



RECEIVED  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

Appendix A: Notice of Appeal Form DATE: December 15, 2016  
PROCUREMENT APPEAL TIME: 8:15  AM  PM BY: AR

FILE NO OPA-PA: 16-015

**PART I- To be completed by OPA**

In the Appeal of )  
TRANS STEEL MANAGEMENT )  
(Name of Company), APPELLANT )  
JOHN M PEARSON )

**NOTICE OF APPEAL**

Docket No. OPA-PA \_\_\_\_\_

**PART II- Appellant Information**

Name: JOHN M PEARSON  
Mailing Address: P.O. BOX 11973  
TAMUNING GUAM 96931  
Business Address: SAME  
Email Address: transsteelguam@gmail.com  
Daytime Contact No: 687-5533  
Fax No.: N/A

**PART III- Appeal Information**

- A) Purchasing Agency: G.P.A
- B) Identification/Number of Procurement, Solicitation, or Contract: GPA-SS-003
- C) Decision being appealed was made on \_\_\_\_\_ (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:

41 Heavy Equipment  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 14 day of Dec, 2016

By: [Signature]  
**APPELLANT**

or

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



P.O.Box 11973 Tamuning, Guam USA •Tel: 1-671-687-5533 • E-mail: tsteelglobal@gmail.com

**PROCUREMENT APPEAL**

Date: Dec. 14, 2016

Dear Sirs,

Received your denial of procurement protest letter from your department dated, Dec. 1 2016 received Dec. 5<sup>th</sup> 2016. The your letter stated no explanations regards to my concerns, with this, we are now filing procurement appeal to seek for answers and hope to satisfy my concerns.

The Letter of concern has been submitted Oct. 28 2016 to your Internal Auditor for Requests of your assistance and your explanations regarding the several issues arose within the final GPA offered, Oct. 28 2016 (GPA-SS-003).

The letter, December 1 2016, section1, indicated that our company, Trans Steel Management bided below required minimum bid amount the reasons due to under the circumstance of GPA personal tampered with publicized list salvage equipment which has been already invited public to bid. The pictures evidence has been submitted to internal auditor attached with concern letter for your reference and have been explained to your procurement department when your officer, Ms. Jamie Pangelian requested reasons for our company bided under minimum amount. (See attached reference letter of concerned date Oct 28. 2016 )

Protest denial Letter date, Dec. 1 2016, Section 1, also stated that "GPA would consider other salvage bids, with minimum amount of \$10,000 and you were advised that GPA would open bids to the highest bidder". I was NOT advised other salvage bid with minimum amount of 10, 000.

After acknowledgement of rejected on 2<sup>nd</sup> bid. The meeting which I have with Ms. Jamie Pangelian together with Vince Barcinas gave me opportunity to counter offer since our company was a sole bidder for bid package 1 and 2 ( GPA-SS-003).

Prior to accepting the offer, I have request Ms. Jamie Pangelian for final site inspection with salvage equipment hence, lists equipment parts and others has been removed by transportation employee.

Following same date, at the Transport Station, I have observed two employee of GPA installing engine back to one of the Bucket Truck that was part of surplus bid. The pictures evidence has been submitted to your department for references also attached with this letter.

**Requesting for your clarifications on followings:**

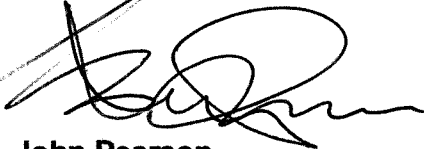
- 1. GPA's requested counter offer 10,000 was accepted by Trans steel Management on Oct 28, 2016 however, offer's been award to other company (4J heavy equipment)  
Is this a proper procurement procedure when the initial counter offer has been offer to Trans Steel Management?**
- 2. Tampering, removing parts, engine, doors, from salvage inventories which has been announced and invited public to inspect and bid.  
Is this practice acceptable after site visited has been conducted by potential bidders?**
- 3. Denial letter section 2, GPA has determined that 4J Heavy Equipment should be awarded the salvage bid.  
As I have understood by procurement officer, she clearly indicated that Oct 28 was the accepting and opening of offer not a bid.**

**Without accepting counteroffer from our company, award been notify to highest offer submitted by other company (4j Heavy Equipment)**

