this contractor.	<u>E</u>	G	S	M	P	N

COMMENTS: Objective Comments concerning relating to this Offeror:

Performance was very thorough & efficient

PAST PERFORMANCE QUESTIONNAIRE

ADJECTIVE RATINGS AND DEFINITIONS TO BE USED TO BEST REFLECT YOUR EVALUATION OF THE CONTRACTOR'S PERFORMANCE

- E (EXCELLENT)** – Performance meets contractual requirements and exceeds the Government's expectations. The contractual performance of the element being assessed was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective. (HIGH CONFIDENCE)
- G (GOOD)** – Performance meets contractual requirements and exceeds some requirements to the Government's benefit. The contractual performance of the element being assessed was accomplished with some minor problems for which corrective actions taken by the contractor were effective. (SIGNIFICANT CONFIDENCE)
- S (SATISFACTORY)** – Performance meets contractual requirements. The contractual performance of the element contains some minor problems for which corrective action taken by the contractor appear or were satisfactory. (CONFIDENCE)
- M (MARGINAL)** – Performance does not meet some contractual requirements. The contractual performance of the element being assessed reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor's proposed actions appear only marginally effective or were not fully implemented. (LITTLE CONFIDENCE)
- P (POOR)** – Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element contains serious problem(s) for which the contractor's corrective actions appear or were ineffective. (NO CONFIDENCE)
- N (NEUTRAL)** – No relevant past performance record is identifiable upon which to base a meaningful performance risk prediction. A search was unable to identify any relevant past performance information for the contractor or their key personnel. (This is neither a negative nor positive assessment.)



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 36TH WING (PACAF)/INSTALLATION COMMANDER
ANDERSEN AIR FORCE BASE
UNIT 14003, APO AP 96543-4003


Colonel Tod R. Fingal
Vice Commander, 36th Wing
Unit 14003
APO AP 96543-4003

15 Mar 11

Mr. Ken Leon Guerrero
CEO, Ables Industries of the Pacific
P.O. Box 13071, Naval Activities
Santa Rita, Guam 96915

Dear Mr. Leon Guerrero

I want to express my sincere appreciation to Mrs. Lucy Magada for her outstanding performance as team leader for the day shift cleaning crew. Mrs. Magada went above and beyond to ensure that the work she and her crew provided was top notch. I commend Mrs. Magada for a job well done and thank her for being a real "team" player.


TOD R. FINGAL, Colonel, USAF
Vice Commander

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AND 42.1503

CONTRACTOR PERFORMANCE ASSESSMENT REPORT (CPAR) MODIFIED CPAR	NONSYSTEMS
---	-------------------

1. Name/Address of Contractor (Division):

Company Name: ABLE INDUSTRIES OF THE PACIFIC
 Division Name:
 Street Address: BLD 2116 WAREHOUSE 2, SIERRA WHARF R
 City, State, Zip Code: SANTA RITA GU 96915
 Province/Country: US
 CAGE Code: DUNS+4 Number: 855022281
 PSC: Z199 NAICS Code: 561210

2. Report Type:

Interim Final Report Addendum

3. Period of Performance Being Assessed: 02/21/2012 - 01/24/2013

4a. Contract Number: N4019210D9002 **4b. Business Sector & Sub-Sector:** Facilities Services

5. Contracting Office: NAVFAC ENGINEERING COMMAND MARIA

6. Location of Contract Performance: VARIOUS MILITARY FACILITIES AT GUAM

7a. Contracting Officer: CLAIRE C. PANGELINAN

7b. Phone Number: 671-333-2272

8a. Contract Award Date: 03/30/2010 **8b. Contract Effective Date:** **9. Contract Completion Date:** 03/31/2013

11. Awarded Dollar Value: \$2,665,541 **12. Current Contract Dollar Value:** \$0

13. Competitive Non-Competitive

14. Contract Type: FFP FPI FPR CPFF CPIF CPAF OTHER MIXED/OTHER:

15. Key Subcontractors and Effort Performed:

CAGE: 07UH7 No subcontractor
 CAGE: 07UH7 No subcontractor
 CAGE: 07UH7 No subcontractor

16. Program Title:

Waterblasting of Various Military Facilities on Guam

17. Contract Effort Description:

Waterblast clean various types of surfaces.

