



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

DATE: Nov 26, 2018

TIME: 11:25 AM PM BY: FDJ

FILE NO OPA-PA: ~~18-004~~^{FDJ} 18-007

PART I- To be completed by OPA

In the Appeal of)
)
Micronesia Renewable Energy, Inc)
(Name of Company), APPELLANT)
)
_____)

NOTICE OF APPEAL

Docket No. OPA-PA ~~18-004~~^{FDJ} 18-007

PART II- Appellant Information

Name: Micronesia Renewable Energy, Inc.
Mailing Address: P.O. Box 7810
Tamuning, GU 96931
Business Address: 167B E.T. Calvo Memorial Parkway
Tamuning, GU 96913
Email Address: jvoacolo@micronesiarenewableenergy.com
Daytime Contact No: o: 632-2613 c: 487-3763
Fax No.: 647-8035

PART III- Appeal Information

- A) Purchasing Agency: Department of Public Works
- B) Identification/Number of Procurement, Solicitation, or Contract: Project No. 200-5-1041-F-Tam
- C) Decision being appealed was made on 11/14/18 (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:

PACIFIC SOLAR & PRODUCTIONS

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 26 day of NOV 2018.

By: [Signature]
APPELLANT
Jeffrey Votado COO MRE

or

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



**Appendix B: Declaration Form
PROCUREMENT APPEAL**

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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: Nov 26, 2018

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In the Appeal of)
)
)
)
(Name of Company), APPELLANT)
)
MICRONESIA RENEWABLE
ENERGY, INC.

Docket No. OPA-PA ~~18-007~~^{FDJ} 18-007

DECLARATION RE COURT ACTION
(To be signed by the Government Purchasing Agency.)

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 ___ day of _____, 20__.

By: _____
DECLARANT

Print Declarant's Name



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Appendix C: Notice of Hearing Form DATE: Nov 26, 2018
PROCUREMENT APPEAL TIME: 11:25 AM PM BY: FDJ

FILE NO OPA-PA: ~~18-004~~ ^{FDJ} 18-007

In the Appeal of)
)
)
(Name of Company), APPELLANT)
)
MICRONESIA RENEWABLE
ENERGY, INC.

NOTICE OF HEARING
Docket No.: OPA-PA 18-007

You are hereby notified that a hearing will be held before the Public Auditor or the Hearings Officer for Procurement Appeals at the Office of Public Accountability on _____, day of _____, 20____, at the hour of _____, relative to the above-referenced Procurement Appeal. You may be present at the hearing; may be, but need not be, represented by counsel; may present any relevant evidence; and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Hearings Officer for Procurement Appeals, Office of Public Accountability.

Please acknowledge receipt of this Notice and return to the Office of Public Accountability immediately.

Acknowledged receipt:

Receiver's Signature

Print Name

Date



Appendix D: Hearing Request/Waiver Form
PROCUREMENT APPEAL

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PROCUREMENT APPEALS

DATE: Nov 26, 2018

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FILE NO OPA-PA: ~~18-004~~ ^{FDJ} 18-007

In the Appeal of)
)
)
)
)
)
(Name of Company), APPELLANT)
)
MICRONESIA RENEWABLE)
ENERGY, INC.)

HEARING
REQUEST/WAIVER

Docket No. OPA-PA ~~18-004~~ ^{FDJ} 18-007

Please select one:

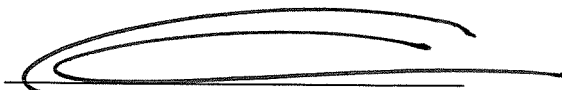
Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

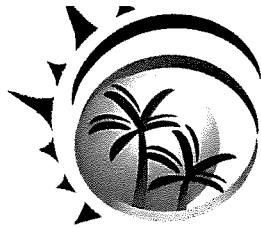
Submitted this 26 day of Nov, 2018.

By: (Please select one)

- APPELLANT
- Chief Procurement Officer
- Director of Public Works
- Head of Purchasing Agency


Signature

DERREY VOACOLO ^{COO}
Print Name WRE



MICRONESIA
RENEWABLE ENERGY INC.

Public Works Department
542 North Marine Corps Drive
Tamuning, Guam 96913
Attn: Mr. Glenn Leon Guerrero

Dear Mr. Guerrero,

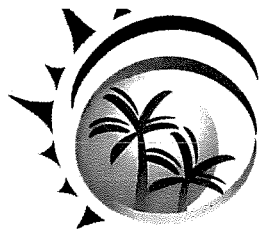
Please accept this letter as an official notice to protest the award of Project No: 200-5-1041-F-TAM. Our firm is protesting this award under the following conditions.

