



FLAME TREE Freedom Center

A Supporting Hand for Independent Living

HC1 Box 17378, Inarajan, Guam 96915

30 May 2019

To: Benjamin J.F. Cruz
Public Auditor
Office of Public Accountability

Cc: Ray S. Topasna
Executive Director
Guam Housing and Urban Renewal Authority

Re: **Procurement Appeal**

Dear Mr. Cruz,

Pursuant to 2 GAR Div 4 Chapter 12, please find attached the FLAME TREE Freedom Center's Procurement Appeal for IFB#GHURA-COCC-019-001.

Sincerely,

Eddy J. Reyes
President
FLAME TREE Freedom Center, Inc.

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: May 30, 2019
TIME: 1:57 AM PM BY: FDJ
FILE NO OPA-PA: 19-006



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: MAY 30, 2019

Appendix A: Notice of Appeal Form

PROCUREMENT APPEAL TIME: 1:57 AM PM BY: FDJ

FILE NO OPA-PA: 19-006

PART I- To be completed by OPA

In the Appeal of)	NOTICE OF APPEAL
)	
<u>FLAME TREE FREEDOM CENTER, INC</u>)	
(Name of Company), APPELLANT)	
_____)	
)	Docket No. OPA-PA <u>19-006</u>

PART II- Appellant Information

Name: EDDY J REYES

Mailing Address: HC 1 BOX 17378
INARAJAN GU 96915

Business Address: 206 B CHALAN KANTON TASI
CHALAN PAGO GU

Email Address: eddy.reyes@ftfcinc.com

Daytime Contact No: 671-777-1144

Fax No.: _____

PART III- Appeal Information

- A) Purchasing Agency: GHURA
- B) Identification/Number of Procurement, Solicitation, or Contract: IFB#GHURA-COCC-019-001
- C) Decision being appealed was made on 17 MAY 2019 (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:

GET L.L.C.

_____	_____
_____	_____
_____	_____
_____	_____

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 30th day of MAY, 2019.

By: FLAME TREE FREEDOM CENTER, INC.

APPELLANT

or

By: EDDY J REYES, PRESIDENT, FLAME TREE FREEDOM CENTER, INC.

Appellant's Duly Authorized Representative
 (Address) HC 1 BOX 17378 INARAJAN GU 96915
 (Phone No.) 671-777-1144



FLAME TREE Freedom Center

A Supporting Hand for Independent Living

HC1 Box 17378, Inarajan, Guam 96915

To: Benjamin J.F. Cruz
Public Auditor
Office of Public Accountability

Re: Part IV Form and Filing: Notice of Appeal on IFB# GHURA-COCC-019-001

Dear Mr. Cruz,

1. The following information is PART V – Form and Filing for the subject Notice of Appeal for IFB# GHURA-COCC-019-001, which follows filing requirements in accordance with 2 GAR § 12104.
 - a. **The name, mailing and business address of the Appellant:**
 - i. EDDY J REYES, HC 1 BOX 17378 INARAJAN, GU 96915;
 - ii. President, FLAME TREE Freedom Center, Inc (FTFC)
 - b. **Appropriate identification of:**
 - i. **Procurement or Solicitation:** IFB# GHURA-COCC-019-001
 - ii. **Procuring Agency:** Guam Housing & Urban Renewal Authority
 - iii. **Award to:** GET L.L.C.
 - c. **Concise, logically arranged, and direct statement of the grounds for Appeal:**

The following is a concise and logically arranged chronological list of events regarding IFB# GHURA-COCC-019-001:

- i. On 18 March 2019, FLAME TREE Freedom Center (FTFC) sent an email and a letter to the GHURA Executive Director expressing its formal interest in IFB# GHURA-COCC-019-001, citing 5 GCA § 5001 and 5 GCA § 5217, and informed him that FTFC had been providing ground maintenance services to GHURA for the past two years (Atch 1).
- ii. On 27 March 2019, after receiving no response from GHURA, FTFC requested GHURA's disposition on Atch 1. (Atch 2).
- iii. On 28 March 2019, GHURA informed FTFC via email that "this project is fair and openly competitive as required by local (5 GCA) and federal law (2 CFR Part 200). (Atch 3).

- iv. Based on GHURA's 28 March 2019 response (Atch 3), FTFC submitted a bid proposal to GHURA on the bid opening date of 28 March 2019. The results were:
 1. Bid Packet #1: FTFC second lowest bid.
 2. Bid Packet #2: FTFC second lowest bid.
 3. Bid Packet # 3: FTFC lowest bid.
- v. On 9 April 2019 (Atch 4), FTFC sent a letter to GHURA Executive Director and:
 1. explained how GHURA had treated FTFC in the recent years, where GHURA handled FTFC separately from the IFB process.
 2. Since GHURA had made reference to the Code of Federal Regulations in Atch 3, requested that GHURA also take into consideration 41 USC Chapter 85, which stipulates the same provisions as 5 GCA § 5001.
 3. Emphasized that FTFC trains and employs individuals with disabilities to perform ground maintenance services.
 4. Provided information regarding FTFC's justification for a "responsible bidder", which was a requirement for the IFB.
 5. Since GHURA did not find FTFC non-responsive to the IFB when FTFC did not submit the bonding requirement, requested GHURA to apply 5 GCA § 5217 in its entirety (i.e. non-competitive basis).
 6. Informed GHURA that FTFC employs Section 8 recipients.
 7. Stated that FTFC is willing to submit an updated price proposal for Bid Packets #1 and #2.
- vi. On 6 May 2019, GHURA sent FTFC an email and attachment re: Notice of all unsuccessful bidders (Atch 5), which was acknowledged by FTFC on 7 May 2019 (Atch 6).
- vii. On 7 May 2019, FTFC submitted a Letter of Protest to GHURA (Atch 7).
- viii. On 09 May 2019, GHURA requested a meeting with FTFC on 10 May 2019 (Atch 8).
- ix. On 10 May 2019, GHURA and FTFC met to discuss the situation with no conclusion or agreement.
- x. On 13 May 2019, FTFC requested to review the procurement file (Atch 9).
- xi. On 14 May 2019, FTFC reviewed the procurement file at GHURA. FTFC was able to review a memorandum from the GHURA Executive Director to the Board of Commissioners, which recommended the award of Bid Packet #1 to GET LLC; Bid Packet #2 – no award; and Bid Packet #3 to FTFC. The record of decision by the Board of Commissioners was not file. GHURA informed FTFC that the Board of Commissioner will approve the minutes of the previous meeting at its next meeting at the end of May 2019.
- xii. On 15 May 2019, FTFC submitted a letter to the GHURA Executive Director with a revised price proposal and requested GHURA reconsider its award decision. In addition, FTFC indicated that the tapes of the Board meeting were unavailable to

review, so FTFC was not in a position to provide an update to its Letter of Protest (Atch 10).

xiii. On 17 May 2019, GHURA informed FTFC that the protest was denied (Atch 11).

Statement on Grounds of Appeal:

i. In reference to GHURA's 17 May 2019 letter pertaining to IFB # GHURA-COCC-019-001, GHURA denied FLAME TREE Freedom Center's protest on the award to Bid Packet #1 based on the grounds of offering the services at a higher price than the lowest bidder and for failing to comply with 5 GCA § 5217. FTFC contends that procurement process was flawed from the beginning, when FTFC was placed in a competitive situation, contrary to 5 GCA § 5001(d), 5 GCA § 5217 and 5 GCA § 5210. FTFC is of the opinion that it should have never been placed in a competitive situation based on the Government of Guam policy established for non-profit organizations. The following rationale is provided to justify FTFC's grounds for an appeal.

