

CAMACHO CALVO LAW GROUP LLC

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Attorney for Appellant
BASIL FOOD INDUSTRIAL SERVICES CORPORATION

RECEIVED

OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 2.13.19
TIME: 4:05 AM PM BY: [Signature]
FILE NO OPA-PA: 19-002

BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of

BASIL FOOD INDUSTRIAL SERVICES
CORPORATION,

Appellant.

Docket No. OPA-PA- 19-002

NOTICE OF PROCUREMENT APPEAL

Basil Food Industrial Services Corporation (“Basil”) bring this appeal of a procurement controversy against the General Services Agency of the Department of Administration.

APPELLANT INFORMATION

Name: Basil Food Industrial Services Corporation, herein referred to as “Basil.”
Mailing Address: 530 West O’Brien Drive, Hagåtña, Guam 96910. For the purposes of this Appeal, please direct filings and correspondence to Basil’s legal counsel: Camacho Calvo Law Group LLC, Attn: Geri Diaz, Esq., 134 W. Soledad Ave. Ste. 401, Hagåtña, Guam 96910.
Business Address: 530 West O’Brien Drive, Hagåtña, Guam 96910
Email Address: gdiaz@camachocalvo.law
Contact No.: 671.472.6813
Fax No.: 671.477.4375

APPEAL INFORMATION

- A) PURCHASING AGENCY:** General Services Agency
- B) IDENTIFICATION OF CONTRACT:** Purchase Order Number P196800232
- C) DECISION DATE:** The Decision being appealed was made on January 29, 2019 by the Chief Procurement Officer Claudia S. Acfalle.
- D) APPEAL ORIGIN:** This Appeal is made from the Decision denying Basil's protest of the contract awarded for food services provided to the inmates and detainees at the Department of Corrections ("DOC") and the Hagåtña Facility based on the failure to issue an IFB or to meet the mandated requirements for Emergency Procurement for the period of January 2019.
- E) NAMES OF COMPETING BIDDERS, OFFERORS, OR CONTRACTORS KNOWN TO APPELLANT:**
California Mart / S.H. Enterprises

STATEMENT SUPPORTING THE APPEAL

Under Guam Procurement Law, the Office of Public Accountability has jurisdiction over appeals from decisions rendered by the Chief Procurement Officer on protests of method of source selection, solicitation or award of a contract. 5 G.C.A. § 5425(e). At issue is General Services Agency's ("GSA") issuance of a procurement award for food services for the inmates and detainees at the DOC facilities in Mangilao and Hagåtña for the period of January 2019 as it failed to meet the threshold requirements for an emergency procurement pursuant to 5 G.C.A. § 5215.

By way of background, GSA has solicited and secured food services for the inmates and detainees at DOC through the emergency procurement process since June 2016. Accordingly, every three (3) months, GSA would seek the Governor's declaration of an emergency by Executive Order, and then it would carry out the requirements indicated in 5 G.C.A. § 5215 before awarding the emergency procurement contract to the bidder with the best offer.

On September 28, 2018, then Acting Governor of Guam, Raymond Tenorio approved GSA's Request for Emergency Procurement for food services at the DOC effective for ninety (90) days commencing on October 1, 2018. **Exhibit A.** Accordingly, the emergency period was set to expire at the end of December 2018.

On December 29, 2018, Basil issued a letter to GSA requesting status of the Request for Bid for food services for DOC (**Exhibit B**), and in response, GSA advised on January 3, 2019 that it was currently awaiting approval from the DOC and the Office of Attorney General before it could proceed with a bid (**Exhibit C**).

Basil issued a Freedom of Information Act (FOIA) request to GSA on January 8, 2019 for the following:

Any and all notices, documents, correspondence and communications issued by or received by GSA concerning or relating to the provision of food services for the inmates and detainees at the Department of Corrections and the Hagåtña Facility for the period of January 2019. **Exhibit D.**

Two days later, on January 11, 2019, Basil received an email correspondence from Roberta Castro, Management Analyst II of GSA, regarding the status of the FOIA request. **Exhibit E.** Attached to the email was correspondence from Claudia Acfalle dated January 10, 2019 advising that a total of 114 pages of documents were available in response to the FOIA request. **Exhibit F.** Basil obtained the FOIA documents that afternoon on January 11, 2019.

Surprisingly, the FOIA documents did not contain any information that was remotely related to the procurement of food services for DOC for the period of January 2019. Specifically, there were no documents evidencing the Governor's declaration of an emergency for January 2019, no requests for quotations issued by GSA to prospective bidders, no quotations submitted by any bidders, and no purchase order for food services for January 2019. This lack of information

prompted Basil to issue a second FOIA request on January 23, 2019 for the same documents, but it reworded its solicitation as follows:

The full, complete and entire procurement file for food and nutrition services for the inmates and detainees at the Department of Corrections and the Hagåtña Facility for the period of January 2019, including but not limited to price quotations, executive branch approvals, contracts, purchase orders, minutes of agency meetings, and communications with prospective vendors. Also requested are all notices, documents, correspondence and communications issued by or received by GSA concerning or relating to the provision of food services to the inmates and detainees at the Department of Corrections and the Hagåtña Facility for the period of January 2019. **Exhibit G.**

Thereafter, within the time prescribed by 5 G.C.A. § 5245(a), Basil filed its timely protest of the procurement of food services to the DOC on January 25, 2019. **Exhibit H.**

On January 29, 2019, Basil received an array of documents from GSA, signed by Robert Kono, GSA's legal counsel.

In the first set of documents, GSA provided Basil with the declaration signed by former Governor Eddie Calvo on December 21, 2018 declaring an emergency for procurement services starting on January 1, 2019 and lasting for a period of up to ninety (90) days. **Exhibit I.**

In the second set, GSA provided the December 26, 2018 Purchase Order for the cost for food services for the DOC (Purchase Order No. P196800232) for January 2019. **Exhibit J.**

The third set of documents contained GSA's denial of Basil's protest. **Exhibit K¹.**

GSA files this appeal within fifteen (15) days of GSA's January 29, 2019 decision denying its protest. In support of this appeal, Basil proffers that it submitted a timely protest of the procurement award to the Chief Procurement Officer on January 25, 2019. Basil further argues

¹ In GSA's January 29, 2019 denial letter, it refers to Basil's December 28, 2018 request in the second to the last paragraph. This may be a typographical error as the correspondence is actually dated December 29, 2018 and it is attached as **Exhibit B.** The other document referred to in that paragraph is GSA's response dated January 3, 2019, which is attached as **Exhibit C.**

that GSA failed to abide by the requirements of an emergency procurement as stated in 5 G.C.A. § 5215.

