

DATE: 12/30/14

TIME: 10:38  AM  PM BY: C. Roque

STATEMENT ANSWERING ALLEGATIONS OF APPEAL FILE NO. GPA-14-015

(As required by 2 G.A.R. §12105(g))

I. RELEVANT BACKGROUND

A. GPA SOLICITS BIDS FOR SALVAGE BID GPA-SS-003-16

On August 11, 2016, Guam Power Authority (“GPA”) issued Invitation for Bid, GPA-SS-003-16 for Salvage. Procurement Record, Tab “1A”. One company, Trans Steel Management, submitted a bid in response to the IFB. The minimum bid listed in the IFB was \$30,000, and on September 6, 2016, Trans Steel Management, submitted a bid in the amount of \$5,000, Tab “1A”. This bid was properly rejected by GPA. GPA again advertised the bid with a lower minimum bid of \$15,000 on September 20, 2016, Tab “3”. Trans Steel submitted a bid on October 6, 2016, in the amount of \$4,300, which was again properly rejected by GPA, “Tab 6”.

GPA notified appellant that it would again seek bidders for the salvage bid, having already attempted unsuccessfully two times to find a qualified bidder. Trans Steel was notified on October 17, 2016, that its bid was rejected due to failure to meet the minimum bid, “Tab 12”. GPA determined that other salvage bids would be considered with a minimum bid of \$10,000, with the highest bidder awarded the salvage bid. Two bids were received by GPA, one from Trans Steel Management in the amount of \$10,000, and one from 4J Heavy Equipment in the amount of \$15,100, Tab “15, 16, 17”. GPA properly accepted the highest salvage bid from 4J Heavy Equipment in the amount of \$15,100.

On October 28, 2016, GPA provided the bidders with a Notice of Intent of Possible Award for the salvage bid to 4J Heavy Equipment. (Tab 18). On or about October 28, 2016,

Trans Steel Management sent a protest letter to GPA. In the letter, Trans Steel Management admitted that it did not meet the minimum bid required by GPA. GPA denied the protest on December 1, 2016, Procurement Record, Tab “22”. Trans Steel Management filed a protest with the Office of Public Auditor on December 15, 2016. Tab “25”.

## II. DISCUSSION

### A. THE 4J HEAVY EQUIPMENT BID WAS RESPONSIVE, AND THE AWARD FOR SALVAGE WAS PROPERLY AWARDED TO 4J HEAVY EQUIPMENT.

Procurement law requires that GPA award to the lowest responsible and **responsive** bidders. A responsive bidder is a person who has submitted a bid which conforms in all material respects to the Invitation for Bid. 5 GCA §5201(g) and 2 GAR, Div. 4, Chap. 3, §3109(n)(2). Further, any bidder’s offering which does not meet the acceptability requirements shall be rejected as non-responsive. 2 GAR, Div. 4, Chap. 3, §3109(n)(3)(c).

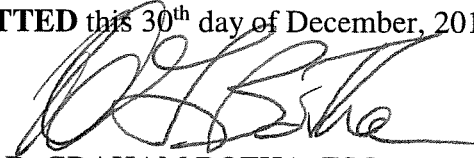
Trans Steel Management contends that GPA improperly awarded the salvage bid to 4J Heavy Equipment, as Trans Steel Management states that it was the only bidder on 2 separate bids, and therefore only it should have been allowed to make an offer for a third time. Trans Steel did submit a bid on two separate occasions, but in each instance their bid was properly rejected by GPA, as its bid was non-responsive as Trans Steel acknowledges in its letter that it did not meet the minimum bid required by GPA. The bid clearly listed a minimum bid requirement for the two salvage bids. Trans Steel admits it did not comply with that requirement set forth in the salvage bid.

GPA properly made an award to 4J Heavy Equipment as the highest salvage bid received, as it deemed 4J Heavy Equipment the **responsive** and responsible bidder for salvage as specified in the IFB.

CONCLUSION

GPA requests that the appeal of Trans Steel Management be dismissed, and that the Public Auditor award all legal and equitable remedies that GPA may be entitled to as a result.

**RESPECTFULLY SUBMITTED** this 30<sup>th</sup> day of December, 2016, by:

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

D. GRAHAM BOTHA, ESQ.  
GPA General Counsel