

**CIVILLE & TANG, PLLC**  
SUITE 200, 330 HERNAN CORTEZ AVENUE  
HAGÁTÑA, GUAM 96910  
TELEPHONE: (671)472-8868  
FACSIMILE: (671) 477-2511

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
DATE: 10 / 7 / 13  
TIME: 4:10  AM  PM BY: AK  
FILE NO OPA-PA: 13-009

*Attorneys for Appellant*  
*JMI Edison*

**OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEAL**

In the Appeal of

JMI Edison,

Appellant.

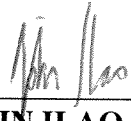
Docket No. OPA-PA 13-009

**DECLARATION OF JOHN ILAO**

I, JOHN ILAO, hereby declare as follows:

1. I am over the age of 21 and am competent to make this Declaration.
2. All of the statements set forth herein are true and correct and are based on my personal knowledge.
3. Attached as exhibit "A" is a true and correct copy of the abstract of bids from October 19, 2011 contained in the procurement record of GMHA IFB 020-2012.
4. Attached as exhibit "B" is a true and correct copy of the Bid Status notice JMI received on June 7, 2013.
5. Attached as exhibit "C" is a true and correct copy of the Bid Status notice JMI received on June 6, 2013.
6. Attached as exhibit "D" is a true and correct copy of the Sunshine Act response GMHA provided to JMI on July 2, 2013.
7. I learned that MedPharm was the awardee of the IFB on June 7, 2013, and brought my bid protest because of that fact.
8. My suspicions of MedPharm's non-responsiveness to the IFB were confirmed after my review of the procurement record provided to me on July 2, 2013.

I declare under penalty of perjury that the foregoing is true and correct.  
*Executed at Hagåtña, Guam, on this 7<sup>th</sup> day of October, 2013.*


  
\_\_\_\_\_  
**JOHN ILAO**

GUAM, U.S.A.,                    )  
  (        ss.:  
City of Hagåtña.                )

On this \_\_\_\_ day of October 2013, before me, a notary public in and for Guam, personally appeared JOHN ILAO, known to me to be the person whose name is subscribed to the foregoing Declaration, and he acknowledged to me that he executed the same.

WITNESS my hand and official seal.

)SEAL(

  
\_\_\_\_\_

**DEANA S. GARCIA**  
**NOTARY PUBLIC**  
In and for Guam, U.S.A.  
My Commission Expires: **July 11, 2015**  
P.O. Box 21806 GMF Barrigada, GU 96921

# **Exhibit “A”**



GUAM NATIONAL HOSPITAL AUTHORITY  
 GOVERNMENT OF GUAM  
 548 DOY, CARLOS O. DAMASO ROAD - TAMUNING, GUAM 96811

**ABSTRACT OF BIDS**

RECEIPT OF SUPPLIES OR SERVICES

*Proforma Kidney Machines*

NO.	DESCRIPTION OF SUPPLIES OR SERVICES	DELIVERY METHOD (BY AIR, SEA, ROAD, RAIL, POST)	DISCOUNT	ACCEPTED IN THE BIDDING (Yes/No)	UNIT	QTY	UNIT PRICE	TOTAL
	BIDDER							
	<i>UC MARKETING</i>					241	300	<i>(10. Proform)</i>
	Disclosing Ownership		✓					
	Non-Collusion Affidavit		✓					
	No Gratuities or Kickbacks		✓					
	Ethical Standards		✓					
	Declaration re Compliance		✓					
	Contingent Fees		✓					
	Contractor's Qualifications							
	Subcontractor's List							<i>Total: 421,600.00</i>
	Special Reminder		✓					
	Buy American							
	Bad Bond / <i>Check Prog 10,000</i>							<i>Local Procurement ✓</i>
	<i>Confirmation of Training</i>		✓					
	<i>Statement of Qualifications</i>		✓					
	<i>Technical Personnel</i>		✓					
	<i>Reference list</i>		✓					
	<i>Organization Chart</i>		✓					

APPROVAL OF AWARD(S) (Bidder(s) and Price(s) stated above)

BAIS FOR AWARD

LARGEST RESPONSIVE BIDDER  
 ONLY BID  
 OTHER THAN LARGEST RESPONSIVE BIDDER (See explanation on reverse thereof or attached)  
 NUMBER OF BIDDERS (Contractors)

(Signature)  
 DATE

TABLED BY

I hereby certify that all bids received in response to this invitation were opened under my personal supervision, and that the names of all bidders have been entered hereon.