LEGAL ARGUMENT

1. Basil's Protest to GSA was Timely.

Basil filed a timely protest to the procurement of food services for the DOC for the period of January 2019. The Guam Procurement Law provides,

- (a) Right to Protest. Any actual or prospective bidder, offeror, or contractor who may be aggrieved in connection with the method of source selection, solicitation, or award of a contract, may protest to the chief Procurement Officer, the Director of Public Works or the head of a purchasing agency. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should know of the facts giving rise thereto.

5 G.C.A. § 5245(a).

In interpreting this code section, the courts have held that an aggrieved party must have knowledge of some action made by the purchasing agency that could form the basis of a protest in order for the fourteen-day clock to begin. Guam Imaging Consultants, Inc. v. Guam Memorial Hosp. Auth., 2004 Guam 15 ¶ 33. It is this knowledge that triggers the time in which to file a protest. Moreover, while an actual bidder may be aware of possible facts that could form the basis of a protest, the time for filing a protest does not begin until the bidder has sufficient knowledge that it has been aggrieved. Id. ¶ 36.

In Guam Imaging, RADS and Guam Imaging Consultants, Inc. (GIC) filed a protest two days after receiving a Guam Memorial Hospital Authority (GMH) memorandum stating that GMH was finalizing an exclusive contract with another bidding entity. Id. ¶¶6-7. GMH argued that RADS and GIC knew of the facts supporting their protest long before it was formally filed. Id., ¶36. The Supreme Court of Guam, however, agreed with RADS and GIC's position that even if they were aware that GMH might have negotiated an exclusive contract, they did not have

knowledge of the specific circumstances surrounding the negotiations or contract until GMH issued its memorandum. Id. The Court held that RADS and GIC's protest was timely because they based their protest on the specific circumstances of the negotiations and contract that they discovered only after GMH issued its memorandum. Id.

In GSA's denial of the protest, it argues that since the contracts were continuing, Basil should have filed its protest within fourteen (14) days after either January 3, 2019 or January 8, 2019. Specifically, GSA refers to Basil's January 8, 2019 FOIA request to support its allegation that Basil was aware that the government was continuing to provide food services to the DOC. However, GSA's argument does not carry any weight as the mere knowledge that food services were continuing is not the triggering factor for a protest. Every inmate has the right to humane facilities and conditions, including the right to be fed, so it was reasonable to believe that food services were being provided. This general assumption of the continuation of food services does not equate to the specific knowledge of facts that would form the basis for Basil's right to protest.

Further, in support of the argument that Basil did not have specific knowledge that it had been aggrieved on January 8, 2019, it is especially important to consider the fact that five days earlier, on January 3, 2019, GSA informed Basil that it was still awaiting approval from DOC and the Office of Attorney General before it could proceed with a bid. Accordingly, Basil was still in the dark regarding any of the steps, or lack thereof, taken by GSA to procure food services for January 2019.

The law is clear that the time to file a protest begins when the aggrieved bidder knows or should know of facts that form the basis to protest. The turning point in this case occurred when Basil received GSA's response to its January 8, 2019 FOIA request. The documents provided did not include the Governor's declaration of an emergency for January 2019, requests for quotations

issued by GSA to prospective bidders, quotations submitted by any bidders, or a purchase order for food services for January 2019. Upon realization that GSA failed to issue a bid or meet the requirements of an emergency procurement, Basil now had sufficient facts to file a protest.

Based on the foregoing, January 11, 2019 is the date upon which Basil's right to protest was solidified. Since it filed its protest on January 25, 2019, which is within 14 days of its right to do so, the protest is timely.

2. GSA failed to issue an Invitation for Bid or satisfy the requirements for an Emergency Procurement.

Basil's protest of the current procurement is based on numerous violations² of the Guam Procurement Code.

First, GSA did not issue an Invitation for Bid ("IFB") as required by 5 G.C.A. § 5211(b) or fulfill the requirements of an Emergency Procurement as required by 5 G.C.A. § 5215 for food services for the DOC in January 2019.

Second, GSA did not meet a basic requirement of 5 G.C.A. § 5215 which was to give notice to those vendors on the qualified bidders list of the existence of an emergency procurement for January 2019.

Third, as a result of its failure to notify the vendors, GSA did not solicit at least three (3) informal price quotations for food services, which is also in contravention of 5 G.C.A. § 5215.

Fourth, a significant effect of GSA's failure to notify the vendors and solicit price quotations was that it was prevented from awarding the procurement contract to the vendor with the best offer, which is also a requirement of 5 G.C.A. § 5215.

² In its January 25, 2019 protest, Basil argued that GSA failed to secure an Executive Order from the Governor of Guam declaring an emergency pursuant to 5 G.C.A. § 5215. It was not until Basil took the extra step of issuing a second FOIA request (**Exhibit G**) that it was provided with the Executive Order signed by former Governor Eddie Calvo on December 21, 2018 declaring an emergency for procurement services starting on January 1, 2019 (**Exhibit I**) and the Purchase Order dated December 26, 2018 for the cost for food services for the DOC (Purchase Order No. P196800232) for January 2019 (**Exhibit J**).

Most notably, the emergency procurement procedure to secure food services for the DOC is not a new concept to GSA as it has been engaged in this process for over two and a half years, beginning in June 2016. The fact that it was awaiting approval from the DOC and the Office of Attorney General before it could proceed with a bid does not excuse it from continuing to meet the requirements of 5 G.C.A. § 5215. This code section mandates that emergency procurements be made with such competition as is practical under the circumstances. GSA's intentional and deliberate act of forgoing the competitive process and casually extending the procurement award to the current vendor is in clear violation of Guam law.

Further, from a policy standpoint, Guam's Procurement Laws were enacted not only to simplify, clarify and modernize the procurement process, but also to provide increased public confidence in the process, to ensure the fair and equitable treatment of all persons involved in this process, to foster effective competition, and most importantly, to provide safeguards to maintain the quality and integrity of the procurement system. 5 G.C.A. § 5001. GSA's failure to abide by the requirements of 5 G.C.A. § 5215 was done in utter and complete disregard of these underlying policies such that it seriously calls into question GSA's reliability, authenticity, good faith and integrity in carrying out procedures laid out in Guam's Procurement Laws.