1. 5 GCA § 5001(d):

a. *(d) Policy Concerning Sheltered Workers or Persons with Disabilities. If any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities, or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that nonprofit corporation or government entity if the supply or service is available within the period.*

b. There are two operative words in 5 GCA § 5001(d): *policy* and *shall* that must be taken into consideration. According to Black's Law Dictionary, the word *policy* is defined as "The general principles by which a government is guided in its management of public affairs, or the legislature in its measures. This term, as applied to a law, ordinance, or rule of law, denotes its general purpose or tendency considered as directed to the POLICY." According to the Cambridge English dictionary, the word *shall*, means certainly will. In this case, only FTFC, a non-profit organization that employs individuals with disabilities, expressed formal interest and submitted a proposal to GHURA, citing 5 GCA § 5001 and 5 GCA § 5217. There was no other non-profit organization that participated; therefore, GHURA should have dealt with FTFC on a non-competitive basis but chose to do otherwise.

2. 5 GCA § 5217:

a. *Procurement from Nonprofit Corporations. A contract may be awarded for a supply or service without competition when the contractor is a nonprofit corporation employing sheltered or handicapped workers. As a condition of the award of the contract the contractor must certify that labor on the project will be performed by handicapped persons except that supervisory personnel do not have*

to be handicapped. A contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Article 5 of this Chapter.

- b. FTFC contends that 5 GCA § 5001(d) and 5 GCA § 5217 are interconnected to one another and do not stand alone. Since it is established that 5 GCA § 5001(d) is *policy*, FTFC contends that 5 GCA § 5217 is procedural in nature under the chapter of Source Selection and Contract Formation. With respect to the wording, *A contract may be awarded for a supply or service without competition when the contractor is a nonprofit corporation employing sheltered or handicapped workers*, in order to meet the spirit and intent of the 5 GCA § 5001(d) policy objective, where the government *shall* contract a non-profit organization, the only situation where a government entity *may* award contract *without* competition is when there is only one non-profit organization that employs individuals with disabilities is involved. If there are *multiple* non-profits organizations involved, then competition is inevitable.
- c. With respect to the wording, *As a condition of the award of the contract the contractor must certify that labor on the project will be performed by handicapped persons except that supervisory personnel do not have to be handicapped*. In my 11 March 2019 letter to GHURA, FTFC certified that individuals with disabilities would perform this work, as we have done with GHURA and other government of Guam contracts in the past two years. Upon contract award, FTFC will provide a letter identifying and certifying the number of employees with a disability that will be performing the services. In addition, FTFC offered to help employ public housing recipients, as required by the program, to including individuals with disabilities. Those public housing recipients that may be hired as a result of this contract, could fill other positions, such as supervisory positions. For this sentence to apply, FTFC contends the application of the first sentence must exist, i.e. contract award will be on a non-competitive basis.
- d. With respect to the last sentence, *A contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Article 5 of this Chapter*, FTFC did not submit a bond citing this provision and GHURA acknowledged and did not declare FTFC non-responsive. Therefore, FTFC concludes that all provisions under Article 5 apply.

3. 5 GCA § 5210:

- a. *Methods of Source Selection. (a) Unless otherwise authorized by law, all territorial contracts shall be awarded by competitive sealed bidding, pursuant to § 5211 of this Article, except for the procurement of professional services and except as provided in: (6) Section 5217 of this Article.*
- b. GHURA failed to comply with 5 GCA § 5210: GHURA required FTFC to participate in a competitive process and participate in the bid opening (28

March 2019 email). FTFC is of the opinion that, if FTFC did not participate, GHURA would have declared FTFC as “non-responsive” and would have disqualified FTFC. Therefore, FTFC felt compelled to submit a bid packet.

- c. Related to paragraph 3b, above, GHURA cited federal law (2 CFR Part 200) as part of its justification for a competitive bid, which FTFC is of the opinion that this relationship is associated with the use of federal funding. Irrespective of the procurement policy 5 GCA § 5001(d), FTFC concludes that GHURA was aiming to achieve the lowest price through competition. Since, GHURA made reference to federal requirements, the following 41 USC Chapter 85 should have also been taken into consideration.

- i. **41 USC Chapter 85 § 8504. Procurement requirements for the Federal Government.** *a) An entity of the Federal Government intending to procure a product or service on the procurement list referred to in section 8503 of this title shall procure the product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.* <http://uscode.house.gov/view.xhtml?path=/prelim@title41/subtitle4/chapter85&edition=prelim>

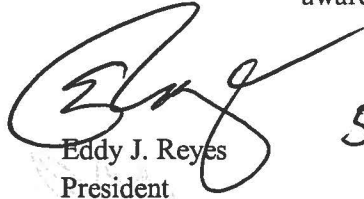
- ii. NOTE: For federal contracts, ground maintenance services is on the list of services that are available to non-profit organizations that employ individuals with disabilities.

4. Competitive pricing. FTFC contends that it should not have been placed in a competitive situation for this bid. However, GHURA placed FTFC in a competitive situation, FTFC’s proposed price was approximately \$30K over the lowest bidder. In FTFC’s 9 April 2019 letter (Atch 4), FTFC offered to submit an updated price proposal; however, GHURA did not respond to the offer. Following the GHURA – FTFC meeting on 10 May 2019, FTFC submitted a revised reduced price for Bid Packet #1 for GHURA’s consideration.

2. Conclusion: The primary basis of FTFC’s Notice of Appeal regarding IFB#GHURA-COCC-091-001 is GHURA’s failure to apply the above-mentioned federal and local mandates pertaining to procurement handling of non-profit organizations that employ individuals with disabilities to perform this service. Furthermore, FTFC contends that the Guam procurement provisions 5 GCA § 5001(d), 5 GCA § 5217 and 5 GCA § 5210 should be considered in totality to facilitate the implementation of the policy instead of being dealt with as individual and stand-alone provisions.
3. Statement Specifying the Ruling Requested: FTFC is requesting that the OPA provide its opinion on whether GHURA followed the procurement process based on the spirit and intent on mandated Government of Guam policy, as well as the federal mandate, since it is FTFC’s understanding that this project will be federally funded. *Under the assumption the OPA finds in favor of FTFC’s protest*, the OPA is invited to:
 - a. Direct GHURA to cease contract award actions to GHURA’s selected bidder,

b. Direct GHURA to work with FTFC and:

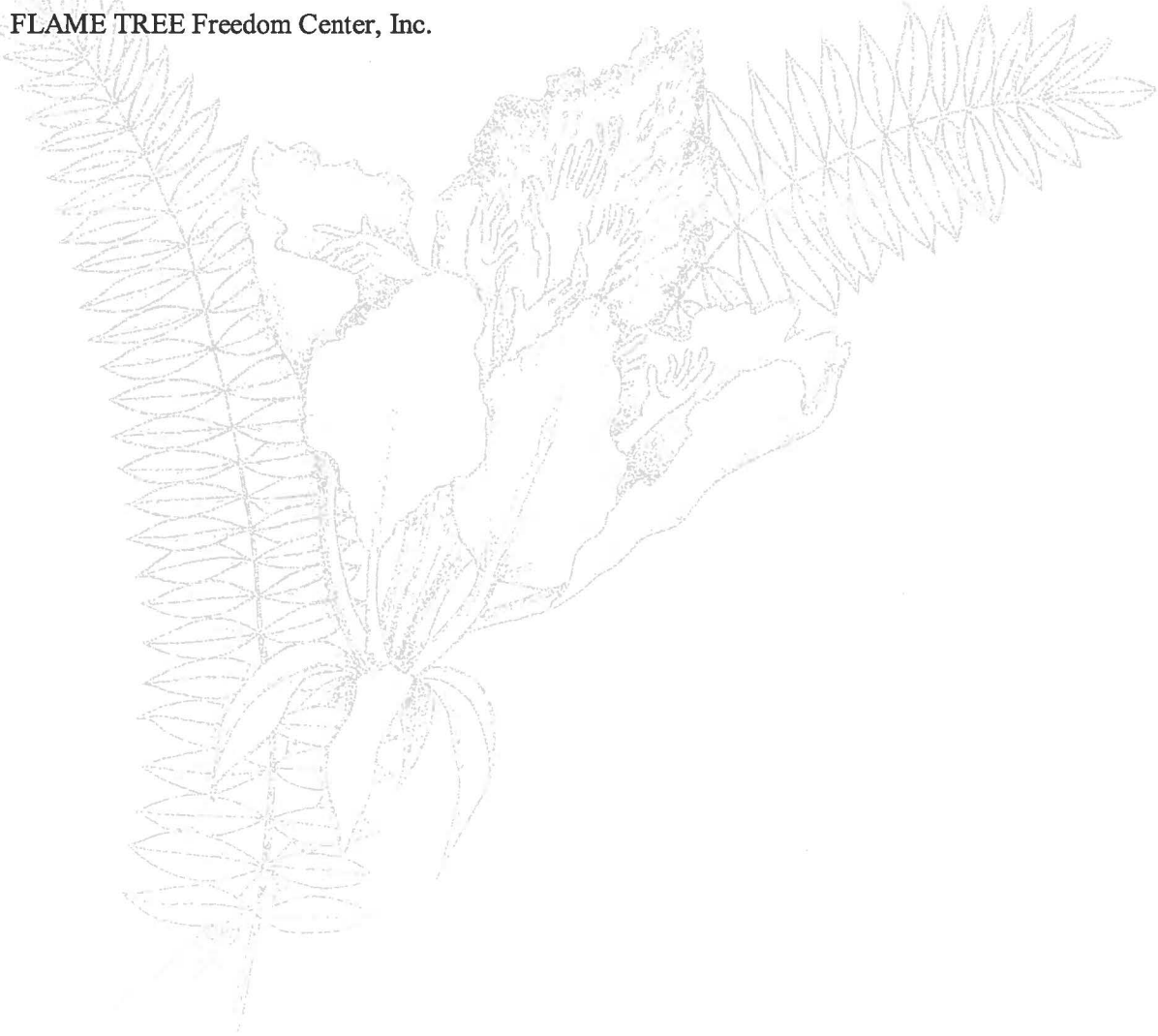
- i. if FTFC's revised pricing is within GHURA's budget authority, award the contract to FTFC.
- ii. If FTFC and GHURA are unable to reach agreement on the pricing, cancel the award of Bid Packet #1 and reissue another IFB.



Eddy J. Reyes
President

5-20-19

FLAME TREE Freedom Center, Inc.



ATTACHMENT 1



Eddy Reyes <eddy.reyes@ftfcinc.com>

IFB#GHURA-COCC-019-001

Eddy Reyes <eddy.reyes@ftfcinc.com>
To: Ray Topasna <rtopasna@ghura.org>
Cc: Albert Santos <alsantos1@ghura.org>

Mon, Mar 18, 2019 at 4:46 PM

Hafa Adai, Mr. Topasana,

In reference to the subject, please find attached the FLAME TREE Freedom Center's expressed formal interest in the subject IFB.

We look forward to the opportunity to provide the subject services to GHURA and it's residents.

Best regards

Eddy

EDDY J REYES
President
FLAME TREE Freedom Center Inc
7771144

 **FTFC Letter to Executive Director GHURA-signed.pdf**
1657K



FLAME TREE Freedom Center

A Supporting Hand for Independent Living
HC1 Box 17378, Inarajan, Guam 96915

Delivery via email to: rstopasna@ghura.org

11 March 2019

TO: Ray S. Topasna
Executive Director
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, Guam 96910

Subject: GROUNDS MAINTENANCE FOR GHURA PROPERTIES (IFB#GHURA-COCC-019-001)

Hafa Adai, Mr. Topasna,

Foremost, congratulations on your appointment as Executive Director.

In reference to the subject IFB regarding grounds maintenance services for GHURA properties and with this letter, the FLAME TREE Freedom Center (FTFC), a non-profit organization that employs individuals with disabilities, is hereby expressing formal interest in providing the subject services per 5 Guam Code Annotated provisions below:

- §5001: Policy Concerning Sheltered Workers or Persons with Disabilities. If any entity of the government of Guam or any entity expending governmental funds intends to procure any supply or service which is offered by a nonprofit corporation employing sheltered workers or persons with disabilities, or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that nonprofit corporation or government entity if the supply or service is available within the period required by the procuring entity.
- §5217: Procurement from Nonprofit Corporations. A contract may be awarded for a supply or service without competition when the contractor is a nonprofit corporation employing sheltered or handicapped workers. As a condition of the award of the contract the contractor must certify that labor on the project will be

performed by handicapped persons except that supervisory personnel do not have to be handicapped. A contractor awarded a contract pursuant to this Section shall not be required to post any of the bonds required under Article 5 of this Chapter.

In FY 2017 and 2018, FTFC provided the same services and is very familiar with the GHURA requirements. I believe that your staff can attest to our past performance and quality of work. FTFC certifies that employees with disabilities will help perform the subject services for GHURA, as required by 5GCA§5217 and that it will meet GHURA's insurance requirements. In addition, FTFC offers to work with GHURA to help employ GHURA public housing recipients, provided they are physically capable to perform this type of work, including individuals with disabilities. FTFC looks forward to working with GHURA on the next steps regarding this procurement under the above 5 GCA provisions. Please see attached supporting documentation regarding our non-profit status.

FTFC looks forward to opportunity in providing this service to the Government of Guam, as well as to GHURA's residents.

Sincerely

A handwritten signature in black ink, appearing to read "Eddy J. Reyes". The signature is stylized and cursive.

Eddy J. Reyes
President

GOVERNMENT OF GUAM
Department of Revenue and Taxation
Incorporation Certificate

This is certify that the Articles of Incorporation of

FLAME TREE FREEDOM CENTER INC.

have been duly filed and entered in accordance with the law under Charter No. : D-16223 in the Records of Articles of Incorporation in the Department of Revenue and Taxation Government of Guam.

Approved and authorized to incorporate effective 10:00am, Guam Pacific Time on May 19, 20 09, the persons signing said Articles to Incorporation and their associates and successors shall constitute in body politic and corporate under the name: Flame Tree Freedom Center Inc. for the term in said Articles of Incorporation not exceeding 50 years, unless sooner legally dissolved.



In Witness Whereof, I have hereunto subscribed my hand officially and have hereon impressed my seal of office at the City of Hagatna, Guam U.S.A., on this 19th day of May A.D. 20 09.

Artemio B. Ilagan
ARTEMIO B. ILAGAN
Director of Revenue and Taxation



Department of Revenue and Taxation

Government of Guam
Post Office Box 23607

Guam Main Facility, Guam 96921

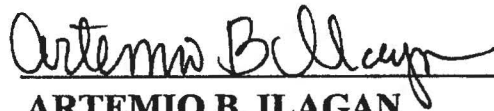


Certificate of Tax Exemption

This is to certify that

FLAME TREE FREEDOM CENTER, INC.

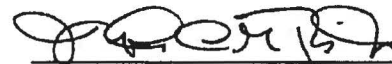
a Civic and Community Benefit as having fully complied with the necessary requirements set forth under Section 26203 of the Business Privilege Tax Act of Guam, is hereby declared tax exempt. Such exemption will continue indefinitely unless revoked on the basis of further information obtained by audit or otherwise.