**The procedures implemented by GPA procurement, Oct 28 2016 please do clarify whether opening of offer or bid. If this was bid, procedure requires to notify to public and interested potential bidder has to purchase bid package from GPA as I have understood.**

**Hoping for GPA to provide us with understandable explanations toward to issues. Again, we appreciate it very much for giving us opportunity to engage in business with GPA.**

**Sincerely,**



**John Pearson  
General Manager**

**CC:**

**O.P.A**



*P.O.Box 11973 Tamuning, Guam USA • Tel: 1-671-687-5533 • E-mail: tsteelglobal@gmail.com*

**Reference Attachments :**

1. Denial Letter from GPA
2. Letter of Concerns
3. Pictures Reference
4. Letter of Acceptance – Offer from GPA
5. Abstracts



# GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN  
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Tel: (671) 648-3225; Fax: 648-3290

## *DENIAL OF PROCUREMENT PROTEST*

December 1, 2016

Mr. John Pearson  
Trans Steel Management

RE: Guam Power Authority's Response to Trans Steel Management's Protest dated October 28, 2016 for GPA-SS-003-16, Salvage Bid

Dear Mr. Pearson:

I have reviewed your protest letter dated October 28, 2016, protesting GPA's disqualification of your bids in GPA-SS-003-16. Your Protest is hereby denied for the following reasons:

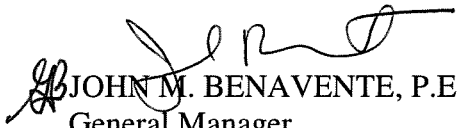
1. You indicated in your letter that GPA notified you and you acknowledge in your letter that "first bid and second bid [y]our company was disqualify due to not meeting required minimum amount." You were aware that the minimum bid was \$30,000, but your bid submitted on September 6, 2016 was for \$5,000. This bid was properly rejected by GPA. Again, the bid was advertised with a minimum bid of \$15,000, but your bid submitted on October 6, 2016 was for \$4,300. This bid was again properly rejected by GPA. You were advised that GPA would consider other salvage bids, with a minimum amount of \$10,000, and you were also advised that GPA would open bids to the highest bidder. You submitted a bid of \$10,000 in response, and another vendor, 4J Heavy Equipment, submitted a bid of \$15,100. Since you had previously been disqualified and your bid was rejected by GPA, as you have agreed that it didn't meet the

minimum bid requirements, GPA allowed both you and other vendors to submit an offer for the salvage items. Two bids were received, and GPA accepted the highest bid for salvage from 4J Heavy Equipment. A responsive bidder is a person who has submitted a bid which conforms in all material respects to the Invitation for Bids. 5 GCA §5201(g) and 2 GAR, Div. 4, Chap. 3, §3109(n)(2).

2. GPA has determined that 4J Heavy Equipment should be awarded the salvage bid, as they offered the highest price for the GPA salvage bid. Therefore, GPA hereby finds that the two Trans Steel Management bids were properly rejected due to failure to meet the minimum bid requirement.

Trans Steel Management is hereby ON NOTICE that this is the Guam Power Authority's final decision concerning Trans Steel Management's October 28, 2016 protest for the above described IFB. You are hereby advised that Trans Steel Management has the right to seek judicial review.

Sincerely,

  
JOHN M. BENAVENTE, P.E.  
General Manager



# GUAM POWER AUTHORITY

ATURIDAT ILEKTRESIDAT GUAHAN  
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Tel: (671) 648-3225; Fax: 648-3290

## DENIAL OF PROCUREMENT PROTEST

December 1, 2016

*VENDOR,  
ACKNOWLEDGE  
DATE: 12/5/2016  
PRINT  
J. GARCIA*

Mr. John Pearson  
Trans Steel Management

RE: Guam Power Authority's Response to Trans Steel Management's Protest dated October 28, 2016 for GPA-SS-003-16, Salvage Bid

Dear Mr. Pearson:

I have reviewed your protest letter dated October 28, 2016, protesting GPA's disqualification of your bids in GPA-SS-003-16. Your Protest is hereby denied for the following reasons:

1. You indicated in your letter that GPA notified you and you acknowledge in your letter that "first bid and second bid [y]our company was disqualify due to not meeting required minimum amount." You were aware that the minimum bid was \$30,000, but your bid submitted on September 6, 2016 was for \$5,000. This bid was properly rejected by GPA. Again, the bid was advertised with a minimum bid of \$15,000, but your bid submitted on October 6, 2016 was for \$4,300. This bid was again properly rejected by GPA. You were advised that GPA would consider other salvage bids, with a minimum amount of \$10,000, and you were also advised that GPA would open bids to the highest bidder. You submitted a bid of \$10,000 in response, and another vendor, 4J Heavy Equipment, submitted a bid of \$15,100. Since you had previously been disqualified and your bid was rejected by GPA, as you have agreed that it didn't meet the



minimum bid requirements, GPA allowed both you and other vendors to submit an offer for the salvage items. Two bids were received, and GPA accepted the highest bid for salvage from 4J Heavy Equipment. A responsive bidder is a person who has submitted a bid which conforms in all material respects to the Invitation for Bids. 5 GCA §5201(g) and 2 GAR, Div. 4, Chap. 3, §3109(n)(2).

2. GPA has determined that 4J Heavy Equipment should be awarded the salvage bid, as they offered the highest price for the GPA salvage bid. Therefore, GPA hereby finds that the two Trans Steel Management bids were properly rejected due to failure to meet the minimum bid requirement.

Trans Steel Management is hereby ON NOTICE that this is the Guam Power Authority's final decision concerning Trans Steel Management's October 28, 2016 protest for the above described IFB. You are hereby advised that Trans Steel Management has the right to seek judicial review.

Sincerely,

  
JOHN M. BENAVENTE, P.E.  
General Manager

Guam Power Authority

Oct 28, 2016

Internal Auditor

ATTN: Ms. Maripaz N Perez

mnperez@gpagwa.com

Dear Ms. Perez,

As per your request, concerning our discussion held on Oct 28 2016 I 'm sending you attached files for your reference.

Picture Reference A : Pictures indication of two of GPA employees are re installing engine on one of listed bid equipment. Photos was taken 21<sup>th</sup> Oct 2016.

Picture Reference A-1 : Original Engine been taken out from white bucket truck( listed in bid package)

Pictures Reference B: Pictures was taken Aug 15 2016 while inspection on equipment after I have purchased bid package from GPA assessments were require for our referencing minimum bid amount of 30,000.00 .

Pictures Reference B-1: Pictures was taken on Sept 06 2016 8am. Bid opening date which was sept 06 10am. Noticed that Pictured Bucket truck's door was taken down. Altering the items after inviting public for inspection GPA employee were able to replace door parts before bid opening date.

As per only sole bidder for this particular surplus salvage bid no. GPA –SS-003-16. First bid and Second bid our company was disqualify due to not meeting required minimum amount.

After experiencing what GPA employees were capable of altering,/ tempering with bid listed equipment i wasn't able to assess value of bid lists equipment to benefit our company. Not knowing how many parts were replace nor taken away for GPA needs.

After receiving disqualify noticed from GPA. I was informed by Supervisor, Ms. Jamie Pangelinan that in meeting at her office 20<sup>th</sup> Oct 2016 together with Mr. Vince Barcinas from procurement, GPA would like to receive offer from our company regarding un- award bid package and also indicated that GPA would like to receive offer amount of \$10,000.00. from our company and it need to submit the offer by before 10am Friday which was Oct 28 2016.

Requested by our company (trans Steel management ) the arranged by Ms. Jamie Pangelinan, final meeting was held at Tammuning Transfer Station, Oct 24, 7am. Together with several GPA employees from Transfer Station and from Procurement, In the meeting Ms. Jamie Pangelinan has inform me that again, GPA would like to received offer amount of 10,000.00. In this Regards, I was assumed that our company needs to meet 10,000.00 to received award for above mentioned bid package.

The Thursday Oct 20<sup>th</sup> 2016, in the meeting I have learned that there was another company submitted offered to GPA for same bid package.

Question in my thoughts: HOW OTHER COMPANY WAS ABLE TO RECEIVED INFORMATIONS ABOUT THE GPA OFFER AND ELIGIBLE TO SUBMIT OFFER FOR SAME BID PACKAGES? WITH SAME MINIMUM AMNOUNT REQUIRTEED FOR SECOND BID.

With all respects, I have felt that I have been misled by GPA employee.

Counter offer should have been submitted, ONLY by our company since, we were the only sole bidder for first and second bids.