REQUESTED RELIEF

Basil requests a finding by the Office of Public Accountability that GSA failed to meet the requirements identified in Guam's Procurement Laws for an emergency procurement. Further, Basil requests the cancellation of the award for food services that were provided to the inmates and detainees at the DOC (Purchase Order No. P196800232) in January 2019. Assuming that the procurement award extends into February and March 2019, Basil also request that those contracts

be cancelled. Basil further requests an award of reasonable attorney's fees and costs incurred in raising this appeal.

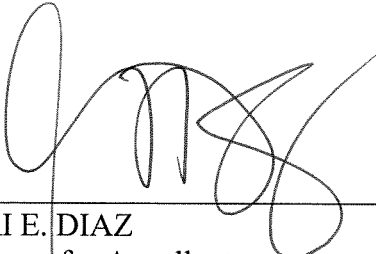
DECLARATION REGARDING COURT ACTION

Pursuant to 5 G.C.A. 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 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.

DATED: Hagåtña, GU, February 13, 2019.

CAMACHO CALVO LAW GROUP LLC




GERI E. DIAZ
Attorney for Appellant
BASIL FOOD INDUSTRIAL SERVICES
CORPORATION

VERIFICATION

I, Michael Zhou, am the President of BASIL FOOD INDUSTRIAL SERVICES CORPORATION and I am authorized to make this verification. I have read the foregoing **NOTICE OF PROCUREMENT APPEAL** and, to the best of my knowledge, the information stated therein is true and correct.

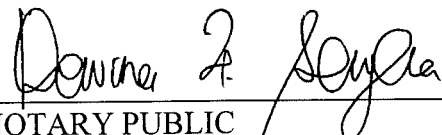
I declare under penalty of perjury that the foregoing is true and correct. This verification was executed on this 13 day of February 2019.



MICHAEL ZHOU

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for Guam U.S.A., by MICHAEL ZHOU, this 13th day of February 2019.





NOTARY PUBLIC

DAVINA A. SAYAMA
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: **AUG 29, 2022**
149 Sobrino St., Mangilao, GU 96913

EXHIBIT A

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY
(Ahensian Setbision Hinirat)
Government of Guam

148 Rt. 1 Marine Corps Dr. Piti Guam 96915
Ph: 475-1707/ 1720 Fax:475-1727/472-4217
Email: gsaprocurement@gsadon.guam.gov

Ray Tenorio
Lt. Governor

Edward M. Birn
Director, DOA

Vincent P. Arriola
Deputy Director, DOA

REVISED
9/28/18

September 20, 2018

MEMORANDUM

To: Governor of Guam
From: Chief Procurement Officer
General Services Agency
Subject: Request for Emergency Procurement

Please find attached a memorandum from the Director of the Department of Corrections requesting for an emergency procurement to provide food services for the inmates and detainees at the Department of Corrections and the Hagatna Facility. As the Department is required to provide basic food services to the inmates and detainees under its jurisdiction, a failure to do would cause a violation of their civil rights and may lead the government back into another federal receivership.

The Department of Corrections has submitted a request for a new bid, which is still being reviewed by the Office of the Attorney General before public notice and action. This emergency will be effectuated October 1st, 2018 for a period up to ninety (90) days, in thirty (30) day period. The procurement of these services through an Emergency Procurement under 5 G.C.A. § 5215 is necessary in order to avert a threat to the health, welfare and safety of the inmates/detainees.

Based upon the facts provided by the Department, I, CLAUDIA S. ACFALLE, Chief Procurement Officer for the General Services Agency do certify under penalty of perjury, that a certificate of emergency is not being used solely for the purpose of avoidance of the provisions of Title 5, Guam Code Annotated, Chapter 5, the Guam Procurement law.

CLAUDIA S. ACFALLE
Chief Procurement Officer

APPROVED

SEP 28 2018
RAYMOND S. TENORIO
Acting Governor of Guam

ACKNOWLEDGEMENT COPY

RECEIVED BY
DATE 9/28/2018 3:05 p.m.

COMMITTED TO EXCELLENCE

CFD-0918-4808

EXHIBIT B

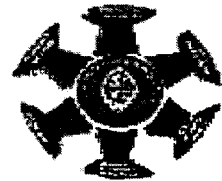
EXHIBIT C



Eddie Baza Calvo
 Governor
 Ray Tenorio
 Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
 (DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
 (Ahensian Setbision Hinirat)

148 Route 1 Marine Corp Drive, Piti Guam 96915
 TEL: (671) 475-1707/475-1720 * FAX: (671) 475-1727/472-4217




Edward M. Birn
 Director
 Vincent P. Arriola
 Deputy Director

January 3, 2019

Memorandum

Mr. Michael Zhou
 President, Basil Food Service
 530 West O'Brien Drive
 Hagatna, Guam 96910

We are in receipt of your memorandum dated December 29, 2018, in which you inquired about the bid for the food services for the Department of Corrections. We are currently awaiting for approval from the Department of Corrections with the Office of the Attorney General before we are about to proceed with a bid. We hope that the review will be done soon.


 CLAUDIA S. ACFALLE
 Chief Procurement Officer

Concepcion 2. Boyja
1/2/19

EXHIBIT D



CAMACHO
CALVO
LAW GROUP LLC

January 8, 2019

VIA HAND DELIVERY

General Services Agency
Department of Administration
148 Route 1 Marine Corps Drive
Piti, Guam 96915

Attn: Claudia Acfalle, Chief Procurement Officer

Re: Freedom of Information Act (FOIA) Request

Dear Ms. Acfalle:

Pursuant to the Freedom of Information Act, I request to inspect and copy without limitation the following documents:

Any and all notices, documents, correspondence and communications issued by or received by GSA concerning or relating to the provision of food services for the inmates and detainees at the Department of Corrections and the Hagatna Facility for the period of January 2019.

Please let me know if you have any questions about this request or need any clarification. Per 5 G.C.A. §10103, these public records should be made available within four (4) working days from receipt of this request. Your cooperation is most appreciated.