Small Business Utilization

Does this contract include a subcontracting plan? No

Date of last Individual Subcontracting Report (ISR) / Summary Subcontracting Report (SSR): N/A

18. Evaluate the following Areas:

	Past Rating	Rating	Trend
a. Quality of Product or Service	Exceptional+	Exceptional	+
b. Schedule	Exceptional+	Exceptional	+
c. Cost Control	Exceptional+	Exceptional	+

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AND 42.1503

d. Business Relations	N/A	N/A	+
e. Management of Key Personnel	Exceptional+	Exceptional	+
f. Utilization of Small Business	N/A	N/A	+
g. Other Areas:			
(1): SAFETY		Very Good	
(2): QUALITY CONTROL		Very Good	
(3): END PRODUCT		Very Good	
(4): COMMUNICATIONS		Very Good	
(5):		N/A	
(6):		N/A	
(7):		N/A	
(8):		N/A	
19. N/A			

20. Assessing Official Narrative:

(i.e., PMS, PMA, or Equivalent Individual) Responsible for Program, Project, or Task/Job Order Execution

QUALITY OF PRODUCT OR SERVICE: Ables Industries provided quality end products of all work performed. Contractor met requirements even with short notices required by customer's events.

SCHEDULE: Contractor met all schedules to include short notices to complete work, for command's functions.

COST CONTROL: Contractor performed all work within funded amount and not requesting additional to finish the project.

MANAGEMENT OF KEY PERSONNEL: Contractor informs and provides any request from the Gov't for status or other issues. Contractor Management proactive in completing any work ordered by the Gov't in a professional manner.

UTILIZATION OF SMALL BUSINESS:

ADDITIONAL/OTHER: Contractor performed all requests in a timely manner. Contractor always willing to partner with the Gov't in meeting customers needs and/or requirements.

RECOMMENDATION: Given what I know today about the Contractor's ability to execute what they promised in their proposal, I definitely would award to them today given that I had a choice.

21. Name and Title of Assessing Official

Name: EDWARD R. BALLESTA

Title: SENIOR PERFORMANCE ASSESSMENT REP Organization: FACILITY
SUSTAINMENT & SERVICES BRAN

Phone Number: 671-339-3803 Fax Number:

Email Address: edward.ballesta@fe.navy.mil Date: 01/28/2013

22. Contractor Comments:

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AND 42.1503

This record has been modified, please see the original record to view the contractor comments.

23. Name and Title of Contractor Representative

Name:

Title:

Phone Number: Fax Number:

Email Address: Date:

24. Review by Reviewing Official:

The contractor provided exceptional services to the clients under the water blasting contract during this period. The Project Manager maintained open line of communication with the end users and the technical representatives in coordinating requirements. Services were provided timely with no issues and the contractor remained focused on providing excellent services.

25. Name and Title of Reviewing Official

Name: CLAIRE C. PANGELINAN

Title: SUPERVISORY CONTRACT SPECIALIST Organization: NAVFAC MARIANAS

Phone Number: 671-333-2272 Fax Number: 671-339-4254

Email Address: claire.pangelinan@fe.navy.mil Date: 02/15/2013

FOR OFFICIAL USE ONLY

INCOMPLETE-REVIEWED **CONTRACTOR PERFORMANCE ASSESSMENT REPORT (CPAR)** NONSYSTEMS

1. Name/Address of Contractor (Division):
 Company Name: ABLE INDUSTRIES OF THE PACIFIC
 Division Name:
 Street Address: 341 SOUTH MARINE CORPS DRIVE
 City, State, Zip Code: TAMUNING GU 969133071
 Province/Country: USA
 CAGE Code: 07UJ7
 PSC: S201

DUNS+4 Number: 855022281
 NAICS Code: 561720

2. Report Type: Final Report
3. Period of Performance Being Assessed: 04/01/2011 - 08/09/2011
4a. Contract Number: FAS24009C0002

4b. Business Sector & Sub-Sector: Prof/Tech/Mng Support

5. Contracting Office: 36 CONT

6. Location of Contract Performance:

7a. Contracting Officer: MATT

7b. Phone Number: 671-366-235

8a. Contract Award Date: 04/

9. Contract Completion Date: 03/10. N/A

11. Awarded Dollar Value: \$239,8

13. Competitive:

14. Contract Type: FFP

15. Key Subcontractors and Effort:

16. Program Title:
 CDC CUSTODIAL SERVICES CO

17. Contract Effort Description:
 CDC CUSTODIAL SERVICES

Small Business Utilization
 Does this contract include a subcontractor?
 Date of last Individual Subcontracting:

nish



CDC

CPAR

Effective Date:
 Awarded Dollar Value:

