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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
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Attorneys for: Appellant

**BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY
HAGATNA, GUAM**

IN THE APPEAL OF K CLEANING)	OPA-PA-13-004
SERVICES,)	
)	
)	APPELLANT'S HEARING BRIEF
APPELLANT.)	
)	
)	
_____)	

Appellant K Cleaning Services ("Appellant") through counsel, Jeffrey A. Cook, Esq., submits its hearing brief pursuant to the Scheduling Order of May 21, 2013.

PRELIMINARY ISSUE

On June 13, 2013 Appellant filed its Motion to Strike Agency Reply to Appellants or in the Alternative Order Agency to Provide Complete Record to Appellant, Allow Appellant to File Supplemental Comments to the Agency's Reply, and Extend Time for Filing Trial Brief and Advising if it Wants Hearing. Obviously due to the short time Appellant has not received a decision on its Motion. Therefore, Appellant files this Hearing Brief subject to the opportunity to supplement it once the OPA rules on the above referenced Motion.

ISSUE PRESENTED

Agency refused to accept Appellant's bid at the date and time stated in the IFB. This was the result of Agency's ambiguous documentation in the IFB. Agency now claims bidders were instructed of the time and place to submit bids at the pre-bid conference. Agency, however, as noted in the above referenced motion, has not

provided a complete record of the procurement process, specifically the recording it is now relying on.

Appellant will present evidence that the pre-bid conference was so crowded and noisy that Appellant's representatives as well as other potential bidders did not hear any instruction about the time and place to submit bids would be different from the language in the IFB.

ANTICIPATED WITNESSES

1. Mr. Dubidato Conlu, Jr., owner of Appellant. He was present at the pre-bid conference and will testify that he did not hear any instruction given that the time and place for submitting the bids was anything other than the conference room as set out in the IFB.

2. Ms. Windy Gadia, supervisor of Appellant. She was present at the pre-bid conference and will testify that she heard no information regarding submitting the bid at the Office of the Executive Manager instead of at the conference room as stated in the IFB.

3. Mr. Ed David, company representative who submitted the bid on the date and time and place set forth in the IFB.

4. Dr. Gemma Conlu, operation manager of Appellant. She prepared the bid submittals.

5. Mr. Anthony Guerrero, a representative of AMI who also turned in its bid at the conference room on the date, time and place directed by the IFB.

6. Mr. Tony Rivera, owner of Guam Tropical Landscaping Incorporated who was present at the pre-bid conference and did not hear any instruction about turning in bids at the Office of the Executive Manager.

7. Ms. Veron Lopez, representative of JJ Global who was present at the pre-bid conference and did not hear any information that the bids were to be turned in at the Office of the Executive Manager.

PROPOSED EXHIBITS

All documents in the Agency Procurement Record maybe relied on by Appellant. As noted herein and in the Motion to Strike, Appellant continues to request that Agency be ordered to provide Appellant with a copy of the recording that it has relied on in its Reply to Appellant's Comments. As noted in the Motion, Agency is required by law to provide a copy of recordings as part of the record to Appellant in an appeal such as this.

Respectfully submitted this 14th day of June, 2013.

CUNLIFFE & COOK
A Professional Corporation
Attorneys for Appellant

By



JEFFREY A. COOK, ESQ.