Sincerely,

CAMACHO CALVO LAW GROUP LLC


Geri E. Diaz

GED/abm
066987-00002 98799

ACKNOWLEDGEMENT COPY

RECEIVE BY 

DATE 1/8/19 10:57 am

BASIL_000008

EXHIBIT E

Ger E. Diaz

From: Roberta Castro <Roberta.Castro@gsadoa.guam.gov>
Sent: Friday, January 11, 2019 9:24 AM
To: Geri E. Diaz
Subject: FOIA - Response Letter re: Food Services for DOC & Hagatna Inmates and Detainees for January 2019
Attachments: 01.08.2019 - FOIA RESPONSE LETTER EMAIL - Camacho Calvo re Food Services for DOA & Hagatna .pdf

Follow Up Flag: Follow up
Flag Status: Completed

Hafa Adai Ms. Diaz,

Please see the attachment with this email responding to your FOIA regarding Food Services for the Department of Correction and Hagatna Inmates and Detainees for January 2019.

Un Dangkolo na Si Yu'os Ma'ase,

***R. Joyce Castro
Management Analyst II
Department of Administration/GSA
Phone#: (671)475-1708/475-1707/475-1720
Fax#: (671)472-4217/475-1727
Roberta.castro@doa.guam.gov***

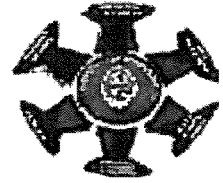
EXHIBIT F



Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
(*Ahensian Setbision Hinirat*)

148 Route 1 Marine Corp Drive, Piti Guam 96915
TEL: (671) 475-1707/475-1700 * FAX: (671) 475-1727/472-4217



Edward M. Birn
Director
Edith C. Pangelinan
Deputy Director

January 10, 2019

Ms. Geri Diaz
Camacho Calvo Law Group LLC
134 W. Soledad Ave. Suite 401
Hagatna, GU 96910
gdiaz@camachocalvo.law

Subject: Freedom of Information Act – Food Services for Department of Correction and Hagatna Inmates and Detainees for the period of January 2019.

Hafa Adai, We are in receipt of your FOIA request letter dated January 8, 2019, regarding Food Services for Department of Correction and Hagatna Inmates and Detainees for the period of January 2019.

Pursuant to the Guam Code Annotated Title 5 Government of Guam Operations and Source: GC § 6009 renumbered from § 54159 by P.L. 11-219. Original Dept. of Administration Act was enacted by P.L. 9-239. §20110, Schedule of Fees of Copies. Charges of Copying Government Documents, you will need to pay one dollar (\$1.00) per page. Thus, if the page is back to back with information a \$1.00 charge for the front page and an additional \$1.00 for the back page.

Your request consists of 114 pages totaling a total of \$114.00. Please bring exact change of \$114.00 in cash when picking up the documents.

CLAUDIA S. ACFALLE
Chief Procurement Officer

EXHIBIT G



CAMACHO
CALVO
LAW GROUP LLC

January 23, 2019

VIA HAND DELIVERY

General Services Agency
Department of Administration
148 Route 1 Marine Corps Drive
Piti, Guam 96915

ACKNOWLEDGEMENT COPY
RECEIVED BY Jana
DATE 1/23/19

Attn: Claudia Acfalle, Chief Procurement Officer

Re: Freedom of Information Act (FOIA) Request

Dear Ms. Acfalle:

On January 8, 2019, I submitted a request for any all notices, documents, correspondence and communications issued by or received by GSA concerning or relating to the provision of food services for the inmates and detainees a the Department of Corrections and the Hagatna Facility for the period of January 2019.

I received 114 pages in response to my FOIA request on January 11, 2019. However, they *did not* contain any documentation whatsoever relating to the food services provided to the Department of Corrections and the Hagatna Facility for the period of January 2019.

Accordingly, I renew my request for this information pursuant to 5 GCA §10103. I now request to inspect and copy, without limitation, the following documents:

The full, complete and entire procurement file for food and nutrition services for the inmates and detainees at the Department of Corrections and the Hagatna Facility for the period of January 2019, including but not limited to price quotations, executive branch approvals, contracts, purchase orders, minutes of agency meetings, and communications with prospective vendors. Also requested are all notices, documents, correspondence and communications issued by or received by GSA concerning or relating to the provision of food services to the inmates and detainees at the Department of Corrections and the Hagatna Facility for the period of January 2019.

//

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Claudia Acfalle, Chief Procurement Officer
January 23, 2019
Page 2

Please let me know if you have any questions about this request or need any clarification. Per 5 G.C.A. §10103, these public records should be made available within four (4) working days from receipt of this request. Your cooperation is most appreciated.

Sincerely,

CAMACHO CALVO LAW GROUP LLC

A handwritten signature in black ink, appearing to read "Geri E. Diaz", written over a vertical line.

Geri E. Diaz

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066987-00002 99528

BASIL_000015

EXHIBIT H



CAMACHO
CALVO
LAW GROUP LLC

ACKNOWLEDGEMENT COPY
RECEIVED BY
DATE 1/25/19 3:55pm

January 25, 2019

VIA HAND DELIVERY

General Services Agency
Department of Administration
148 Route 1 Marine Corps Drive
Piti, Guam 96915

Attn: Claudia Acfalle, Chief Procurement Officer

Re: PROTEST of Procurement of food services to the Department of Corrections

Dear Ms. Acfalle:

Basil Food Industrial Services (“Basil”) protests the current procurement award for food services provided to the inmates and detainees at the Department of Corrections (“DOC”) and the Hagatna Facility.

On January 8, 2019, Basil issued a FOIA request to General Services Agency (“GSA”) requesting the following:

“Any and all notices, documents, correspondence and communications issued by or received by GSA concerning or relating to the provision of food services for the inmates and detainees at the Department of Corrections and Hagatna Facility for the period of January 2019.”

In response, GSA provided 114 pages of documents on January 10, 2019. The packet contained an amendment to Purchase Order No. P196E00001 dated October 1, 2018 and Revised Requests for Quotation dated September 25, 2018 to Basil and California Mart. It also included documents provided by both Basil and California Mart, such as a resume from each vendor’s program manager, sanitary permits, business licenses, financial information, etc. Noticeably lacking from the packet was an IFB or Emergency Procurement for the period of January 2019. There were also no records of notices to vendors on the qualified bidders list, price quotations obtained from at least three vendors, a procurement award or an Executive Order declaring an emergency.