ARTEMIO B. ILAGAN
Commissioner of Revenue and Taxation

June 10, 2009

Date



JOSEPH L.G. RIOS, JR.
Deputy Tax Commissioner

June 10, 2009

Date



DEPARTMENT OF REVENUE AND TAXATION
GOVERNMENT OF GUAM

BUSINESS LICENSE

SRL NO:

P.O. Box 23607
Domestic Corporation
C.M.F. Barrigada, Guam 96821
XXXXXXXXXX

Service

13-201101299-003

EXPIRES: JUNE 30, 07/31/2018 ACCOUNT NO.

ISSUED TO: FLAME TREE FREEDOM CENTER INC.		FEE
DOING BUSINESS AS: FLAME TREE FREEDOM CENTER INC.		PENALTY
TYPE OF LICENSE: JANITORIAL & LAWN CARE CARWASH & DETAIL 2 6 2018 MINOR OIL CHANGES SERVICES		TOTAL FEE
BUSINESS LOCATION: LOT ^{HOT} 3254-4-R6 #206 B N CHALAN KANTON TASI CHALAN PAGO GUAM		
MAILING ADDRESS: HC1 BOX 17500 INARAJAN GUAM		
TELEPHONE: HOME	BUSINESS	ZIP: 96915 777-1144

PAID

TREASURER OF GUAM
#8

AUTHORITY: TITLE XVII, GOVT CODE OF GUAM LICENSE
MUST BE PRODUCED UPON DEMAND TO ANY
AUTHORIZED GOVT OFFICIAL.
KEEP POSTED IN A CONSPICUOUS PLACE.

John P. Camacho
JOHN P. CAMACHO
DIRECTOR OF REVENUE AND TAXATION

7/26/

ATTACHMENT 2



Eddy Reyes <eddy.reyes@ftfcinc.com>

IFB#GHURA-COCC-019-001

Eddy Reyes <eddy.reyes@ftfcinc.com>

Wed, Mar 27, 2019 at 3:28 PM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Albert Santos <alsantos1@ghura.org>, Greta Balmeo <gbalmeo@ghura.org>

Dear Mr. Topasna,

In reference to my email below and the attachment, does GHURA have a disposition regarding the subject?

Please advise.

Best Regards

Eddy

[Quoted text hidden]

ATTACHMENT 3



Eddy Reyes <eddy.reyes@ftfcinc.com>

IFB#GHURA-COCC-019-001

Eddy Reyes <eddy.reyes@ftfcinc.com>

Mon, Apr 15, 2019 at 2:46 PM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Albert Santos <alsantos1@ghura.org>, Greta Balmeo <gbalmeo@ghura.org>

Hafa Adai, Mr. Topasana,

In reference to the subject, please find attached FLAME TREE Freedom Center's letter requesting GHURA's consideration regarding the subject IFB.

We look forward to the opportunity to provide the subject services to GHURA and it's residents.

Best regards

Eddy

EDDY J REYES

President

FLAME TREE Freedom Center Inc

7771144

On Thu, Mar 28, 2019 at 11:23 AM Greta Balmeo <gbalmeo@ghura.org> wrote:

Hafa Adai Mr. Reyes,

Thank you for your email. In response to your attached letter, GHURA would like to ensure you that this project is fair and openly competitive as required by local (5 GCA) and federal law (2 CFR Part 200). We hope for your continued participation in GHURA's present and future projects as there have been successful partnerships in the past. Should you have any questions or concerns, please do not hesitate to contact myself or Mr. Albert.

Thank you.

Regards,

Greta Balmeo

671-475-1356

[Quoted text hidden]

 **FTFC Letter to Executive Director GHURA 4.9.2019-signed.pdf**
406K

ATTACHMENT 4



Eddy Reyes <eddy.reyes@ftfcinc.com>

IFB#GHURA-COCC-019-001

Eddy Reyes <eddy.reyes@ftfcinc.com>

Mon, Apr 15, 2019 at 2:46 PM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Albert Santos <alsantos1@ghura.org>, Greta Balmeo <gbalmeo@ghura.org>

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We look forward to the opportunity to provide the subject services to GHURA and it's residents.

Best regards

Eddy

EDDY J REYES

President

FLAME TREE Freedom Center Inc

7771144

On Thu, Mar 28, 2019 at 11:23 AM Greta Balmeo <gbalmeo@ghura.org> wrote:

Hafa Adai Mr. Reyes,

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Thank you.

Regards,

Greta Balmeo

671-475-1356

[Quoted text hidden]

 FTFC Letter to Executive Director GHURA 4.9.2019-signed.pdf
406K



FLAME TREE Freedom Center

A Supporting Hand for Independent Living
HC1 Box 17378, Inarajan, Guam 96915

Via email delivery to: rstopasna@ghura.org
9 April 2019

TO: Ray S. Topasna
Executive Director
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, Guam 96910

Subject: **GROUNDS MAINTENANCE FOR GHURA PROPERTIES (IFB#GHURA-COCC-019-001)**

Hafa Adai, Mr. Topasna,

In reference to the subject bid, the FLAME TREE Freedom Center (FTFC) expressed formal interest to GHURA in its 11 March 2019 letter, citing 5 GCA § 5001 and §5217. In GHURA's 28 March email, GHURA provided assurance that "this project is fair and openly competitive as required by local (5GCA) and federal law (2 CFR Part 200)." On 29 March and based on GHURA's aforementioned response, FTFC submitted its proposal to GHURA along with three other interested bidders with the following results for FTFC: Bid#1-FTFC was second lowest price; Bid#2-FTFC was second lowest price; and Bid#3-FTFC was lowest price. GHURA informed all interested parties that the GHURA Board will meet and provide its award decision based on the proposals received.

In anticipation of GHURA's recommendation to its Board, FTFC provides the following for GHURA's consideration.

- 1) For the past two years and based on 5 GCA § 5001 and §5217, FTFC was able to submit to GHURA its proposal and price quote separate from the typical procurement process with for-profit vendors. While GHURA dealt with for-profit vendors, GHURA in parallel requested FTFC to provide a proposal. In the end, GHURA was able to award the contract to FTFC after negotiating a mutually agreed price. The foregoing procurement process is in-line with how GSA has procured similar type services per 5 GCA § 5001.
 - a. GSA has applied the following process as it pertains to 5 GCA § 5001 and §5217:
 - 1) FTFC submitted its formal interest for an IFB; 2) GSA placed a stay on the procurement, citing 5 GCA § 5001 and §5217; 3) FTFC able to perform services within the approved budget; 4) GSA cancelled the IFB and awarded the contract to FTFC.