18. Evaluate the following Areas:

Area	Rating	Trend
a. Quality of Product or Service	N/A	N/A
b. Schedule	N/A	N/A
c. Cost Control	N/A	N/A
d. Business Relations	N/A	N/A
e. Management of Key Personnel	N/A	N/A
f. Utilization of Small Business	N/A	N/A
g. Other Areas:		
(1):	N/A	N/A
(2):	N/A	N/A
(3):	N/A	N/A
(4):	N/A	N/A
(5):	N/A	N/A
(6):	N/A	N/A
(7):	N/A	N/A
(8):	N/A	N/A
19. N/A	N/A	N/A

20. Assessing Official Narrative:
 QUALITY OF PRODUCT OR SERVICE: Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

SCHEDULE: Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

COST CONTROL: Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

BUSINESS RELATIONS: Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

MANAGEMENT OF KEY PERSONNEL: Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

UTILIZATION OF SMALL BUSINESS: Agencies shall not evaluate performance for contracts awarded under Subpart 8.7.

FOR OFFICIAL USE ONLY / SOURCE SELECTION INFORMATION - SEE FAR 2.101 and 3.104

RECOMMENDATION: Given what I know today about the Contractor's ability to execute what they promised in their proposal, I definitely would award to them today given that I had a choice.

21. Name and Title of Assessing Official:

Name: SHAWNADEE HOLDREN

Title: CONTRACT SPECIALIST

Office: 36 CONTRACTING SQUADRON

Phone Number: 671-366-4257

Email Address: shawnadee.holdren@andersen.af.mil

Date: 08/09/2011

Fax Number:

22. Contractor Comments:

ADDITIONAL/OTHER: NO COMMENT. Thank you for submitting a satisfactory review of our performance.

CONCURRENCE: I concur with this assessment.

23. Name and Title of Contractor Representative:

Name: SANTY R. RATUITA

Title: DIRECTOR OF CUSTODIAL SERVICES

Phone Number: (671) 688-4157

Email Address: sratuita@ableind.org

Date: 08/09/2011

Fax Number: (671) 653-4602

24. Review by Reviewing Official:

25. Name and Title of Reviewing Official:

Name:

Title:

Office:

Phone Number:

Email Address:

Date:

Fax Number:

INCOMPLETE-REVIEWED **CONTRACTOR PERFORMANCE ASSESSMENT REPORT (CPAR)** NONSYSTEMS

1. Name/Address of Contractor (Division):
 Company Name: ABLE INDUSTRIES OF THE PACIFIC
 Division Name:
 Street Address: 341 SOUTH MARINE CORPS DRIVE
 City, State, Zip Code: TAMUNING GU 969133071
 Province/Country: USA
 CAGE Code: 07UH7
 PSC: S201

DUNS+4 Number: 855022281
 NAICS Code: 561720

2. Report Type: Final Report
3. Period of Performance Being Assessed: 10/01/2008 - 09/30/2009
4a. Contract Number: FA524009C0001

4b. Business Sector & Sub-Sector: Prof/Tech/Mng Support
5. Contracting Office: 36 CONS

6. Location of Contract Performance:
 Able Industries of the Pacific

7a. Contracting Officer: BRETT CLARK
7b. Phone Number: 366-2921

8a. Contract Award Date: 10/01/2008
9. Contract Completion Date: 09/30/2013

8b. Contract Effective Date:

10. N/A
11. Awarded Dollar Value: \$190,687

12. Current Contract Dollar Value:

13. Competitive
14. Contract Type: FFP

Mixed/Other:

15. Key Subcontractors and Effort Performed:
16. Program Title:
 Base Custodial Services

17. Contract Effort Description:
 Base Custodial Services

Small Business Utilization

Does this contract include a subcontracting plan? No
 Date of last Individual Subcontracting Report (ISR) / Summary Subcontracting Report (SSR): N/A