Accordingly, Basil protests the current procurement on the following grounds:

First, GSA did not issue an Invitation for Bid (“IFB”) as required by 5 GCA § 5211(b) or an Emergency Procurement as required by 5 GCA § 5215 for the food services provided to the

Claudia Acfalle, Chief Procurement Officer
January 25, 2019
Page 2

inmates and detainees at the Department of Corrections and the Hagatna Facility for the period of January 2019.

Second, there is no evidence that GSA solicited at least three (3) informal price quotations for food services in contravention of 5 GCA § 5215. The Requests for Quotation from both Basil and California Mart that were included in the packet are clearly for food services that were provided in October 2018, not January 2019.

Third, contrary to its protocol when procuring emergency contracts for food services for the DOC and Hagatna Facility in 2018, GSA did not give notice to those vendors on the qualified bidders list of the existence of an emergency procurement for January 2019. This is also in violation of 5 GCA § 5215.

Fourth, there is no evidence that GSA awarded the procurement contract to the vendor with the best offer, which is a requirement of 5 GCA § 5215. In fact, the FOIA records received from GSA do not provide any indication as to the identity of the vendor who is currently providing food services to the inmates and detainees at the DOC and Hagatna Facility.

Fifth, emergency procurements must be based on an Executive Order declaring an emergency. 5 GCA § 5215. Absent from the FOIA packet received from GSA are any documents to or from the Governor of Guam declaring an emergency or authorizing an emergency procurement for January 2019.

For all these reasons, Basil asks that this protest be granted, that the current procurement and award for January 2019 be cancelled, and for any other relief available under Guam law.

Sincerely,

CAMACHO CALVO LAW GROUP LLC



Geri E. Diaz

GED/abm
066987-00002 99773

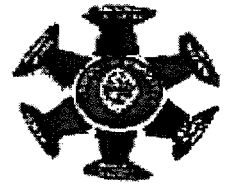
BASIL_000018

EXHIBIT I



Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
(*Ahensian Setbision Hinirat*)
148 Route 1 Marine Corp Drive, Piti Guam 96915
TEL: (671) 475-1707/475-1700 * FAX: (671) 475-1727/472-4217



Edward M. Birn
Director
Edith C. Pangelinan
Deputy Director


January 29, 2019

Memorandum

Ms. Geri Diaz
c/o Camacho, Calvo Law Offices
134 W. Soledad Ave.
Suite 401
Hagatna, Guam 96910

Re: Request for Documents

I note that you request for the Executive Emergency Order for DOC food for the inmates and detainees for the month of January, 2019. In reviewing our files, I noted that it was not included as I had originally thought. I apologize for my error and am submitting these documents to you now.


CLAUDIA S. ACFALLE
Chief Procurement Officer

RECEIVED
CAMACHO CALVO LAW GROUP LLC
Date: 01.29.19 Time: 9:39am
 Hand Delivery Mail
BASIL_000020

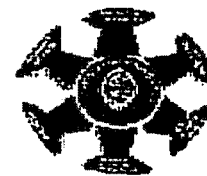
COMMITTED TO EXCELLENCE



Eddie Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
(Ahensian Setbision Hinirat)

148 Route 1 Marine Corp Drive, Piti Guam 96915
TEL: (671) 475-1707/475-1720 * FAX: (671) 475-1727/472-4217



Edward M. Birn
Director
Vincent P. Arriola
Deputy Director

December 20, 2018

Memorandum

To: Governor of Guam
From: Chief Procurement Officer
General Services Agency
Subject: Request for Emergency Procurement

Please find attached a memorandum from the Director of the Department of Corrections requesting for an emergency procurement to provide food services for the inmates and detainees at the Department of Corrections and the Hagatna Facility. As the Department is required to provide basic food services to the inmates and detainees under its jurisdiction, a failure to do would cause a violation of their civil rights and may lead the government back into another federal receivership.

The current emergency expires on December 31, 2018, and they have submitted a request for a new bid, which is still be reviewed by the Office of the Attorney General before public notice and action. This emergency will be for a period up to ninety (90) days, in thirty (30) day period. The procurement of these services through an Emergency Procurement under 5 G.C.A. §5215 is necessary in order to avert a threat to the health, welfare and safety of our seniors who rely on this meal at either the designated congregate sites or at their home.

Based upon the facts provided by the Department, I, CLAUDIA S. ACFALLE, Chief Procurement Officer for the General Services Agency do certify under penalty of perjury, that a certificate of emergency is not being used solely for the purpose of avoidance of the provisions of Title 5, Guam Code Annotated, Chapter 5, the Guam Procurement law..

CLAUDIA S. ACFALLE
Chief Procurement Officer

APPROVED

EDDIE BAZA CALVO, Date
Governor of Guam

OFF 1218-5975

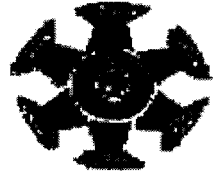
BASIL_000021



Eddie Baza Calvo
Governor
Ray Tenorio
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
(*Ahensian Setbision Hinirat*)

148 Route 1 Marine Corp Drive, Piti Guam 96915
TEL: (671) 475-1707/475-1700 * FAX: (671) 475-1727/472-4217



Edward M. Birm
Director
Vincent P. Arriola
Deputy Director

December 20, 2018

MEMORANDUM

To: Acting Speaker, Therese M. Terlaje
I Mina'trentai Kuáttaro Na Liheslaturan Guåhån
Guam Congress Building
163 Chalan Santo Papa,
Hågåtña, Guahan, 96910

Vice Speaker Therese M. Terlaje

From: Claudia S. Acfalle, Chief Procurement Officer
General Services Agency (*Ahensian Setbision Hinirat*)
148 Route 1 Marine Corp Drive, Piti Guam 96915

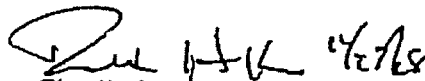
DEC 26 2018
Time: 9:20
Received by: U. Manibwa

Subject: Emergency Procurement for the Department of Correction
Meal Services for Inmates and Detainees

Buenas yan Hafa Adai, Pursuant to the 5GCA §5215: Emergency Procurement, attach is a copy of the Certificate of Emergency dated December 21, 2018. Enabling the Government of Guam Provide Food (Meal) Services for the inmates and detainees under its jurisdiction located at the Department of Corrections Mangilao Facility and the Hågåtña Facility. A failure to do so, would Cause a violation of their civil rights and may lead the government back into another federal receivership.

