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PROCUREMENT APPEALS

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

7 IN RE AN APPEAL FILED ) OPA-PA-12-015  
8 27 SEPTEMBER 2012 )  
9 OPA-PA-12-015 ) **AGENCY HEARING**  
10 ) **BRIEF**  
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13 **COMES NOW** the Guam Visitors Bureau (Agency), by and through counsel Fisher &  
14 Associates, and submits a Hearing Brief pursuant to the Office of Public Accountability's Order  
15 of 4 January 2013.  
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**ISSUES PRESENTED**

18 1. Whether Agency Guam Visitors Bureau Properly Corrected Appellant's Bid  
19 Appellant G-Crew's bid for the services required in section 7 of the bid schedule is  
20 patently and demonstrably unrealistic; it is a mistake. Under the procurement, miles of curbing,  
21 many intersections, many turning lanes and tens of bus stops and seating areas in the village  
22 of Tumon must be cleaned 6 days per week. G-Crew's bid of \$24.00 per day is not full  
23 compensation for this task and G-Crew admits as much. G-Crew made an arithmetical  
24 mistake and Rule 3109(m)(4)(C) of Guam's procurement rules and regulations allows the  
25 agency to correct the error. Having corrected the mistake, it is clear that G-Crew was not the  
lowest responsible and responsive bidder.

1 2. Whether Appellant G-Crew Maintenance was the Lowest Responsible and Responsive Bidder  
2 in this Procurement

3 G-Crew stands upon its bid and states it will undertake the sweeping and cleaning of all  
4 intersections, turning lanes, curbs, gutters, bus stops, and seating areas in Tumon for \$24.00  
5 per day. G-Crew admits that it is unrealistic and says “[a]s owner of G-Crew Maintenance I  
6 physically work on the job site along with my Project Manager who is my brother eliminates  
7 overhead for this scope of services as our cost is built into the yearly total cost of this bid.”  
8 *Appeal at 4.* In other words, because of cost shifting, no bid item price is true. Although the  
9 Agency asked for the true price of each listed service in the bid schedule, G-Crew did not  
10 provide this as to item 7.0, nor as to any other item. G-Crew is non-responsive and for this  
11 reason (and others) not the lowest responsive, responsible bidder.  
12

13 **ANTICIPATED WITNESSES**

- 14 1. Mr. Darren Gutierrez, G Crew Maintenance. Mr. Gutierrez will testify, inter alia, as to  
15 G-Crew’s intent in submitting its bid and concerning its potential performance under the  
16 procurement.
- 17 2. Ms. Doris Ada, Guam Visitors Bureau. Ms. Ada will testify, inter alia, as to the  
18 Agency’s actions in this procurement.
- 19 3. Mr. Gutierrez will testify, inter alia, as to G-Crew’s intent in submitting its bid and  
20 concerning its potential performance under the procurement.
- 21 4. Mr. Jeff Miller, TG Engineers, will testify, inter alia, as to the requirements of  
22 performance for the services procured.

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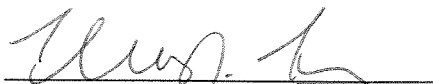
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**PROPOSED EXHIBITS**

All exhibits which may be used by Agency have been submitted in either the Agency Report, the Procurement Record, or are otherwise part of the record.

**FISHER & ASSOCIATES**



**Thomas J. Fisher, Esq.  
For Guam Visitors Bureau**