With leading information from GPA employee, our company was able to counter offer satisfying amount to GPA. Oct 28 2016.

If the counter offer amount wasn't satisfy by GPA then GPA –SS-003-16 bid should been cancel and re-open bid for the public.

In this regards, I would like to request GPA for full satisfying explanations and solutions regarding all matters within.

With hoping to resolve this matters soonest within your capabilities.

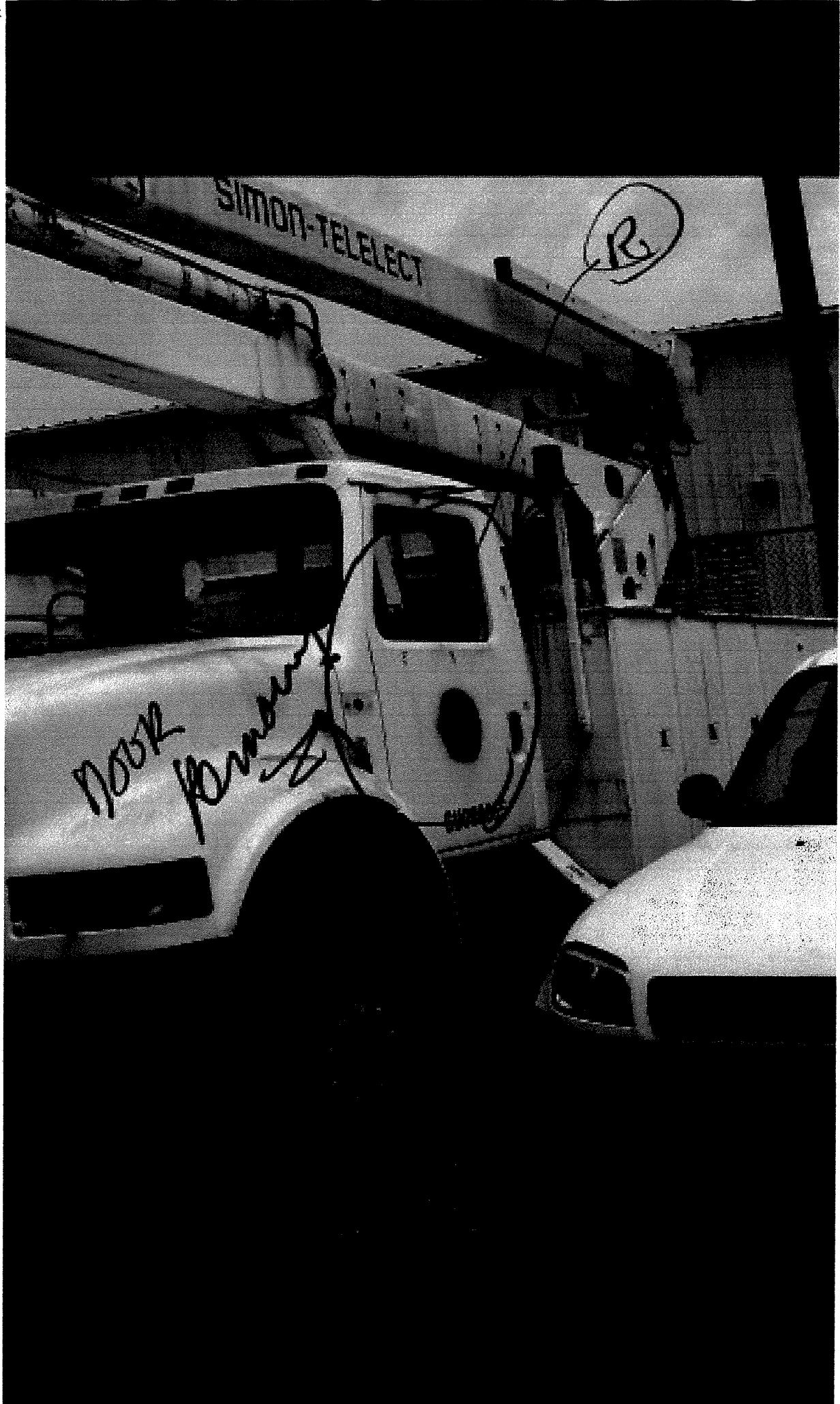
Thank you again for giving us opportunity