The Department of Correction has submitted a request for a new bid, which is still being reviewed by the Office of Attorney General before public notice and action. This emergency will be effectuated January 01, 2018 for a period up to 90 days, on a 30 day period. The procurement of these services through an Emergency Procurement under 5 G.C.A. § 5215 is necessary in order to avert a threat to the health, welfare and safety of the inmates and detainees.

If you should have any questions, please do not hesitate to contact me at 475-1728 or 472-1707.


Claudia S. Acfalle
Chief Procurement Officer

ACKNOWLEDGEMENT COPY

RECEIVE BY _____

DATE _____

BASIL_000022

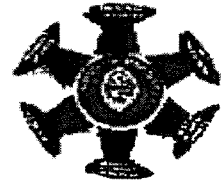
EXHIBIT J



Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
(*Ahensian Setbision Hinirat*)

148 Route 1 Marine Corp Drive, Piti Guam 96915
TEL: (671) 475-1707/475-1700 * FAX: (671) 475-1727/472-4217



Edward M. Birn
Director
Edith C. Pangelinan
Deputy Director

January 25, 2019

Memorandum


Ms. Geri Diaz
c/o Camacho, Calvo Law Offices
134 W. Soledad Ave.
Suite 401
Hagatna, Guam 96910

Re: Memorandum Dated January 23, 2019

Dear Ms. Diaz:

We are in receipt of your memorandum dated January 23, 2019, in which you stated that we failed to address your previous Freedom of Information request dated January 11, 2019, our review of our submittal to you was complete, but for the purchase order issue for the month of January. Please find enclosed that purchase order and amendment.

Due to our oversight, no charge will be made for this documentation.


CLAUDIA S. ACFALLE
Chief Procurement Officer

COMMITTED TO EXCELLENCE

RECEIVED
CAMACHO CALVO LAW GROUP LLC
Date: 01.29.19 9:39am
BASIL-000024
 Hand Delivery Mail

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY
(Ahensian Setbision Hinirat)

Government of Guam
148 Rt. 1 Marine Corps Dr. Piti Guam 96915
Ph: 475-1707/1720 Fax: 475-1727/472-4217
Email: gsaprocurement@gsadoa.guam.gov

Ray Tenorio
Lt. Governor

Edward M. Birn
Director

Vincent P. Arriola
Deputy Director

1/03/2019
ISSUE DATE

VENDOR: CALIFORNIA MART
S.H. ENTERPRISES, INC.
P.O. BOX 9730
TAMUNING, GU 96931

Amendment No.: 2019000001

VENDOR NO.: S0097959 PHONE: 671 649-0521 FAX: 671 649-2957
EMAIL:

SUBJECT: Purchase Order No. P196E00232 Dated 12/26/2018 Document No. Q191300035

In reference to the above subject matter, please take the following action(s) upon receipt of this Pro Forma letter. (X) marked in the box opposite the action, is/are the actions to be taken:

- () Cancel in its entirety
- () The substitute item(s) is/are acceptable, proceed with the shipment
- () Cancel the balance and consider the order complete
- () Please ship VIA: A.P.P., Ocean Freight, P.P., Book Post
- (X) Others: (as stated below)

AMEND TO INCLUDE VERBIAGE OF SNACK UNDER ARTILCES OF SERVICES TO NOW READ:
DIETARY SNACK : \$0.50.

** ALL OTHERS REMAIN UNCHANGED **


** NOTE: AMENDMENT CHANGES P/O VALUE. **
Your immediate action in this matter is requested.

Sincerely yours,


Claudia S. Acfalle
Chief Procurement Officer

DOA 273

Please fax or email back to GSA
ACKNOWLEDGMENT COPY
(PLEASE PRINT)

Received by: 

Date: 1-23-19

Vendor Name: S.H. Enterprises, Inc.

Fax: 671-472-4217
Email: gsaprocurement@gsadoa.guam.gov

COMMITTED TO EXCELLENCE

COMMITTED TO EXCELLENCE



PURCHASE ORDER
 GENERAL SERVICES AGENCY
 DEPARTMENT OF ADMINISTRATION
 GOVERNMENT OF GUAM

148 Route 1
 Marine Drive
 P.H.I., Guam 96926

TRAN CODE

THIS PURCHASE ORDER NUMBER

No. P196E00232

MUST APPEAR ON ALL INVOICES
 PACKING SLIPS, PACKAGES, B/L,
 CORRESPONDENCE ETC.

F.O.B.

* AIR FREIGHT TEL CONTACT SHIP VIA:

DATE

12/26/2018

JOB ORDER NO.

130019002230

OBJCT

230

FREEPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE

TO:

CALIFORNIA MART
 S.H. ENTERPRISES, INC.
 P.O. BOX 9730
 TAMUNING, GU 96931
 Telephone: 671 649-0521 Fax: 671 649-2957
 Email:

VENDOR

50097959

CONSIGNEE, DESTINATION & MARKING

DEPARTMENT OF CORRECTION
 A111 MARINER AVENUE
 P.O. BOX 3236
 HAGATNA,, GU 96932-0000

DOC FOOD SERVICE CONTRACT

AUTHORITY
 3113

** INVITATION NO.

** CONTRACT NO.

TIME FOR DELIVERY
 SEE BELOW

EXPIRING

DISCOUNT TERMS:

1 ISSUED TO COVER THE COST FOR
 FOOD SERVICES FOR THE DEPT.
 SERVICES DAILY BREAKFAST,
 LUNCH AND DINNER MEALS,
 DIETARY SNACKS AND DIETARY
 MEALS (AS PRESCRIBED BY
 MEDICAL PHYSICIAN) FOR DOC
 INMATES AND DETAINEES,
 ESTIMATED POPULATION OF 700
 INMATES / DETAINEES, FOR A

PERIOD TO COVER: JANUARY 2019

PRICE PER MEAL & DIETARY SNACK

MEAL: UNIT COST:
 BREAKFAST \$2.65
 LUNCH \$3.50
 DINNER \$3.50

DIETARY SNACK: UNIT COST:

NOTE:

THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES.
 Note: Amounts due this Purchase Order may be off set for monies due the Government plus for accordingly of Guam inclusive of but not limited to taxes, fees, and returned checks after failure to pay other damages, penalties, and Attorney's fees, after failure to pay ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 6101 (9) (a) OF THE GAR.