US GOV. JARVIS & CAROLINA ROAD TRAINING, GUAM 0811  
**ABSTRACT OF BIDS**

NUMBER OF INVITATIONS ISSUED: 4

NUMBER OF BIDS RECEIVED: 3

DESCRIPTION OF SUPPLIES OR SERVICES:

*Portane Kidney Machines*

ITEM NO.	QTY	UNIT	UNIT PRICE	TOTAL PRICE	DISCOUNT	DELIVERY CHARGE	ACCEPTANCE (Y/N)	DESCRIPTION
								BIDDERS
				22,795.00 (2)			✓	Miscellaneous
							✓	Disclosing Ownership
							✓	Non-Collusion Affidavit
							✓	No Gratuities or Kickbacks
							✓	Ethical Standards
							✓	Declaration re Compliance
							✓	Contingent Fees
								Contractor's Qualifications
								Subcontractor's List
							✓	Special Reminder
								Buy American
								Bid Bond <i>Cashed</i>
								Statement of Qualifications ✓
								Performance Bond ✓
								Technical Personnel ✓
								Continuation of Training ✓
								List of References ✓
								75,000.00
								local procurement ✓
								Organization of staff ✓

TOTAL 428,515.00

APPROVAL OF AWARDS (Bidder's) and Price(s) selected above)

BAIS FOR AWARD

LOWEST RESPONSIVE BINDER  
 THE BID  
 ONLY BID  
 FROM THE LOWEST RESPONSIVE BINDER (See explanation on reverse hereof or attached)

APPROVED BY: \_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 DATE: \_\_\_\_\_

I hereby certify that all bids received in response to this invitation were opened under my personal supervision, and that the names of all bidders have been entered herein.

TABLED BY

# **Exhibit “B”**

Confirmation Report - Memory Send

Page : 001  
Date & Time: Jun-07-13 02:44pm  
Line 1 : +6716493640  
Machine ID : 671 649 3640

Job number : 207  
Date : Jun-07 02:05pm  
To : 6495685  
Number of pages : 003  
Start time : Jun-07 02:43pm  
End time : Jun-07 02:44pm  
Pages sent : 003  
Status : OK

Job number : 207 \*\*\* SEND SUCCESSFUL \*\*\*

GUAM MEMORIAL HOSPITAL AUTHORITY  
850 GOV. CARLOS G. CAMACHO ROAD  
TAMUNING, GUAM 96913  
PHONE: 671-647-2165 FAX: 671-649-3640

FAX TRANSMITTAL SHEET

TO: JMI Edison  
FAX: 649-5685  
FROM: Assistant Supply Management Administrator, Acting  
DATE: June 07, 2013  
SUBJECT: GMHA IFB 020-2012, Portable Kidney Machines with Portable Water Purification Machines  
Bid Status  
PAGES: 3 including cover sheet

NOTES:

An acknowledgement via a return fax would be appreciated as soon as possible. Return fax number is 649-3640

DATE / VENDOR ACKNOWLEDGEMENT

FACSIMILE CONFIDENTIALITY NOTICE

These documents accompanying this transmission contain confidential information that is legally privileged. This information is intended only for the use of the individual or entity named above. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.

If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.