- 2) 5 GCA § 5001 (d) reads: Purposes, Rules of Construction. (d) Policy Concerning Sheltered Workers or Persons with Disabilities. If any entity of the government of Guam or any entity expending government funds intends to procure any supply or service which is offered by a non-profit corporation employing sheltered or persons with disabilities, or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that non-profit corporation or government entity if the supply or service is available within the period required by the procuring entity.
- a. Please note that 41 USC Chapter 85 has a similar mandated requirement, which reads as follows: §8504. Procurement requirements for the Federal Government. (a) In General. An entity of the Federal Government intending to procure a product or service on the procurement list referred to in section 8503 of this title shall procure the product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.
- 3) Based on items 1) and 2) above, FTFC has trained and employed individuals with disabilities to perform ground maintenance services for GHURA, as well as to other government of Guam agencies (e.g. GPA and DPHSS). FTFC meets the qualifications for 5 GCA § 5001 and § 5217 criteria to be applied.
- 4) As mentioned in the proposal FTFC provided the following explanation on how it would meet the requirements for a “responsible bidder”.
- a. Price of items offered:
 - i. FTFC pricing is based on prior year’s work performed on each of the sites, the prevailing wage rates and other factors associated with the scope of work to include over-growth, bringing the site to inspection standards by HUD officials, maintenance of equipment, type of equipment and safety used and the number of personnel required, etc.
 - b. Ability, Capacity and Skill of Bidder:
 - i. In preparation for GHURA’s inspection by HUD officials, GHURA contracted FTFC to bring all sites to federal standards, which resulted in minimal citations if any. To our knowledge, GHURA passed all inspections with no major discrepancies. FTFC also provided grounds maintenance services to GPA for the Gloria B. Nelson Public Facility and 230 Water Storage Diesel Sites throughout the island.
 - c. Perform within the Specified Date:
 - i. FTFC has demonstrated the ability to meet GHURA requirements in the past. For this IFB, FTFC reaffirms its commitment to meet GHURA standards.
 - d. Compliance with Laws and Regulations:
 - i. To date, FTFC has not received any violations with the Government of Guam and remains in good standing with Guam Revenue and Taxation.
 - e. Sufficiency of Financial Resources:
 - i. FTFC has been able to perform all requirements within the specified time frame for each project. In addition, FTFC has a line of credit with a local bank in the event the Government of Guam is unable to pay invoices in a timely manner. Also, FTFC uses QuickBooks for financial management and is currently receiving services from a Certified Public Accountant.
 - f. Ability to Provide Future Maintenance and Services for the Subject Award.
 - i. FTFC is currently staffed to meet all requirements and services required of the scope of work. FTFC has been very responsive to GHURA requests for services. FTFC’s ability can be verified with existing GHURA Site Supervisors, such as Patrick Bamba, Brandon Santos and Philly San Nicolas.

- g. NOTE: To FTFC's knowledge, GHURA has been satisfied with its ground maintenance performance, especially as it pertains to meeting the HUD facility inspection requirements. For the above stated reasons, FTFC has been able to demonstrate that it is a responsible bidder and has provided GHURA with "best value".
- 5) As in the past, GHURA honored the "no bonding requirement" that has been afforded non-profit organizations under 5 GCA § 5217; therefore, FTFC is hopeful the GHURA will also honor the non-profit entity advantage as a whole in accordance with the cited applicable federal/local laws and regulations.
- 6) FTFC has employed and continues to employ individuals with disabilities that are currently recipients of GHURA Section 8 program. FTFC will also consider the hiring of public housing residents provided they meet the minimum qualifications to perform this type of work.

In conclusion, FTFC is a non-profit organization that simply employs individuals with disabilities with the aim to give them an opportunity to live a productive life without any discrimination. To date, FTFC has satisfactorily proven its capability and recognition of a responsible bidder based on the past GHURA contracts. GHURA has first-hand knowledge and experience that FTFC possesses: adequate financial resources; the ability to comply with the delivery or performance schedule; a satisfactory performance record; a satisfactory record of integrity and business ethics; the necessary organization and experience; the necessary equipment and facilities; and the qualifications and met the eligibility requirements. Lastly, FTFC is willing to submit an updated price proposal for Bids #1 and #2, if requested to do so.

FTFC is hopeful that GHURA and its Board will consider FTFC's past performance and the policy mandates regarding non-profit organizations that employ individuals with disabilities to perform government of Guam services.

The FLAME TREE Freedom Center looks forward to opportunity in providing ground maintenance services to GHURA and its residents.

Sincerely



Eddy J. Reyes
President

ATTACHMENT 5



Eddy Reyes <eddy.reyes@ftfcinc.com>

notice to all unsuccessful bidders

5 messages

Albert Santos <alsantos1@ghura.org>
To: eddy.reyes@ftfcinc.com
Cc: Greta Balmeo <gbalmeo@ghura.org>

Mon, May 6, 2019 at 11:47 AM

Hi Mr. Reyes,

Attach is GHURA notice to all unsuccessful bidders on the award of contract for the Grounds Maintenance for GHURA's property

Albert

 **doc130455.pdf**
74K

Eddy Reyes <eddy.reyes@ftfcinc.com>

Mon, May 6, 2019 at 1:42 PM

To: "Ray Taitano (DTS APac)" <ray.taitano@dtsapac.com>, Jess Sudo <jess.sudo@dtsapac.com>

See attached. To protest or not to protest.

What say you.

[Quoted text hidden]

 **doc130455.pdf**
74K

Eddy Reyes <eddy.reyes@ftfcinc.com>

Tue, May 7, 2019 at 11:16 AM

To: Albert Santos <alsantos1@ghura.org>

Cc: Greta Balmeo <gbalmeo@ghura.org>

Hafa Adai, Mr. Albert,

Per the subject letter, please see attached acknowledgement.

Sincerely

Eddy

Eddy J. Reyes
President
FLAME TREE Freedom Center, Inc.
HC 1 Box 17378
Inarajan, GU 96913
671-777-1144

[Quoted text hidden]

 **doc130455-signed.pdf**
110K

Eddy Reyes <eddy.reyes@ftfcinc.com>

Fri, May 10, 2019 at 4:30 PM

To: Jess Sudo <jess.sudo@dtsapac.com>

5/27/2019

Flame Tree Freedom Center Mail - notice to all unsuccessful bidders

Cc: "ray.diaz" <ray.diaz@dtsapac.com>, "Ray Taitano (DTS APac)" <ray.taitano@dtsapac.com>

Jess

attached is GETS price and our proposed best and final offer.
15%over GETS price is \$84K, can we do it for this.

[Quoted text hidden]

2 attachments

 **doc130455.pdf**
74K

 **GHURA Bid R2 (1) Best and final offer..docx**
17K

JC Sudo <jcsudo@hotmail.com>

Mon, May 13, 2019 at 1:35 PM

To: Eddy Reyes <eddy.reyes@ftfcinc.com>

Cc: "ray.diaz" <ray.diaz@dtsapac.com>, "Ray Taitano (DTS APac)" <ray.taitano@dtsapac.com>

Eddy,

Attached is the revised numbers.

This is based on the current RFP with the consideration we won BID item 3. Other services we provided in the past (Getting ready for inspection, notifying manager of issues with clients, etc) is not included in the proposal.

Thanks,

Jess

[Quoted text hidden]

 **GHURA Bid R3.docx**
60K



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org



Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. Tenorio
Lt. Governor of Guam

Sabino P. Flores
Commissioner, Chairman

Joseph A. Cameron
Commissioner, Vice Chair

Carl V. Dominguez
Commissioner

George F. Pereda
Commissioner

Eliza U. Paulino
Commissioner

Joseph M. Leon Guerrero
Resident Commissioner

Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

Eddie J. Reyes
President
FlameTree Freedom Center Inc.
HC 1 Box 17378
Inarajan Gu 96915

May 6, 2019


Subject: IFB # GHURA -COCC-019-001, Grounds Maintenance for GHURA Properties

Dear Mr. Reyes,

The Guam Housing and Urban Renewal Authority (GHURA) Board of Commissioners has approved the award for the above project to GET LLC for Base Bid No 1 in the amount of \$73,406.00 and to Flame Tree Freedom Center for Base Bid No 3 in the amount of \$12,012.00. Base Bid no 2 was not awarded, GHURA plans to re-bid the effort required at AMP 2 & 3 with a change in scope. GHURA appreciates your participation in this project and hopes that you continue to participate on future projects.

Please acknowledge receipt of these documents by signing, dating, and returning the attached copy of this letter.