18. Evaluate the following Areas:

	Past Rating	Rating Satisfactory	Trend
a. Quality of Product or Service	N/A	N/A	N/A
b. Schedule	N/A	N/A	N/A
c. Cost Control	N/A	N/A	N/A
d. Business Relations	N/A	N/A	N/A
e. Management of Key Personnel	N/A	N/A	N/A
f. Utilization of Small Business	N/A	N/A	N/A
g. Other Areas:	N/A	N/A	N/A
(1):		N/A	
(2):		N/A	
(3):		N/A	
(4):		N/A	
(5):		N/A	
(6):		N/A	
(7):		N/A	
(8):		N/A	

19. N/A
20. Assessing Official Narrative:

QUALITY OF PRODUCT OR SERVICE: In the FAR 42 1502 (h) Policy. Agencies shall not evaluate performance for contracts awarded under Subpart 8.7 ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED;

ADDITIONAL/OTHER: In the FAR 42 1502 (h) Policy. Agencies shall not evaluate performance for contracts awarded under Subpart 8.7 ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED;

RECOMMENDATION: Given what I know today about the Contractor's ability to execute what they promised in their proposal, I definitely would award to them today given that I had a choice.

21. Name and Title of Assessing Official:

Name: JAEGER TUASON
 Title: CONTRACT SPECIALIST
 Office: 36 CONS
 Phone Number: 671-366-4945
 Email Address: jaeger.tuason@andersen.af.mil
 Date: 08/09/2011
 Fax Number:

22. Contractor Comments:

BUSINESS RELATIONS: Excellent support from 36 CONS staff for expediting payment on overdue invoices. Prompt in providing support on any contractual issues.

ADDITIONAL/OTHER: Professional & prompt service from contracting specialist's & flight chief overseeing this contract.

FOR OFFICIAL USE ONLY / SOURCE SELECTION INFORMATION - SEE FAR 2.101 and 3.104

CONCURRENCE: I concur with this assessment.

23. Name and Title of Contractor Representative:

Name: SANTY RATUITA

Title: DIRECTOR OF CUSTODIAL SERVICES

Phone Number: (671) 688-4157

Email Address: sratuira@ableind.org

Date: 08/10/2011

Fax Number: (671) 653-4602

24. Review by Reviewing Official:

25. Name and Title of Reviewing Official:

Name:

Title:

Office:

Phone Number:

Email Address:

Date:

Fax Number:

Attachment B



P.O. Box 8770
Tamuning, GU 96931

Tel: (671) 646-0300
Fax: (671) 646-8823

www.guamairport.com

March 29, 2013

Mr. Ken Leon-Guerrero
CEO
Able Industries of the Pacific
Jay Ease Building
R.K Plaza, Suite 204
S. Marine Drive
Tamuning, Guam 96913

Re: Custodial Service Bid Letter of Interest

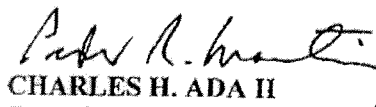
Håfa Adai Mr. Leon-Guerrero,

I am writing in response to your March 18 letter in which you request that GIAA consider Able Industries of the Pacific ("Able Industries") for the custodial services contract being offered pursuant to Invitation for Bid No. GIAA-001-FY13.

In your letter, you noted that Able Industries is a non-profit organization that employs disabled persons. You also observed that under 2 Guam R. & Regs Section 3110, GIAA may award the contract to a non-profit organization like Able Industries without first having to go through the typical competitive bid process.

While we appreciate your interest in the custodial services contract, GIAA intends to award the contract based on the results of its Invitation for Bid. We will notify you and all other interested parties as soon as the results are available and GIAA has made a final decision.

Senseremente,

For 
CHARLES H. ADA II
Executive Manager



Attachment C



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: 05/03/13

Able Industries of the Pacific
341 S. Marine Corps Drive #204
Tamuning, Guam 96913
Tel: 646-4220 Fax: 646-4219

BID INVITATION NO.: GIAA-001-FY13 OPENED: March 29, 2013

DESCRIPTION: Costodial Services

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;
 (X) **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;
 () Non-conformance with the specifications/bid requirements
 () Inability to provide future maintenance and services to the equipment;
 (X) **High price; or**
 (X) **others:**
No Bid Security/ No Bonding Capability

- Bid is recommended for award to:**
Item 1:MTO Maintenance for the amount of \$156,960.00. Item 2:Guam Cleaning Masters for the amount of \$247,523.68. Item 3:Guam Cleaning Masters for the amount of \$427,304.78. Item 4:JJ Global for the amount of \$43,769.22.