1 LOT

200000.000

200000.00

0191300035

SPECIAL INSTRUCTIONS TO VENDOR:

- B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACQUISITION, DEPARTMENT OF ADMINISTRATION; GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910.
- C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION.
- D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE.
- E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND NO GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.
- F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.

XXXXXXXXXXXX

A. DO NOT FILL THIS ORDER
 IF YOUR TOTAL COST
 EXCEEDS THIS TOTAL

↑ TOTAL ↑

INSERT CHANGES AND RETURN
 THIS ORDER FOR AMENDMENT.

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.

ADVANCE PAYMENT
 AUTHORIZATION

PAYMENT
 ENCLOSED

SIGNATURE:

C. Acfalle

Claudia S. Acfalle NAME Acfalle Chief Procurement Officer TITLE

Control No.

PAGE 1 OF 4

ORIGINAL/VENDOR'S COPY

Digitally Approved on: 12/28/2018 BASHL_000026



PURCHASE ORDER
 GENERAL SERVICES AGENCY
 DEPARTMENT OF ADMINISTRATION
 GOVERNMENT OF GUAM

148 Route 1
 Marine Drive
 Piti, Guam 96925

TRAN CODE

THIS PURCHASE ORDER NUMBER
No. P196B00232

MUST APPEAR ON ALL INVOICES
 PACKING SLIPS, PACKAGES, B/L,
 CORRESPONDENCE ETC.

F.O.B.

* AIR FREIGHT TEL CONTACT SHIP VIA:

DATE

12/26/2018

JOB ORDER NO.

130019002230

OBJCT

230

PREPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE

TO:

CALIFORNIA MART
 S.H. ENTERPRISES, INC.
 P.O. BOX 9730
 TAMUNING, GU 96931
 Telephone: 671 649-0521 Fax: 671 649-2957
 Email:

VENDOR

50097959

CONSIGNEE, DESTINATION & MARKING

DEPARTMENT OF CORRECTION
 A111 MARINER AVENUE
 P.O. BOX 3236
 HAGATNA,, GU 96932-0000

DOC FOOD SERVICE CONTRACT

AUTHORITY
 3113

** INVITATION NO.

** CONTRACT NO.

TIME FOR DELIVERY
 SEE BELOW

EXPIRING

DISCOUNT TERMS:

(As Prescribed)

BREAKFAST	\$2.65
LUNCH	\$3.50
DINNER	\$3.50

Breakdown:

\$9.65 Per Meal x 700 Inmates
 Total = \$6,755.00 Per Day

Note: Please Refer To Detailed
 Specification Price Remains
 the Same: Period of 180 Days.

* AUTHORIZED PERSONNEL / POC
 OVITA NAUTA 734-4034
 JAYNA BORJA 735-5176
 * Nothing Follows *

NOTE:

THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES.
 Note: Amounts due this Purchase Order may be off set for monies due the Government
 of Guam inclusive of but not limited to taxes, fees, and returned checks plus for
 other damages, penalties, and Attorney's fees, after failure to pay accordingly.
 ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION
 6101(9) (a) OF THE GAR.

200000.00

A. DO NOT FILL THIS ORDER
 IF YOUR TOTAL COST
 EXCEEDS THIS TOTAL.

INSERT CHANGES AND RETURN
 THIS ORDER FOR AMENDMENT.

↑ TOTAL ↑

SPECIAL INSTRUCTIONS TO VENDOR:

- B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910.
- C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION.
- D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE.
- E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.
- F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.

ADVANCE PAYMENT AUTHORIZATION

PAYMENT ENCLOSED

SIGNATURE:

C. Acalle

Claudia S. Acalle Chief Procurement Officer



PURCHASE ORDER
 GENERAL SERVICES AGENCY
 DEPARTMENT OF ADMINISTRATION
 GOVERNMENT OF GUAM

148 Route 1
 Marine Drive
 P.H., Guam 96925

TRAN CODE

THIS PURCHASE ORDER NUMBER

No. P196E00232

MUST APPEAR ON ALL INVOICES
 PACKING SLIPS, PACKAGES, B/L,
 CORRESPONDENCE ETC.

F.O.B.

* AIR FREIGHT TEL CONTACT SHIP VIA:

DATE

12/26/2018

JOB ORDER NO.

130019002230

OBJCT

230

PREPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE

TO:

CALIFORNIA MART
 S.H. ENTERPRISES, INC.
 P.O. BOX 9730
 TAMUNING, GJ 96931
 Telephone: 671 649-0521 Fax: 671 649-2957
 Email:

VENDOR

S0097959

CONSIGNEE, DESTINATION & MARKING

DEPARTMENT OF CORRECTION
 A111 MARINER AVENUE
 P.O. BOX 3236
 HAGATNA,, GU 96932-0000

DOC FOOD SERVICE CONTRACT

AUTHORITY
 3113

** INVITATION NO.

** CONTRACT NO.

TIME FOR DELIVERY
 SEE BELOW

EXPIRING

DISCOUNT TERMS:

THIS ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Acknowledgment copy of this order must be signed and returned advising approximate or definite shipping date.
2. No variation in any of the terms, conditions, deliveries, prices, quantity, quality, or specification on this order, irrespective of the wording of the seller's acceptance, will be effective without buyer's written consent.
3. Packing list must accompany each shipment, showing our order number, description and part/serial number for each item.
4. Shipments must be identified as "PARTIAL" or "COMPLETE".
5. Material is subject to buyer's inspection and approval within a reasonable time after delivery; if specifications are not met, material shall be returned at seller's expense.
6. In connection with any prompt payment discount offered, time will be computed from date of delivery and acceptance at destination, or from the date the correct invoice or voucher is received in the office specified by the Government of Guam, if the latter is later than date of delivery and acceptance. Payment is deemed to be made, for the purpose of earning discount, on the date of the mailing of the check.
7. Overshipments, unless specifically authorized, will not be accepted.
8. In connection with bid awards and contracts, this purchase order shall be governed by the Special Provisions and Bid General Terms and Conditions as specified.

SPECIAL INSTRUCTIONS TO VENDOR:

- A. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION; GOVERNMENT OF GUAM, P.O. BOX 184, AGANA, GUAM 96910.
- B. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION.
- C. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE.
- D. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.
- E. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.

