



OFFICE OF THE PUBLIC AUDITOR

PROCUREMENT APPEALS

ORIGINAL

In the Appeal of:)
)
ADVANCE MANAGEMENT, INC.)
)
Appellant)
_____)

Appeal No.: OPA-PA-07-008

ORDER OF DISMISSAL

On September 10, 2007, Advance Management Inc. (AMI) filed an appeal with Office of the Public Auditor (OPA) relative to Guam Public School System (GPSS) IFB 006-2007 "Preventative maintenance and repair of split type air conditioning units for various public schools and support facilities."

On October 29, 2007, a pre-hearing conference was held before the OPA Hearings Officer on the matter.

On November 14, 2007, the attorney for GPSS, the purchasing agency, filed with the Office of the Public Auditor (OPA) a Stipulation of Dismissal based on the agreements reached by GPSS and AMI in the October 29, 2007 pre-hearing conference.

The appellant, AMI, signed and concurred with the stipulation of dismissal that stated:

- (1) GPSS will require all future contractors to sign certify bid proposals for compliance with Public Laws (P.L.) 26-111 and 28-165, the applicable prevailing wage and benefit laws; and
- (2) GPSS will coordinate a meeting with the Attorney General, the Department of Labor, the General Services Administration, AMI, and other government organizations and/ or vendors to discuss future procedures for award contracts to ensure that the awarded vendors will pay employees in accordance wit P.L. 26-111.

Further, OPA found that the AMI appeal did not conform to the requirements of filing an appeal. AMI filed no initial protest with GPSS and instead filed the appeal directly with the OPA. Jurisdiction of an appeal in this matter requires evidence of a formal protest and denial by the awarding entity in accordance with 5 G.C.A. §5425 (e).

As such, the Public Auditor does hereby order the above-captioned appeal DISMISSED without prejudice pursuant to 5 G.C.A. §5425 and the agreements reached in the stipulation for dismissal.

Dated this 16th day of November, 2007.

DORIS FLORES BROOKS, CPA, CGFM
PUBLIC AUDITOR

1 Guam Public School System
2 Fred Nishihira
3 Legal Counsel
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PROCUREMENT APPEAL

6 In the Appeal of) Docket No. OPA-PA-07-008
7)
8 **ADVANCE MANAGEMENT, INC.**) **STIPULATION OF DISMISSAL**
9)
10 Appellant.)
11)
12)
13)
14)

15 **THIS ACTION CAME** before the Office of the Public Auditor to hear the appeal of a
16 protest initiated on September 10, 2007. Present at the Pre-Hearing Conference on October 29,
17 2007 were the Guam Public School System (GPSS) represented by Fred Nishihira, Legal
18 Counsel, and Roque Alcantara, Chief Procurement Officer, and the Advance Management, Inc.
19 (AMI) represented by Monty McDowell and James McFerran.

20 The Parties hereby stipulate to the following:

- 21 1) That the Appellant agrees to dismiss the above case-captioned protest appeal.
- 22 2) That GPSS agrees to provide the Office of Public Auditor and Department of
23 Labor a copy of the contract and related documents as requested.
- 24 3) That GPSS agrees henceforth to have all contracts involving hourly wage
25 be certified by the bidder as compliant with Public Law 26-111 and Public Law 28-165.
- 26 4) That GPSS coordinates a government meeting to include the Attorney General,
27 Department of Labor, General Services Administration and Advance Management, Inc. and
28 other Government of Guam organizations and/or vendors to discuss procedures for award

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Stipulation of Dismissal

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1 contracts with confidence that the awarded vendor will pay their employees assigned to
2 performance of the bid contract, the wages and benefits required within Public Law 26-111.

3 The parties presently and herewith waive their right to any recourse in any dispute
4 which may hereafter arise between them concerning the above captioned matter whether
5 known or unknown. It is further understood and agreed that this Stipulation represents a
6 complete and full agreement between the parties and that there is no other promise or
7 inducement other than expressly stated herein.

8 This stipulation is binding and enforceable upon the parties hereto and made effective
9 this 14 day of November, 2007 by:

10 **IT IS SO STIPULATED:**

11 

12 **LUIS S.N. REYES**
13 Superintendent of Education
14 Guam Public School System

11 

12 **JAMES MCFERRAN**
13 Director of Business Development
14 Advance Management, Inc.

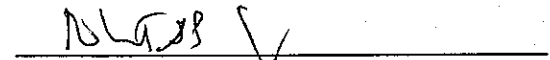
15 

16 **FRED NISHIHIRA**
17 GPSS Legal Counsel

15 

16 **MONTY MCDOWELL**
17 CEO, Advance Management, Inc.

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19
20 **SO ORDERED** this 15th day of NOVEMBER, 2007.

21
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23 **ROBERT G.P. CRUZ**
24 Hearing Officer