REMARKS:

GIAA appreciates your participation in this process and looks 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.


CHARLES H. ADA II
 Executive Manager

cc: Admin/Proc

Acknowledge Receipt

Sign Here: _____
 Print Name: _____
 Date: _____

Attachment D



Guam's Largest Employer of People with Disabilities

May 23, 2013

Charles Ada, Executive Manager
Antonio B. Won Pat Guam International Airport Authority
355 Chalan Pasaheru, Route 10A, Tamuning, Guam 96931

RECEIVED
MAY 23 2013
1256 PM
APLAQUEO

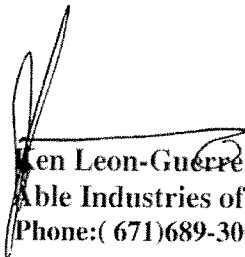
RE: Requesting Legal Justification for Non-Compliance with GCA 3110.1(d)

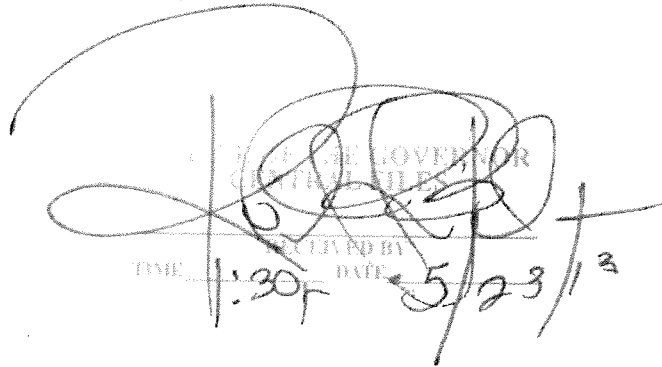
Mr. Ada,

We are a nonprofit organization and have ten years experience performing custodial services to federal standards at Andersen Air Force Base including the air terminal which proves we have the capability to perform the requested service under the two RFP's for custodial services recently released by GIAA. I am requesting in writing the legal basis under which GIAA has decided to exclude consideration of contracting the custodial services for the main terminal and the TSA offices with Able Industries of the Pacific in light of section D of GCA 3110.1(d):

(d) Policy Concerning Sheltered Workers or Persons with Disabilities. *If* any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities, or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity **shall** procure such supply or service from that nonprofit corporation or government entity *if* the supply or service is available within the period required by the procuring entity

Respectfully,


Ben Leon-Guerrero, CEO
Able Industries of the Pacific
Phone: (671)689-3000


GOVERNOR
OFFICE OF THE GOVERNOR
GUAM
RECEIVED BY
DATE 5/23/13
TIME 1:30 PM

CC: Ben Servino, Director DISID
Brian San Nicolas, Special Advisor, Governor of Guam
Thomas Tarpley

DIVISION OF VOCATIONAL REHABILITATION
Received by: DFAVO
Date: MAY 23 2013

Attachment E



MAY 28 2013
11:35 AM
[Handwritten signature]

May 23, 2013

Frank P. Taitano
Supply Management Director
Antonio B. Won Pat Guam International Airport Authority
335 Chalan Pasaheru, Tamuning, Guam

Re: Appeal of Contract Awards/Disqualification on GIAA IFB NO. GIAA-001-FY13

Mr. Taitano,

According to **GARR 12103 (a) The Public Auditor shall have the power to review and determine de novo any matter properly submitted to her or him.** Towards that section, Able Industries of the Pacific (AIP) is requesting the assistance of your office in appealing the award of the custodial services contract to multiple bidders in violation of **GCA 3110.1.**

Statement of Facts

On March 18, 2013, I personally met with Charles Ada, Executive Manager of the Guam International Airport Authority (GIAA) and informed me that AIP was requesting to be awarded the terminal contract for custodial services (GIAA IFB NO. GIAA-001-FY13) under GCA 3110.1 Procurement from Nonprofit Corporations. "A contract may be awarded for a supply or service without going through the competitive scaled bid procedure when the contractor is a non-profit corporation."