**GUAM MEMORIAL HOSPITAL AUTHORITY  
850 GOV. CARLOS G. CAMACHO ROAD  
TAMUNING, GUAM 96913  
PHONE: 671-647-2165 FAX: 671-649-3640**

**FAX TRANSMITTAL SHEET**

**TO:** JMI Edison  
**FAX:** 649-5685  
**FROM:** Assistant Supply Management Administrator, Acting  
**DATE:** June 07, 2013  
**SUBJECT:** GMHA IFB 020-2012, Portable Kidney Machines with Portable Water Purification Machines  
**Bid Status**  
**PAGES:** 3 including cover sheet

**NOTES:**

An acknowledgement via a return fax would be appreciated as soon as possible. Return fax number is 649-3640

**DATE / VENDOR ACKNOWLEDGEMENT**

**FACSIMILE CONFIDENTIALITY NOTICE**

These documents accompanying this transmission contain confidential information that is legally privileged. This information is intended only for the use of the individual or entity named above. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.

If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.



# Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



850 GOV. CARLOS CAMACHO ROAD  
OKA, TAMUNING, GUAM 96913  
TEL: 647-2444 or 647-2330  
FAX: (671) 649-0145

June 3, 2013

## BID STATUS

Mrs. Jean Grape-Ko  
Sales Manager  
JMI-Edison  
125 North Marine Drive  
Tamuning, Guam 96913

BID NO: GMHA Bid #020-2012      OPENED: October 19, 2011 @ 9:00am  
FOR: Portable Kidney Machines with Reverse Osmosis Purification Machines  
with two offered options.

The following is the outcome of subject bid as indicated by an

- // Canceled (in whole and in part) in the best interest of Guam Memorial Hospital Authority for reasons including, but not limited to:
- Insufficient funds
  - No longer require the supplies, services or construction;
  - Major change or amendment of specifications;
  - Insufficient number of bidders;
- /X/ The bid has been rejected in the best interest of Guam Memorial Hospital Authority for reasons including, but not limited to:
- Late submission of bid.
  - No bid deposit submitted, as required by Section 11 of the General Terms and Conditions.
  - Bid received after the time established by the invitation for bid.
  - Not meeting the delivery requirement as stated in the invitation for bid.
  - Nonconformance with specifications. Option 1**
  - Inability to provide future maintenance and services
  - Exceeds budgeted amount.
  - High Price. Option 2**

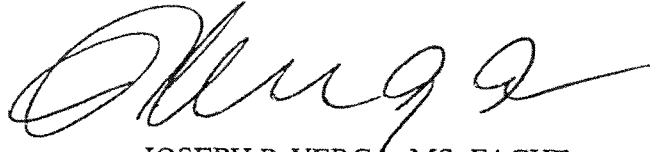
- Exceeds budgeted amount.
- High Price. Option 2**

**/X/ Others: JMI-Edison Option 1 was not as specified on bid requirements and Option 2 bid was not the lowest. 3-202.14.2 GMHA Procurement Rules and Regulations provides that the contract will be awarded to the lowest responsible and responsive bidder namely MedPharm.**

**Accordingly, bidders not selected because their bids were not the lowest will maintain their prospective status with GMHA until the contract with the "lowest bidder" is finalized.**

Thank you for responding to the subject solicitation.

Sincerely,



**JOSEPH P. VERGA, MS, FACHE**  
*JP* Hospital Administrator/CEO

ACKNOWLEDGMENT OF RECEIPT:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

# **Exhibit “C”**

Confirmation Report - Memory Send

Page : 001  
Date & Time: Jun-06-13 08:07am  
Line 1 : +6716493640  
Machine ID : 671 649 3640

Job number : 126  
Date : Jun-06 08:05am  
To : 6495685  
Number of pages : 003  
Start time : Jun-06 08:06am  
End time : Jun-06 08:07am  
Pages sent : 003  
Status : OK

Job number : 126 \*\*\* SEND SUCCESSFUL \*\*\*

GUAM MEMORIAL HOSPITAL AUTHORITY  
850 GOV. CARLOS G. CAMACHO ROAD  
TAMUNING, GUAM 96913  
PHONE: 671-647-2165 FAX: 671-649-3640

FAX TRANSMITTAL SHEET

TO: JMI Edison  
FAX: 649-5685  
FROM: Assistant Supply Management Administrator, Acting  
DATE: June 06, 2013  
SUBJECT: GMHA IFB 020-2012, Portable Kidney Machines with Portable Water Purification Machines  
Bid Status  
PAGES: 3 including cover sheet

NOTES:

An acknowledgement via a return fax would be appreciated as soon as possible. Return fax number is 649-3640

DATE / VENDOR ACKNOWLEDGEMENT

FACSIMILE CONFIDENTIALITY NOTICE

These documents accompanying this transmission contain confidential information that is legally privileged. This information is intended only for the use of the individual or entity named above. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.

