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DATE: 04.24.17  
TIME: 4:10  AM  PM BY: [Signature]  
FILE NO OPA-PA: 17-003

**BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEAL**

IN THE APPEAL OF )  
 )  
 )  
Phil-Gets (Guam) International Trading Corp. )  
dba J&B Modern Tech, )  
 )  
Appellant. )  
\_\_\_\_\_ )

**APPEAL NO. OPA-PA-17-003**

**DECLARATION OF  
FRANCISCO (KIKO) E. PALACIOS**

I, **Francisco (Kiko) E. Palacios**, hereby declare as follows:

1. I make this Declaration under penalty of perjury of the laws of the Guam based upon my personal knowledge and belief.
2. I am over the age of eighteen, under no civil disability, and am competent to testify to matters stated herein.
3. I am employed by Guam Community College ("GCC") since 2014, and my current position is Sustainability and Project Coordinator.
4. Along with the two other members of GCC's team ("Team") — Doris Perez and Wayne Pritchard — and feedback from GCC's retained architect, I prepared the "General Requirements and Scopes of Work" ("Scope of Work") for the Invitation for Bid Solicitation, No. GCC-FB-17-001 ("IFB").
5. Because one item solicited for in the IFB is a design-build structure to house the other item — the generator — the Team prepared the Scope of Work with the intention

for the bidders to submit drawings of the structure that they proposed to design and build to properly maintain their proposed generator.

6. To convey GCC's intention for the bidders to submit drawings of their proposed design-build structures, we drafted the Scope of Work with the following language in Section 1.2A: "Provide GCC with shop drawings and submittals for the construction of design-build generator building to enclose the generator set/system."

7. GCC desired to see drawings of the bidders' proposed design-build structure for several reasons, such as:

- a. to ensure that the proposed design-build structure
  - i. is constructed of materials capable of properly housing a generator — e.g., concrete or steel;
  - ii. is large enough to house the generator;
  - iii. provides for adequate ventilation of the generator;
  - iv. allows for adequate access to perform maintenance on the generator;
  - v. completely encloses the generator;
  - vi. adequately fits between Building A, the Anthony A. Leon Guerrero Allied Health Center Building and the parking lot nearby;
  - vii. does not obstruct the elevator for Building A;
  - viii. integrates with the current architecture of the campus;
  - ix. does not impair the overall safety of the campus community;
- b. to visualize the footprint of the proposed structure;
- c. to ascertain the reasonableness of the price for the proposed structure; and
- d. to view the structure in which GCC will be making a significant investment.

8. GCC also considered this IFB's shop drawings requirement for design-build structure to be a material component of the bidders' submissions because of significant difficulties endured during completion of the generator project for Building D approximately six years ago — which required retrofitting that generator to accommodate its housing structure.

9. The Team understood that obtaining the necessary certifications for a final design could be expensive for the bidders. Therefore, we drafted Section 1.2.A of the Scope of Work with the intention that after award of the contract, the prevailing bidder would finalize its design with the necessary certifications and submit finalized drawings for GCC's acceptance and approval — i.e., perform subsections 1 through 4 of Section 1.2.A.

10. When the Team conducted its evaluation of the bid packets, we placed the submissions in alphabetical order by the bidders' names and began with Phil-Gets (Guam) International Trading Corp. dba J&B Modern Tech's ("J&B") bid packet.

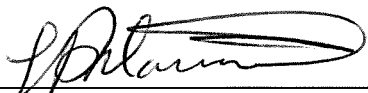
11. The Team examined J&B's bid packet for nearly three hours, but was unable to locate any drawings of its proposed design-build structure. Therefore, we decided to see if the other two bidders' packets provided drawings of their proposed design-build structures. Because the other bid packets also did not contain drawings of the proposed structure, we ceased our evaluation of the bidders' submissions.

12. As no bidder submitted drawings of its proposed design-build structure, the Team determined that all the bidders had not responded to a material requirement of the IFB and recommended that all the bid packets should be rejected for this reason.

13. If J&B had submitted the "attached sketch" denoted in its bid packet, the Team might have determined that that sketch satisfied the IFB's requirement to submit shop drawings of the proposed design-build structure.

I declare under penalty of perjury of the laws of Guam that the foregoing is true and correct.

Dated this 21 day of April 2017.

  
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**FRANCISCO (KIKO) E. PALACIOS**