Sincerely,


Albert H. Santos
A/E Manager

Acknowledged By: _____

Signature

Print Name: _____

Date: _____

ATTACHMENT 6



Eddy Reyes <eddy.reyes@ftfcinc.com>

notice to all unsuccessful bidders

Eddy Reyes <eddy.reyes@ftfcinc.com>
To: Albert Santos <alsantos1@ghura.org>
Cc: Greta Balmeo <gbalmeo@ghura.org>

Tue, May 7, 2019 at 11:16 AM

Hafa Adai, Mr. Albert,
Per the subject letter, please see attached acknowledgement.
Sincerely
Eddy

Eddy J. Reyes
President
FLAME TREE Freedom Center, Inc.
HC 1 Box 17378
Inarajan, GU 96913
671-777-1144
[Quoted text hidden]

 **doc130455-signed.pdf**
110K



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org



Lourdes A. Leon Guerrero
Governor of Guam

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Joseph M. Leon Guerrero
Resident Commissioner

Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

Eddie J. Reyes
President
FlameTree Freedom Center Inc.
HC 1 Box 17378
Inarajan Gu 96915

May 6, 2019


Subject: IFB # GHURA -COCC-019-001, Grounds Maintenance for GHURA Properties

Dear Mr. Reyes,

The Guam Housing and Urban Renewal Authority (GHURA) Board of Commissioners has approved the award for the above project to GET LLC for Base Bid No 1 in the amount of \$73,406.00 and to Flame Tree Freedom Center for Base Bid No 3 in the amount of \$12,012.00. Base Bid no 2 was not awarded, GHURA plans to re-bid the effort required at AMP 2 & 3 with a change in scope. GHURA appreciates your participation in this project and hopes that you continue to participate on future projects.

Please acknowledge receipt of these documents by signing, dating, and returning the attached copy of this letter.

Sincerely,


Albert H. Santos
A/E Manager

Acknowledged By:  _____

Signature

Print Name: Eddy J Reyes

Date: 7 May 2019

ATTACHMENT 7



Eddy Reyes <eddy.reyes@ftfcinc.com>

**Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES
(IFB#GHURA-COCC-019-001)**

Eddy Reyes <eddy.reyes@ftfcinc.com>

Tue, May 7, 2019 at 2:03 PM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Greta Balmeo <gbalmeo@ghura.org>, Albert Santos <alsantos1@ghura.org>

Hafa Adai, Mr. Topasna,
Please see attached subject letter.
I look forward to GHURA's assessment and response.
Sincerely,
Eddy

Eddy J Reyes
President
FLAME TREE Freedom Center, Inc.
HC 1 Box 17378
Inarajan GU 96915
671-777-1144

On Mon, May 6, 2019 at 11:47 AM Albert Santos <alsantos1@ghura.org> wrote:

Hi Mr. Reyes,

Attach is GHURA notice to all unsuccessful bidders on the award of contract for the Grounds Maintenance for GHURA's property

Albert

 **FTFC Letter to Executive Director GHURA - Letter of Protest 5.7.2019-signed.pdf**
899K



FLAME TREE Freedom Center

A Supporting Hand for Independent Living
HC1 Box 17378, Inarajan, Guam 96915

Via email delivery to: rstopasna@ghura.org
7 May 2019

TO: Ray S. Topasna
Executive Director
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, Guam 96910

Subject: **Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES
(IFB#GHURA-COCC-019-001)**

Hafa Adai, Mr. Topasna,

In reference to the attached GHURA 6 May 2019 letter regarding the subject and in accordance with 5 GCA §5425, the FLAME TREE Freedom Center (FTFC) hereby submits this Letter of Protest based on 5 GCA § 5001 and 5217 *concerning the award of Base Bid No. 1*. Since FTFC understands that the funding source for this award is federal funding, FTFC also cites 41 USC Chapter 85, which draws a parallel between the federal and local statutes in establishing public policy as it pertains to procurement to non-profit organizations that employ individuals with disabilities to perform the service.

FTFC was hopeful that its attached 9 April 2019 letter to GHURA would have prevented the protest. FTFC is hopeful that GHURA will reconsider the award based on the abovementioned statutes.

The FLAME TREE Freedom Center looks forward to resolving the procurement protest as expeditiously as possible, so that GHURA residents benefit from a well-maintained facility and can appreciate living in an aesthetic environment.

Thank you for your kind attention to this matter.

Sincerely

Eddy J. Reyes
President



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudad Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
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Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

Eddie J. Reyes
President
FlameTree Freedom Center Inc.
HC 1 Box 17378
Inarajan Gu 96915

May 6, 2019

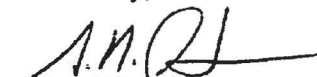
Subject: IFB # GHURA -COCC-019-001, Grounds Maintenance for GHURA Properties

Dear Mr. Reyes,

The Guam Housing and Urban Renewal Authority (GHURA) Board of Commissioners has approved the award for the above project to GET LLC for Base Bid No 1 in the amount of \$73,406.00 and to Flame Tree Freedom Center for Base Bid No 3 in the amount of \$12,012.00. Base Bid no 2 was not awarded, GHURA plans to re-bid the effort required at AMP 2 & 3 with a change in scope. GHURA appreciates your participation in this project and hopes that you continue to participate on future projects.

Please acknowledge receipt of these documents by signing, dating, and returning the attached copy of this letter.

Sincerely,


Albert H. Santos
A/E Manager

Acknowledged By:  _____

Signature
Print Name: Eddy J Reyes

Date: 7 May 2019



FLAME TREE Freedom Center

A Supporting Hand for Independent Living
HC1 Box 17378, Inarajan, Guam 96915

Via email delivery to: rstopasna@ghura.org
9 April 2019

TO: Ray S. Topasna
Executive Director
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, Guam 96910

Subject: **GROUNDS MAINTENANCE FOR GHURA PROPERTIES (IFB#GHURA-COCC-019-001)**

Hafa Adai, Mr. Topasna,

In reference to the subject bid, the FLAME TREE Freedom Center (FTFC) expressed formal interest to GHURA in its 11 March 2019 letter, citing 5 GCA § 5001 and §5217. In GHURA's 28 March email, GHURA provided assurance that "this project is fair and openly competitive as required by local (5GCA) and federal law (2 CFR Part 200)." On 29 March and based on GHURA's aforementioned response, FTFC submitted its proposal to GHURA along with three other interested bidders with the following results for FTFC: Bid#1-FTFC was second lowest price; Bid#2-FTFC was second lowest price; and Bid#3-FTFC was lowest price. GHURA informed all interested parties that the GHURA Board will meet and provide its award decision based on the proposals received.

In anticipation of GHURA's recommendation to its Board, FTFC provides the following for GHURA's consideration.

- 1) For the past two years and based on 5 GCA § 5001 and §5217, FTFC was able to submit to GHURA its proposal and price quote separate from the typical procurement process with for-profit vendors. While GHURA dealt with for-profit vendors, GHURA in parallel requested FTFC to provide a proposal. In the end, GHURA was able to award the contract to FTFC after negotiating a mutually agreed price. The foregoing procurement process is in-line with how GSA has procured similar type services per 5 GCA § 5001.
 - a. GSA has applied the following process as it pertains to 5 GCA § 5001 and §5217:
 - 1) FTFC submitted its formal interest for an IFB; 2) GSA placed a stay on the procurement, citing 5 GCA § 5001 and §5217; 3) FTFC able to perform services within the approved budget; 4) GSA cancelled the IFB and awarded the contract to FTFC.