Respectfully,

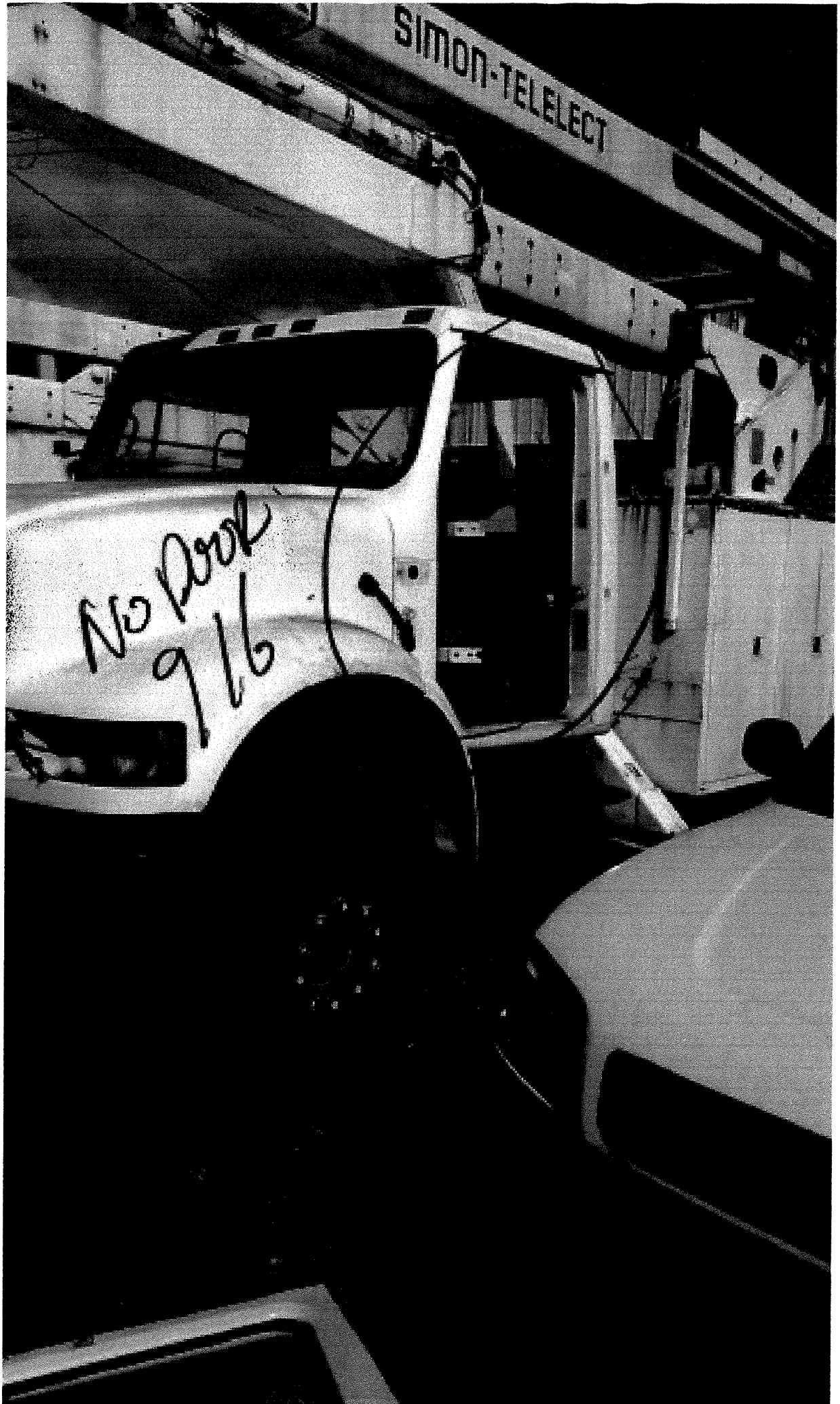
A handwritten signature in black ink, appearing to read 'John Pearson', written over a horizontal line.