The intent is made clear and unambiguous in **GCA 5001(d)** (ATTACHMENT A) which reads as follows:

"Policy Concerning Sheltered Workers or Persons with Disabilities. *If any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities , or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that nonprofit corporation or government entity if the supply or service is available within the period required by the procuring entity."*

He informed me that he was going to have the legal counsel for GIAA review the document and related law before he could address our request.

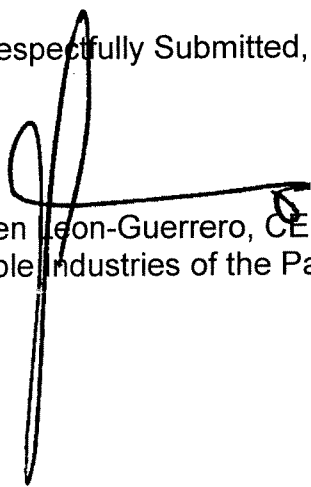
On March 29, 2013, AIP was informed by letter sent the day of; and received after the bid opening that GIAA was going to proceed with the bid process. (ATTACHMENT B)

While waiting for a response from GIAA, AIP submitted a bid for the custodial service contract, and was notified by fax (ATTACHMENT C) our company was disqualified from consideration for contract award due to lack of a bid bond in direct violation of GCA 3110.1 which states: **“Furthermore, the supply or service must be available within the period required by the procurement authority. Contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Sections 3310D(e) (:~) and 3109(c)(4).”**

On May 20th I met with executives from GIAA to discuss why AIP was not awarded the contract in light of GCA 3110.1 and was provided with no regulation or legal based response. On May 23rd, I submitted a written request that GIAA provide the legal justification for not awarding this contract. (ATTACHMENT D). In denying our bid, GIAA did not cite legal justification for not awarding this contract to Able Industries of the Pacific under the requirements of GCA 3110.1(d) and we believe this is a violation of the Government of Guam Procurement Laws.

i am requesting that your office put the award of the contract on hold until such time as the provisions of GCA 3110.1 have been clarified by appropriate reviewing legal authority.

Respectfully Submitted,



Ken Leon-Guerrero, CEO
Able Industries of the Pacific

CC: Thomas Tarpley
Mark Williams

Attachment F



June 03, 2013

Claudia Acfalle
Chief Procurement Officer
GSA Government of Guam
148 Marine Corps Drive
Piti, GU 96915

Ms. Acfalle,

RE: Requesting Clarification of Government Procurement Policy

Statement of Facts

On March 18, 2013, I personally met with Charles Ada, Executive Manager of the Guam International Airport Authority (GIAA) and hand delivered a letter (ATTACHMENT !) to inform him that AIP was requesting to be awarded the terminal contract for custodial services (GIAA IFB NO. GIAA-001-FY13) under GCA 3110.1 Procurement from Nonprofit Corporations which states that: **“A contract may be awarded for a supply or service without going through the competitive scaled bid procedure with the contractor is a non-profit corporation.”**

The intent is further made clear and unambiguous in **GCA 5001(d)** which reads as follows:

“Policy Concerning Sheltered Workers or Persons with Disabilities. *If any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities , or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that nonprofit corporation or government entity if the supply or service is available within the period required by the procuring entity.”*

He informed me that he was going to have the legal counsel for GIAA review the document and related law before he could address our request.

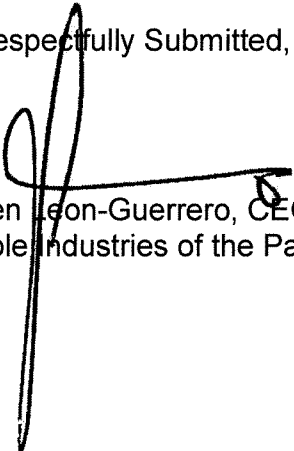
On March 29, 2013, AIP was informed by letter sent the day of; and received after the bid opening that GIAA was going to proceed with the bid process. (ATTACHMENT B)

While waiting for a response from GIAA, AIP submitted a bid for the custodial service contract, and was notified by fax (ATTACHMENT C) our company was disqualified from consideration for contract award due to lack of a bid bond in direct violation of GCA 3110.1 which states: **“Furthermore, the supply or service must be available within the period required by the procurement authority. Contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Sections 3310D(e) (:~) and 3109(c)(4).”**

On May 20th I met with executives from GIAA to discuss why AIP was not awarded the contract in light of GCA 3110.1 and was provided with no regulation or legal based response. On May 23rd, I submitted a written request that GIAA provide the legal justification for not awarding this contract. (ATTACHMENT D). In denying our bid, GIAA did not cite legal justification for not awarding this contract to Able Industries of the Pacific under the requirements of GCA 3110.1(d) and we believe this is a violation of the Government of Guam Procurement Laws.