- 2) 5 GCA § 5001 (d) reads: Purposes, Rules of Construction. (d) Policy Concerning Sheltered Workers or Persons with Disabilities. If any entity of the government of Guam or any entity expending government funds intends to procure any supply or service which is offered by a non-profit corporation employing sheltered or persons with disabilities, or a government of Guam entity employing sheltered workers or persons with disabilities, then that entity shall procure such supply or service from that non-profit corporation or government entity if the supply or service is available within the period required by the procuring entity.
- a. Please note that 41 USC Chapter 85 has a similar mandated requirement, which reads as follows: §8504. Procurement requirements for the Federal Government. (a) In General. An entity of the Federal Government intending to procure a product or service on the procurement list referred to in section 8503 of this title shall procure the product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.
- 3) Based on items 1) and 2) above, FTFC has trained and employed individuals with disabilities to perform ground maintenance services for GHURA, as well as to other government of Guam agencies (e.g. GPA and DPHSS). FTFC meets the qualifications for 5 GCA § 5001 and § 5217 criteria to be applied.
- 4) As mentioned in the proposal FTFC provided the following explanation on how it would meet the requirements for a “responsible bidder”.
- a. Price of items offered:
 - i. FTFC pricing is based on prior year’s work performed on each of the sites, the prevailing wage rates and other factors associated with the scope of work to include over-growth, bringing the site to inspection standards by HUD officials, maintenance of equipment, type of equipment and safety used and the number of personnel required, etc.
 - b. Ability, Capacity and Skill of Bidder:
 - i. In preparation for GHURA’s inspection by HUD officials, GHURA contracted FTFC to bring all sites to federal standards, which resulted in minimal citations if any. To our knowledge, GHURA passed all inspections with no major discrepancies. FTFC also provided grounds maintenance services to GPA for the Gloria B. Nelson Public Facility and 230 Water Storage Diesel Sites throughout the island.
 - c. Perform within the Specified Date:
 - i. FTFC has demonstrated the ability to meet GHURA requirements in the past. For this IFB, FTFC reaffirms its commitment to meet GHURA standards.
 - d. Compliance with Laws and Regulations:
 - i. To date, FTFC has not received any violations with the Government of Guam and remains in good standing with Guam Revenue and Taxation.
 - e. Sufficiency of Financial Resources:
 - i. FTFC has been able to perform all requirements within the specified time frame for each project. In addition, FTFC has a line of credit with a local bank in the event the Government of Guam is unable to pay invoices in a timely manner. Also, FTFC uses QuickBooks for financial management and is currently receiving services from a Certified Public Accountant.
 - f. Ability to Provide Future Maintenance and Services for the Subject Award.
 - i. FTFC is currently staffed to meet all requirements and services required of the scope of work. FTFC has been very responsive to GHURA requests for services. FTFC’s ability can be verified with existing GHURA Site Supervisors, such as Patrick Bamba, Brandon Santos and Philly San Nicolas.

- g. NOTE: To FTFC's knowledge, GHURA has been satisfied with its ground maintenance performance, especially as it pertains to meeting the HUD facility inspection requirements. For the above stated reasons, FTFC has been able to demonstrate that it is a responsible bidder and has provided GHURA with "best value".
- 5) As in the past, GHURA honored the "no bonding requirement" that has been afforded non-profit organizations under 5 GCA § 5217; therefore, FTFC is hopeful the GHURA will also honor the non-profit entity advantage as a whole in accordance with the cited applicable federal/local laws and regulations.
- 6) FTFC has employed and continues to employ individuals with disabilities that are currently recipients of GHURA Section 8 program. FTFC will also consider the hiring of public housing residents provided they meet the minimum qualifications to perform this type of work.

In conclusion, FTFC is a non-profit organization that simply employs individuals with disabilities with the aim to give them an opportunity to live a productive life without any discrimination. To date, FTFC has satisfactorily proven its capability and recognition of a responsible bidder based on the past GHURA contracts. GHURA has first-hand knowledge and experience that FTFC possesses: adequate financial resources; the ability to comply with the delivery or performance schedule; a satisfactory performance record; a satisfactory record of integrity and business ethics; the necessary organization and experience; the necessary equipment and facilities; and the qualifications and met the eligibility requirements. Lastly, FTFC is willing to submit an updated price proposal for Bids #1 and #2, if requested to do so.

FTFC is hopeful that GHURA and its Board will consider FTFC's past performance and the policy mandates regarding non-profit organizations that employ individuals with disabilities to perform government of Guam services.

The FLAME TREE Freedom Center looks forward to opportunity in providing ground maintenance services to GHURA and its residents.

Sincerely



Eddy J. Reyes
President

ATTACHMENT 8



Eddy Reyes <eddy.reyes@ftfcinc.com>

**Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES
(IFB#GHURA-COCC-019-001)**

Greta Balmeo <gbalmeo@ghura.org>

Thu, May 9, 2019 at 2:40 PM

To: Eddy Reyes <eddy.reyes@ftfcinc.com>

Cc: Ray Topasna <rtopasna@ghura.org>, Albert Santos <alsantos1@ghura.org>, Katherine Taitano <katherine@ghura.org>

Good afternoon Mr. Reyes,

In accordance to 5 GCA §5425 and your previously attached Letter of Protest, I would like to schedule a meeting for you to meet with the GHURA team tomorrow, Friday May 10 at 2 p.m. to discuss the award. In attendance at the meeting will be our A/E manager Mr. Albert Santos, our chief planner Ms. Katherine Taitano, and GHURA's legal counsel Mr. Anthony Perez. However, if you are unavailable for that time, please let me know what time/date is convenient. I look forward to your response.

Thank you,

Greta Balmeo

Buyer Supervisor I

Guam Housing and Urban Renewal Authority

117 Bien Venida Avenue

Sinajana, Guam 96910

Tel: (671) 475-1356

From: Eddy Reyes [mailto:eddy.reyes@ftfcinc.com]

Sent: Tuesday, May 07, 2019 2:03 PM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Greta Balmeo <gbalmeo@ghura.org>; Albert Santos <alsantos1@ghura.org>

Subject: Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES (IFB#GHURA-COCC-019-001)

Hafa Adai, Mr. Topasna,

[Quoted text hidden]

ATTACHMENT 9



Eddy Reyes <eddy.reyes@ftfcinc.com>

**Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES
(IFB#GHURA-COCC-019-001)**

Eddy Reyes <eddy.reyes@ftfcinc.com>

Mon, May 13, 2019 at 9:11 AM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Greta Balmeo <gbalmeo@ghura.org>, Albert Santos <alsantos1@ghura.org>

Hafa Adai, Mr. Topasna,

Thank you for meeting on Friday regarding the subject.

As FTFC contemplates a decision as to whether to maintain its protest, I would like the opportunity to review the procurement file and the GHURA Commissioner's meeting minutes pertaining to its decision on this IFB.

I am available tomorrow to conduct a review of the documentation.

Please advise.

Sincerely

Eddy

[Quoted text hidden]

ATTACHMENT 10



Eddy Reyes <eddy.reyes@ftfcinc.com>

**Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES
(IFB#GHURA-COCC-019-001)**

Eddy Reyes <eddy.reyes@ftfcinc.com>

Wed, May 15, 2019 at 2:55 PM

To: Ray Topasna <rtopasna@ghura.org>

Cc: Greta Balmeo <gbalmeo@ghura.org>, Albert Santos <alsantos1@ghura.org>

Hafa Adai, Mr. Topasna,
Please see attached letter regarding the subject matter.

Best Regards

Eddy

[Quoted text hidden]



FTFC Letter to Executive Director GHURA - Revised Pricing 5.14.2019-signed.pdf

120K



FLAME TREE Freedom Center

A Supporting Hand for Independent Living
 HC1 Box 17378, Inarajan, Guam 96915

TO: Ray S. Topasna
 Executive Director
 Guam Housing and Urban Renewal Authority
 117 Bien Venida Avenue
 Sinajana, Guam 96910

15 May 2019

Subject: **Revised Quote: GROUNDS MAINTENANCE FOR GHURA PROPERTIES (IFB#GHURA-COCC-019-001)**

Hafa Adai, Mr. Topasna,

In my 9 April 2019, I stated that the FLAME TREE Freedom Center would be ready to submit an updated quote; however, GHURA did not request for the information. Therefore, please find below revised pricing for the Bid #1 packet for the subject IFB for GHURA's consideration.