John Pearson

Trans Steel Management

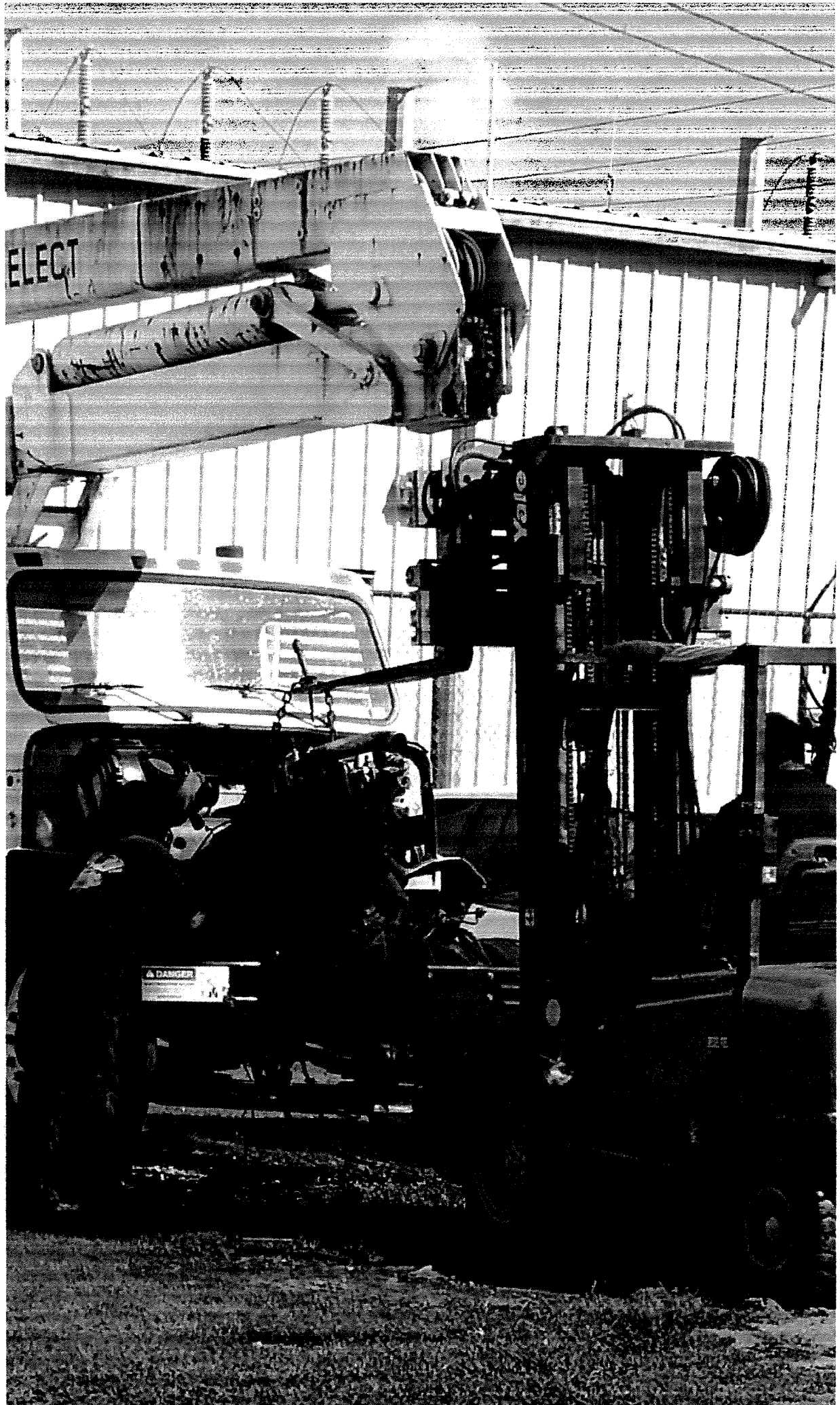


ATL 1000000 #1



Attachment #2











Guam Power Authority

Date: Oct. 28 2016

P.O. Box 2977 Agana Guam 96932

Attn: Procurement Division

Subject: Letter of offer to purchase.

Trans Steel Management, hereby offer to purchase surplus equipment and scrap metals from Guam Power Authority. (Item described reference: ~~US~~ GPA Surplus Salvage Bid No. GPA-SS-003-16)

Trans Steel Management wish to offer amount of \$10,000.00 to GPA for purchase of inspected, operative or inoperative equipment, equipment parts, scrap metals situated in G.P.A. Transfer station in Tammuning Guam.

Respectfully,



John M. Pearson

Trans Steel Management