200000.00

A. DO NOT FILL THIS ORDER
 IF YOUR TOTAL COST
 EXCEEDS THIS TOTAL

↑ TOTAL ↑

INSERT CHANGES AND RETURN
 THIS ORDER FOR AMENDMENT.

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.

ADVANCE PAYMENT
 AUTHORIZATION

PAYMENT
 ENCLOSED

SIGNATURE:

C. Acfalle

NAME: Claudia S. Acfalle TITLE: Chief Procurement Officer

Control No.

PAGE 3 OF 4

ORIGINAL/VENDOR'S COPY

Digitally Approved on: 12/28/2018
 BMSIL_000028



PURCHASE ORDER
 GENERAL SERVICES AGENCY
 DEPARTMENT OF ADMINISTRATION
 GOVERNMENT OF GUAM

148 Route 1
 Marine Drive
 P.H. Guam 96925

TRAN CODE

THIS PURCHASE ORDER NUMBER

No. P196E00232

MUST APPEAR ON ALL INVOICES
 PACKING SLIPS, PACKAGES, B/L,
 CORRESPONDENCE ETC.

F.O.B.

* AIR FREIGHT TEL CONTACT SHIP VIA:

DATE

12/26/2018

JOB ORDER NO.

130019002230

OBJCT

230

PREPAID SHOW SHIPPING CHARGES AS SEPARATE REM ON INVOICE

TO:

CALIFORNIA MART
 S.H. ENTERPRISES, INC.
 P.O. BOX 9730
 TAMUNING, GU 96931
 Telephone: 671 649-0521 Fax: 671 649-2957
 Email:

VENDOR

50097959

CONSIGNEE, DESTINATION & MARKING

DEPARTMENT OF CORRECTION
 1111 MARINER AVENUE
 P.O. BOX 3236
 HAGATNA,, GU 96932-0000

DOC FOOD SERVICE CONTRACT

AUTHORITY
 3113

** INVITATION NO.

** CONTRACT NO.

TIME FOR DELIVERY
 SEE BELOW

EXPIRING

DISCOUNT TERMS:

VENDOR ACKNOWLEDGMENT

RETURN TO SUPPLY MANAGEMENT DIVISION

DATE OF RECEIPT OF THIS ORDER

1-2-19

SIGNATURE

[Handwritten Signature]

RECEIVING REPORT COPY

I CERTIFY THE ABOVE ARTICLES AND/OR SERVICES HAVE/HAS BEEN
 RECEIVED AND/OR RENDERED AND THE SAME HAS BEEN INSPECTED
 AND ACCEPTED EXCEPT AS OTHERWISE NOTED HEREIN.

DATE RECEIVED:

SIGNATURE:

SPECIAL INSTRUCTIONS TO VENDOR:

- B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION; GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910.
- C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION.
- D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE.
- E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.
- F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.

200000.00

A. DO NOT FILL THIS ORDER
 IF YOUR TOTAL COST
 EXCEEDS THIS TOTAL

INSERT CHANGES AND RETURN
 THIS ORDER FOR AMENDMENT.

↑ TOTAL ↑

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.

ADVANCE PAYMENT AUTHORIZATION

PAYMENT ENCLOSED

SIGNATURE:

[Handwritten Signature]

Claudia S. Acfalle NAME Chief Procurement Officer TITLE

Control No.

PAGE 4 OF 4

ORIGINAL/VENDOR'S COPY

Digitally Approved on: 12/28/2018 BASSL_000029



jayna borja <jayna.borja@doc.guam.gov>

DOC Food Services - P196E00232

1 message

jayna borja <jayna.borja@doc.guam.gov>

Mon, Dec 31, 2018 at 10:09 AM

To: tianna sarrosa <tianna.sarrosa@gsadoa.guam.gov>

Cc: ovita nauta <ovita.nauta@doc.guam.gov>, Christine Tedtaotao <Christine.Tedtaotao@gsadoa.guam.gov>, Doc Director Office <valerie.pangelinan@doc.guam.gov>

Buenas yan Hafa Adai, Tianna,

Kindly requesting for an amendment for P196E00232 to reflect and include the cost per Dietary Snack. Per the previous purchase order (P196E00001) the cost per snack is \$0.50.

This information was erroneously omitted on the current purchase order.

Your assistance is greatly appreciated.

Si Yu'os Ma'ase'

jayna

Jayna T. Borja
Department of Corrections
P.O. Box 3236
Hagatna, Guam 96932
Telephone No.: (671) 735-5170
jayna.borja@doc.guam.gov

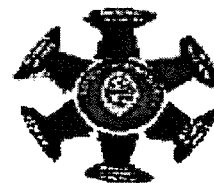
EXHIBIT K



Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
GENERAL SERVICES AGENCY
(Ahensian Setbision Hinirat)

148 Route 1 Marine Corp Drive, Piti Guam 96915
TEL: (671) 475-1707/475-1700 * FAX: (671) 475-1727/472-4217



Edward M. Birn
Director
Edith C. Pangelinan
Deputy Director

January 29, 2019

Memorandum

Ms. Geri Diaz
c/o Camacho, Calvo Law Offices
134 W. Soledad Ave.
Suite 401
Hagatna, Guam 96910

Re: Protest on DOC Emergency Food for Inmates and Detainees

We are in receipt of your memorandum dated January 25, 2019, in which you are protesting the emergency purchase order for the Department of Correction's inmates and detainees at the Mangilao and Hagatna facilities.

5 GCA Section 5425 provides when a protest may be logged.

§ 5425. Authority to Resolve Protested Solicitations and Awards. (a) Right to Protest. Any actual or prospective bidder, offeror, or contractor who may be aggrieved in connection with the method of source selection, solicitation or award of a contract, may protest to the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should know of the facts giving rise thereto

You initially requested a "Freedom of Information" request on January 8, 2019, indicated that you were aware that the government was continuing providing food services at both of the location. Additionally, please find attached a request from you client dated December 28th, and our response, which shows that your client was aware that services were continuing.

Therefore, your protest is Denied. You have the right to seek any administrative or judicial review authorized by law.


CLAUDIA S. ACFALLE
Chief Procurement Officer

attachments

COMMITTED TO EXCELLENCE

RECEIVED
CAMACHO CALVO LAW GROUP LLC
Date: 01.29.19 Time: 9:37 am
 Hand Delivered Mail
BASIL_000032