Bid # 1

Unit Price	Units	Monthly Price	Periods Annual	Price
		\$ 4,920.00	12	\$ 59,040.00
		\$ 1,545.00	17	\$ 26,265.00
				\$ 85,305.00

Base Bid Item	Item Description	Estimated Quantity	Measure	Price	Unit bid Price
1	Base Bid Item 1				
	Amp 1	12	Monthly	\$ 822	\$ 9,864
	Sinajana Main Office	12	Monthly	\$ 900	\$ 10,800
	AMP 4	12	Monthly	\$ 3,198	\$ 38,376
	Guma Trankilidat	17	Every Three weeks	\$ 1,545	\$ 26,265
	Total				\$ 86,305.00

With the spirit and intent of the federal and local statutes, and since we are both serving at-risk populations, with an aim to help individuals with disabilities become more independent and less reliant on social welfare programs, I humbly ask GHURA to reconsider its award decision based on the above revised pricing. Please note that I reviewed the procurement file yesterday and have requested to listen to the recording of the Board of Commissioner's meeting on 3 May 2019; therefore, I am not yet in a position to provide an updated on FLAME TREE Freedom Center's protest on the subject bid award.

Your attention to this matter is greatly appreciated.

Sincerely,

Eddy J. Reyes
 President

ATTACHMENT 11



Eddy Reyes <eddy.reyes@ftfcinc.com>

**Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES
(IFB#GHURA-COCC-019-001)**

Greta Balmeo <gbalmeo@ghura.org>
To: Eddy Reyes <eddy.reyes@ftfcinc.com>
Cc: Ray Topasna <rtopasna@ghura.org>, Albert Santos <alsantos1@ghura.org>

Fri, May 17, 2019 at 4:42 PM

Good afternoon Mr. Reyes,

Kindly see GHURA's letter in response your Letter of Protest. Should you have any questions, feel free to contact me.

Thank you,

Greta Balmeo

671-475-1356

From: Eddy Reyes [mailto:eddy.reyes@ftfcinc.com]
Sent: Wednesday, May 15, 2019 2:55 PM
To: Ray Topasna <rtopasna@ghura.org>
Cc: Greta Balmeo <gbalmeo@ghura.org>; Albert Santos <alsantos1@ghura.org>
Subject: Re: Letter of Protest: GROUNDS MAINTENANCE FOR GHURA PROPERTIES (IFB#GHURA-COCC-019-001)

Hafa Adai, Mr. Topasna,

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GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org



Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. Tenorio
Lt. Governor of Guam

Sabino P. Flores
Chairman

Carl V. Dominguez
Commissioner

George F. Pereda
Commissioner

Eliza U. Paulino
Commissioner

Joseph A. Cameron
Commissioner

Joseph M. Leon Guerrero
Resident Commissioner

Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

Date: May 17, 2019

To: Eddie Reyes
HC1 Box 17378, Inarajan, Guam 96915

From: Ray S. Topasna, Executive Director
Guam Housing and Urban Renewal Authority

Subject: RESPONSE TO LETTER OF PROTEST

Dear Mr. Reyes:

The Guam Housing and Urban Renewal Authority is in receipt of your Letter of Protest dated May 7, 2019, concerning the award of Base Bid No. 1 for the procurement of Grounds Maintenance for GHURA Properties (IFB#GHURA-COCC-019-001). Base Bid #1 was for ground maintenance services at AMPs 1 and 4, and Guma Trankilidat. Four bidders submitted bids for Base Bid No. 1, and Flame Tree Freedom Center was the second lowest bidder. The successful bidder for Base Bid No. 1 was GET LLC. After review of your protest, and careful consideration by GHURA, your protest is hereby denied.

First, your protest is denied because your bid was unreasonably high. The successful bidder offered \$73,406.00 to perform Base Bid #1. Your bid was \$102,732.00, almost \$30,000.00 higher than the lowest bidder.

Second, your protest is further denied because Flame Tree Freedom Center ("FTFC") does not qualify as a nonprofit corporation employing sheltered or handicapped workers. See 5 GCA § 5217. In your protest, you seek to utilize preferences contained in 5 GCA 5217. 5 GCA 5217 provides as follows:

§5217. Procurement from Nonprofit Corporations

A contract may be awarded for a supply or service without competition when the contractor is a nonprofit corporation employing sheltered or handicapped workers. As a condition of the award of the contract, **the contractor must certify that the labor on the project will be performed by handicapped persons except that supervisory personnel do not have to be handicapped.**

This statute requires that the contractor certify that persons performing the



services pursuant to the project are handicapped, with the exception of supervisory positions. You did not certify that all labor on the project will be performed by handicapped persons as the statute requires. Instead, you have certified that employees with disabilities **will help** perform the subject services for GHURA, as required by 5 GCA § 5217. *See* Letter from Mr. Reyes to GHURA, March 11, 2019, as contained in the FTTC Bid.

You further state that FTTC offers to employ GHURA public housing recipients, including individuals with disabilities. *Id.* Your certification is thus that disabled persons will help perform services, and you are willing to hire non-disabled GHURA public housing recipients to perform services on this project. This certification is deficient pursuant to 5 GCA § 5217 which requires that all the labor on the project will be performed by handicapped persons. FTTC may thus not avail itself of any purported preference as a nonprofit corporation pursuant to 5 GCA § 5217, and its bid is thus reviewed in the normal procurement context. In the normal procurement context, for an IFB, a bid is awarded to the lowest responsive, responsible bidder. FTTC's bid was not the lowest bid, and thus, was not awarded Base Bid 1.

Pursuant to 5 GCA 5425(c), FTTC is advised that it has a right to administrative and judicial review. Should you disagree with GHURA's decision herein, FTTC may appeal to the Office of Public Accountability within fifteen days of receipt of this decision.

Respectfully,

Ray S. Topasna, Executive Director



RECEIVED

OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

**Appendix B: Declaration Form
PROCUREMENT APPEAL**

DATE: May 30, 2019

TIME: 1:57 AM PM BY: FDJ

FILE NO OPA-PA: 19-006

In the Appeal of)
)
)
)
(Name of Company), APPELLANT)
)
FLAME TREE FREEDOM CENTER, INC)

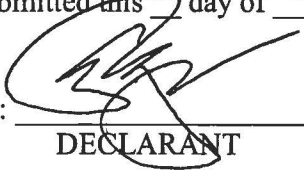
Docket No. OPA-PA 19-006

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 30TH day of MAY, 20 19.

By: 

DECLARANT

EDDY J REYES, PRESIDENT, FLAME TREE FREEDOM CENTER, INC.

Print Declarant's Name



**Appendix C: Notice of Hearing Form
PROCUREMENT APPEAL**

In the Appeal of)	
)	
)	NOTICE OF HEARING
(Name of Company), APPELLANT)	
FLAME TREE FREEDOM CENTER, INC.)	Docket No.: OPA-PA_____
_____)	

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

EDDY J REYES, PRESIDENT, FLAME TREE FREEDOM CENTER, INC.

Print Name

Date



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

Appendix D: Hearing Request/Waiver Form MAY 30, 2019
PROCUREMENT APPEAL

TIME: 1:57 AM PM BY: FDJ

FILE NO OPA-PA: 19-006

In the Appeal of)
)
)
)
)
)
(Name of Company), APPELLANT)
)
FLAME TREE FREEDOM CENTER, INC.)

**HEARING
REQUEST/WAIVER**

Docket No. OPA-PA 19-006

Please select one:

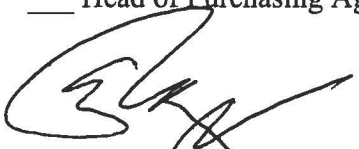
Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.

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 30TH day of MAY, 20 19.

By: (Please select one)

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



Signature

EDDY J REYES, PRESIDENT, FLAME TREE FREEDOM CENTER, INC.

Print Name