



OFFICE OF PUBLIC ACCOUNTABILITY

Doris Flores Brooks, CPA, CGFM

Public Auditor

**PROCUREMENT APPEALS**

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6 IN THE APPEAL OF,

7 MORRICO EQUIPMENT, L.L.C.

8 Appellant  
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) **APPEAL NO: OPA-PA-13-001**

) **DECISION AND ORDER RE**  
) **PURCHASING AGENCY'S MOTION**  
) **FOR RECONSIDERATION AND FOR**  
) **CLARIFICATION OF DECISION**

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11 To: **Purchasing Agency:**

12 General Services Agency, Department of Administration, Government of Guam  
13 C/O John M. Weisenberger, Esq., or Benjamin M. Abrams, Esq.

14 Assistant Attorney Generals

15 Office of the Attorney General of Guam

16 287 West O'Brien Drive

17 Hagåtña, Guam, 96910

18 Facsimile: (671) 472-2493

19  
20 **Appellant:**

21 Morrico Equipment, L.L.C.

22 C/O Kevin J. Fowler, Esq.

23 Dooley Roberts & Fowler, L.L.P.

24 Suite 201, Orlean Pacific Plaza

25 865 South Marine Corps Drive

26 Tamuning, Guam, 96913

27 Facsimile: (671) 646-1223  
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30 **THIS MATTER** came before the Public Auditor on May 20, 2013 for a hearing on the  
31 Purchasing Agency's Motion for Reconsideration and for Clarification of the Decision in this  
32 matter. The Purchasing Agency was represented by its Counsel of Record, Assistant Attorney  
33 General John M. Weisenburger, Esq. The Appellant was represented by its Counsel of Record,  
34 Kevin J. Fowler, Esq. The Appellant did not oppose the aforementioned motions. The  
35 Purchasing Agency presented the testimony of Edward Artero, Fire Lieutenant, Guam Fire  
36 Department (GFD), Claudia Acfalle, Chief Procurement Officer, General Service Agency,

Decision & Order Re Motion for Reconsideration- 1

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1 Department of Administration, Government of Guam (GSA), and Paul N.I. Cepeda,  
2 Superintendent, Transportation Maintenance, Department of Public Works, Government of  
3 Guam, and John Wusstig, Acting Fire Chief, GFD.

4 After hearing the aforementioned Testimony and the arguments of the parties, the Public  
5 Auditor is not persuaded as to the cost-effectiveness of sending two (2) firemen with minimal to  
6 no mechanical experience for pre and post inspection trips. In light of rising deficits and  
7 potential federal sequestration of federal grants, of which funding for this fire equipment will  
8 come from, department heads have a duty to be ever-mindful of declining local and federal  
9 grants and must use tax payer funds prudently. However, it is not the Public Auditor's role to  
10 dictate how an agency should spend federal grants allocated to it. Accordingly, the Public  
11 Auditor hereby ORDERS the following:

12 1. The Purchasing Agency's Motion for Reconsideration is hereby GRANTED. The  
13 GSA may include in Multi-Step Bid No. GSA-005-13 (New and Current Year, Custom Cab-  
14 Forward Pumpers, New and Current Year, Urban/Wildland Interface Pumpers, and 5-Year  
15 Extended Service/Maintenance Agreements) (Hereafter referred to as "IFB"), at the discretion of  
16 GFD, a requirement for two (2) factory inspection trips, a pre-construction conference and a final  
17 inspection, for two (2) GFD representatives, who shall be the person or representative of the  
18 committee that developed the IFB Specifications and the GFD's chief mechanic. GFD must be  
19 mindful of the Government of Guam's austere finances and do all it can to reduce the costs of  
20 procuring the new fire trucks the IFB is soliciting.

21 2. If GFD decides to include the aforementioned requirement in the IFB, GSA shall  
22 ensure said requirement is transparent by placing it in the proposed contract terms instead of the  
23 specifications.

24 3. GSA shall have additional time to amend the IFB which shall expire at 5:00 p.m. on  
25 May 23, 2013.

26 4. All other provisions of the Public Auditor's April 19, 2013 Decision in this matter  
27 shall remain in full force and effect.

28 5. This is a Final Administrative Decision. The Parties are hereby informed of their

1 right to appeal from a Decision by the Public Auditor to the Superior Court of Guam, in  
2 accordance with Part D of Article 9, of 5 G.C.A. within fourteen (14) days after receipt of a Final  
3 Administrative Decision. 5 G.C.A. §5481(a).  
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5 **SO ORDERED NUNC PRO TUNC as of May 20, 2013, this 30<sup>th</sup> day of May, 2013**

6 by:

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11 DORIS FLORES BROOKS, CPA, CGFM  
12 PUBLIC AUDITOR  
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