I am requesting assistance from your office put award of the custodial contract on hold until such time as the provisions of GCA 3110.1 and GCA 5001 (d) have been clarified for applicability to this bid by appropriate reviewing legal authority.

Respectfully Submitted,



Ken Leon-Guerrero, CEO
Able Industries of the Pacific

CC: Thomas Tarpley
Mark Williams

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
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

June 4, 2013

Memorandum

Mr. Ken Leon Guerrero
Chief Executive Officer
Able Industries of the Pacific
Comnavmar/AAFB

Ken Leon Guerrero
ACKNOWLEDGEMENT COPY
RECEIVED BY _____
DATE 6/4/12
T: 689-3000 F: 646-4219

Re: Memorandum of June 2, 2013

Dear Mr. Leon Guerrero:

I am in receipt of your memorandum dated June 3, 2013, in which you requested a clarification of the government of Guam policy on procurement from companies employing disabled or sheltered individuals. This is not a new issue. Please see attached an opinion from the Attorney General's office written in 1987. The law has not changed since the opinion was written.

However, notwithstanding the opinion, the General Services Agency has enacted a two-prong opportunity for those companies that employ shelter or handicapped individuals that wish to compete for government contracts. The first, is if a government entity wishes to put out for bid a procurement in which a company who employs sheltered or handicapped individuals may be qualified to do the work, the agency will contact all of the companies that may be qualified to submit a bid. If the bid is within the certified amount, then the agency will offer the contract to them. If the bids do not come within the certified amount, then these bids will be rejected and those companies may compete in the regular bid.

However, please note that the Chief Procurement Officer, in this case, the General Manager of the Guam International Airport Authority, has been given delegation to make such a decision in his discretion.

Claudia S. Acfalle
CLAUDIA S. ACFALLE
Chief Procurement Officer

cc: General Manager, GIAA



GOVERNMENT OF GUAM
AGANA, GUAM 96910

March 30, 1987

Memorandum (Opinion)

Ref: GSA 87-0382

To: Chief Procurement Officer, General Services Agency

From: Attorney General *CYT*

Subject: Interpretation of P.L. 18-15:25

We are in receipt of your memorandum dated March 23, 1987 in which you requested the following:

REQUEST: Does Public Law 18-15:25 [§6959.7 of the Government Code] require that a contractor which is a nonprofit corporation employing sheltered or handicapped workers capable of providing the needed supply or services be awarded the contract without competitive bidding?

ANSWER: No.

STATEMENT OF FACTS:

Section 25 of Public Law 18-15 which is §6959.7 of the Government Code, provides that a contract may be awarded for supply or service without competition when the contractor is a nonprofit corporation employing sheltered or handicapped workers. General Services Agency is inquiring whether such contracts must be awarded to these contractors.

DISCUSSION:

Under P.L. 16-124, the Chief Procurement Officer is given certain discretionary powers. Section 6954.3 (c)(i) of the Government Code states:

(c) Duties. (1) Except as otherwise specifically provided in this Title, the Chief Procurement Officer shall, in accordance with regulations promulgated by the Policy Office:

(i) procure or supervise the procurement of all supplies and services needed by the Territory.

Chor

to Chief Procurement Officer, GSA
March 30, 1987
page 2

Section 6959.7 of the Government Code, enacted by P.L. 18-15:25, states:

§6959.7. Procurement from Non-Profit Corporations.
A contract may be awarded for a supply or service without competition when the contract is a nonprofit corporation employing sheltered or handicapped workers. As a condition of the award of the contract the contractor must certify that labor on the project will be performed by handicapped persons except that supervisory personnel do not have to be handicapped. A contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Chapter 5 of this Title. (Emphasis added)

The law is clear and unambiguous. The Chief Procurement Officer, in his discretion, may award such a contract for supply or service without competition if all of the criteria of this section are met. The law is permissive, not mandatory, clearly giving the Chief Procurement Officer the discretion to determine whether so awarding a particular contract is in the best interest of the territory, keeping in mind the obvious intent of the legislative to encourage government contracts that benefit sheltered or handicapped workers. Notwithstanding P.L. 18-8:8, the later enactment is controlling with respect to this particular type of contract.