- 1.) Award to an unqualified, non-responsive bidder under the following conditions:
 - a.) On the morning of the bid opening, our business development assistant Ms. Dorothy Shultice was there for the bid opening, she observed the following and this is her statement: "When I walked into the room, I saw John Calanayan and a tall guy with dark hair from Pacific Solar shuffling through papers. When John saw me, he turned around and came back with a sign in sheet for us to fill in. He then had us place our bids into a wooden box with a slot. Pacific Solar's was clipped together, whereas MRE's was in a vanilla sealed envelope, as I thought was required. When John opened the box, he commented that he would open mine first. He stepped back several feet to a desk where another gentleman was writing the amounts he was reading to him. Then he did the same for Pacific Solar's unsealed bid.". This is clearly not allowable under the Guam Procurement regulations. As stated in the Invitation for Bid and the Instructions to Bidders, receipt and Opening of Bids, Sealed bids in duplicate enclosed in a sealed envelope were to be submitted, this was clearly a violation of Guam Procurement Law.
 - b.) Pacific Solar and Photovoltaic was clearly lower in price than Micronesia Renewable Energy, Inc. but what is the Government of Guam getting for this capital outlay. MRE clearly stated the sizing of the system that we would provide for the price submitted, after numerous attempts to get this question answered we have not been able to. I believe this is a major disservice to the community of

Mailing Address: PO Box 7810, Tamuning Guam 96931

Physical Address: 167B E.T. Calvo Memorial Pkwy Tamuning, Guam 96913

Ph (671) 632-2613 Fax (671)647-8035
www.micronesiarenewableenergy.com



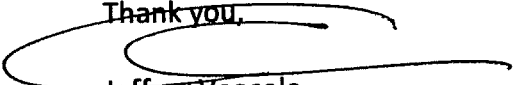
MICRONESIA

RENEWABLE ENERGY INC.

Guam, it would be like placing a bid out for an automobile and taking the lowest bid without knowing what kind of car you are getting.

I am available to discuss this at your convenience, but I believe this project was awarded to a bidder that was non-responsive and this needs to be investigated.

Thank you,


Jeffrey Voacolo
Chief Operations Officer
Micronesia Renewable Energy, Inc.

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Physical Address: 167B E.T. Calvo Memorial Pkwy Tamuning, Guam 96913

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The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor



GLENN LEON GUERRERO
Director
ANDREW LEON GUERRERO
Deputy Director

Draft – 10-01-2018

Jeffrey Voacolo
Chief Operations Officer
Micronesia Renewable Energy, Inc.
167B E.T. Calvo Memorial Tkwy
Tamuning, Guam 96913

Re: Notice of Protest – Project No. 200-5-1041-F-Tam

Mr. Voacolo:

This serves to respond to Micronesia Renewable Energy, Inc.’s (“MRE”) protest in the above matter as set forth in your letter of September 19, 2018. MRE’s protest does not specifically state how the alleged violations are to be rectified but instead states that it is available to discuss the procurement. For the reasons stated herein the Department of Public Works (“DPW”) Contracting Officer has determined that Protestor’s written protest is without merit and is therefore denied.

MRE’s first claim is that Pacific Solar & Photovoltaics, Inc. (“PSP”) bid was “clipped together” in violation of the Guam Procurement regulations and the IFB’s Instructions to Bidders. This claim is not factually correct. Similar to MRE, PSP’s bid was submitted, in duplicate, in a vanilla sealed envelope. Enclosed is a copy of DPW’s receipted copy of PSP’s sealed bid. It appears your staff members reference to the “shuffling of papers” related to DPW’s tabulation and sign in sheet.

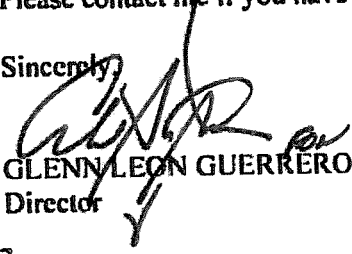
MRE also claims that PSP’s bid was “clearly lower in price than Micronesia Renewable Energy, Inc. but what is the Government of Guam getting for this capital outlay.” It isn’t clear, based on this and other related comments in MRE’s protest, what the grounds are for MRE’s second protest. While DPW appreciates that MRE believes its product to be superior to PSP, the department is obligated by law to award the contract to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the IFB. *See*, 5 GCA § 5211(g). DPW Capital Improvement Project’s Bid Evaluation and Tabulation sheets, copies of which are enclosed herewith, both document that PSP met the IFB’s terms and conditions. As such, DPW correctly awarded the contract to PSP being the lowest responsible bidder who met the requirements and criteria of the IFB.

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This is a final decision of the Contracting Office concerning MRE's September 19, 2018 protest of the above referenced IFB. You are hereby advised that MRE has the right to seek any administrative or judicial review authorized by law. If MRE appeals to the Office of Public Accountability ("OPA") such must be filed within fifteen (15) days of this notice of final decision. See, 5 GCA M 5425(e).

Please contact me if you have any questions.

Sincerely,


GLENN LEON GUERRERO 11/14/18
Director
JC