

OFFICE OF PUBLIC ACCOUNTABILITY

DEC 16 2011

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APPEAL NO. OPA-PA-11-012

PROCUREMENT APPEALS

IN THE APPEAL OF)	APPEAL NO. OPA-PA-11-012
)	
JOETEN DEVELOPMENT , INC.)	
)	
)	APPELLANT'S MOTION FOR
Appellant.)	AWARD OF CONTRACT AND
)	HEARING
_____)	

COMES NOW, appellant, Joeten Development Inc. (JDI), through their attorney of record, Law Office of John C. Terlaje, and moves this Office for an Order to Award the Lease Contract to the Appellant, JDI.

BACKGROUND

On February 2, 2011, the Department of Revenue and Taxation (DRT) submitted a request to the General Services Agency to start the Bidding process for office rental. On April 14, 2011, the bids were opened and JDI was the sole bidder. The Appellant was deemed the only responsive and responsible bidder. On May 13, 2011, the GSA sent a Bid Status to the Appellant cancelling the bid in its entirety due to Insufficient Funds.

Joeten initiated a bid protest on May 25, 2011 to the GSA. The Chief Procurement Officer denied the bid protest on June 10, 2011. On July 6, 2011, this Appeal was filed with the Office of the Public Auditor.

On September 27, 2011, the Public Auditor submitted her Decision in this matter. In her decision, the Public Auditor found that the cancellation of the bid "is not in the best interest of the Government". It went on to further find, "that GSA's cancellation of the IFB after bid opening is not in accordance with Guam Procurement Regulations."

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2 The Public Auditor then stated on page 8 of her decision, line 25, "Therefore , the Public
3 Auditor finds that GSA must comply with 2 G.A.R. Div.4, Chap 3, 3102(c)(1) by evaluating
4 JDI's bid to determine if it is responsive and if JDI's bid price is fair and reasonable."

5 On September 30, 2011, the GSA filed with the Office of the Public Auditor a form
6 entitled, Evaluation of JDI's Bid Price on GSA Bid No. 047-11 (LEASE FOR DEPARTMENT
7 OF REVENUE AND TAXATION). See Attachment. In this evaluation, the Chief Procurement
8 officer made the following determination:
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10 "c. On September 30, 2011, the Department of Revenue and Taxation submitted to the
11 GSA a memorandum requesting that "in the best interest of the Government" that GSA approve
12 the bid.

13 d. DRT stated it had "certified funds" now available to cover the bid cost. Based upon
14 the above, I am now accepting this bid as in the government's best interest."

15 It has now been 75 days since their submission and, after numerous requests for the lease
16 agreement or the Purchase Order awarding the bid to Joeten, no further action has been done by
17 the DRT or GSA. Numerous call and letters have been exchanged by the parties counsel with
18 the DRT counsel stating that the contract is being reviewed. The contract that is being reviewed
19 is the same contract that was given to the Appellant by the GSA. No changes were made by the
20 Appellant to the Contract.

21 WHEREFORE, Appellant prays:

- 22 1. That the Public Auditor order the GSA to award the Bid No. 047-11 immediately;
23 2. That the Purchase Orders allocating the funds for the term of the bid be executed and
24 delivered to the Appellant immediately;
25 3. That the GSA and DRT execute all needed paperwork to finalize this bid;


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4. That the Appellant be awarded legal fees for all work done in this appeal process due to the inaction of the GSA and DRT;
5. For all other relief be granted that the Public Auditor considers proper and just.

Respectfully Submitted,



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