This memorandum is issued as an opinion of the Attorney General. For a faster response to any inquiry about this memorandum, please use the reference number shown.

OFFICE OF THE ATTORNEY GENERAL

By: *Robert H. Kono*
ROBERT H. KONO.
Assistant Attorney General

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahenslan Setblison 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. Ken Leon Guerrero
Chief Executive Officer
Able Industries of the Pacific
Comnavmar/AAFB

Ken Leon Guerrero
ACKNOWLEDGEMENT COPY
RECEIVED BY _____
DATE 6/4/12
T: 689-3006 F: 646-4219

Re: Memorandum of June 2, 2013

Dear Mr. Leon Guerrero:

I am in receipt of your memorandum dated June 3, 2013, in which you requested a clarification of the government of Guam policy on procurement from companies employing disabled or sheltered individuals. This is not a new issue. Please see attached an opinion from the Attorney General's office written in 1987. The law has not changed since the opinion was written.

However, notwithstanding the opinion, the General Services Agency has enacted a two-prong opportunity for those companies that employ shelter or handicapped individuals that wish to compete for government contracts. The first, is if a government entity wishes to put out for bid a procurement in which a company who employs sheltered or handicapped individuals may be qualified to do the work, the agency will contact all of the companies that may be qualified to submit a bid. If the bid is within the certified amount, then the agency will offer the contract to them. If the bids do not come within the certified amount, then these bids will be rejected and those companies may compete in the regular bid.

However, please note that the Chief Procurement Officer, in this case, the General Manager of the Guam International Airport Authority, has been given delegation to make such a decision in his discretion.

Claudia S. Acfalle
CLAUDIA S. ACFALLE
Chief Procurement Officer

cc: General Manager, GLAA

TX REPORT

NAME : ABLE IND
TEL : 6716464219
DATE : 08/29/2010 15:16

JOB NO.	TYPE	NO.	DESTINATION TEL/ID	DATE	TIME	PAGE	TIME USE	MODE	RESULT
0906	TX	001	4751727	08/29	15:15	001	00'20	ECM	OK

ATTACHMENT G



P.O. Box 8770
Tamuning, GU 96931

Tel: (671) 646-0300
Fax: (671) 646-8823

www.guamairport.com

June 6, 2013

Mr. Ken Leon Guerrero.
Able Industries of the Pacific
R K Plaza, Suite 204
S. Marine Corps Dr.
Tamuning, Guam 96913

Hafa Adai Mr. Leon Guerrero:

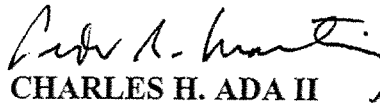
I am in receipt of two letters written by you on 23 May 2013; one addressed to Mr. Franklin Taitano of the A. B. Won Guam International Airport Authority, Guam (GIAA) and the other to myself. Because they both address the same matter, i.e. GIAA IFB 001 FY 13, I will respond to your concerns and inquiries in this letter.

In your letter to Mr. Taitano you ask that this agency assist you in "appealing the award of the custodial services contract to multiple bidders . . ." *See letter, 23 May 2013, AIP to Taitano.* In response we will simply direct you to the Guam Code Annotated, Guam Administrative Rules and Regulations and the Office of Public Accountability which may be contacted at telephone number (671) 475-0390. Certainly, if you believe the assistance of legal counsel is necessary, you should secure that.

In your letter to me, you ask for a legal basis for the GIAA declining to award the custodial services contract to Able Industries of the Pacific. Please be aware that the GIAA conducted this procurement of services consonant with the laws and regulations of Guam.

We understand that potential vendors put a great deal of effort into responses to solicitations and outcomes invariably lead to disappointment. We invite you though to compete for future awards of appropriate contracts and wish you the very best.

Si Yu'us Ma'ase


CHARLES H. ADA II
Executive Manager