If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.



# Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



850 GOV. CARLOS CAMACHO ROAD  
OKA, TAMUNING, GUAM 96913  
TEL: 647-2444 or 647-2330  
FAX: (671) 649-0145

June 3, 2013

## BID STATUS

Mrs. Jean Grape-Ko  
Sales Manager  
JMI-Edison  
125 North Marine Drive  
Tamuning, Guam 96913

BID NO: GMHA Bid #020-2012      OPENED: October 19, 2011 @ 9:00am  
FOR: Portable Kidney Machines with Reverse Osmosis Purification Machines  
with two offered options.

The following is the outcome of subject bid as indicated by an

// Canceled (in whole and in part) in the best interest of Guam Memorial Hospital Authority for reasons including, but not limited to:

- Insufficient funds
- No longer require the supplies, services or construction;
- Major change or amendment of specifications;
- Insufficient number of bidders;

/X/ The bid has been rejected in the best interest of Guam Memorial Hospital Authority for reasons including, but not limited to:

- Late submission of bid.
- No bid deposit submitted, as required by Section 11 of the General Terms and Conditions.
- Bid received after the time established by the invitation for bid.
- Not meeting the delivery requirement as stated in the invitation for bid.
- Nonconformance with specifications. **Option 1**
- Inability to provide future maintenance and services
- Exceeds budgeted amount.
- High Price. Option 2**

/X/

Others: JMI-Edison Option 1 was not as specified on bid requirements and Option 2 bid was not the lowest. 3-202.14.2 GMHA Procurement Rules and Regulations provides that the contract will be awarded to the lowest responsible and responsive bidder. Accordingly, bidders not selected because their bids were not the lowest will maintain their prospective status with GMHA until the contract with the "lowest bidder" is finalized.

Thank you for responding to the subject solicitation.

Sincerely,



JOSEPH P. VERGA, MS, FACHE  
Hospital Administrator/CEO

ACKNOWLEDGMENT OF RECEIPT:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

**GUAM MEMORIAL HOSPITAL AUTHORITY  
 850 GOV. CARLOS G. CAMACHO ROAD  
 TAMUNING, GUAM 96913  
 PHONE: 671-647-2165 FAX: 671-649-3640**

**FAX TRANSMITTAL SHEET**

**TO:** JMI Edison

**FAX:** 649-5685

**FROM:** Assistant Supply Management Administrator, Acting

**DATE:** June 06, 2013

**SUBJECT:** GMHA IFB 020-2012, Portable Kidney Machines with Portable Water Purification Machines  
**Bid Status**

**PAGES:** 3 including cover sheet

**NOTES:**

An acknowledgement via a return fax would be appreciated as soon as possible. Return fax number is 649-3640

**DATE / VENDOR ACKNOWLEDGEMENT**

**FACSIMILE CONFIDENTIALITY NOTICE**

These documents accompanying this transmission contain confidential information that is legally privileged. This information is intended only for the use of the individual or entity named above. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.

If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.



# **Exhibit “D”**

FISHER & ASSOCIATES  
ATTORNEYS AT LAW

2 July 2013

**VIA HAND DELIVERY**

Joshua D. Walsh, Esq.  
Civille & Tang, PLLC  
330 Hernan Cortez Ave., Ste. 200  
Hagatna, GU 96910



**Re: Sunshine Request on behalf of JMI-Edison**

Dear Mr. Walsh,

With regards to the above-referenced Sunshine Request, please find your requests and response by the Guam Memorial Hospital Authority ("GMHA") enumerated below.

1. *"The Procurement Record kept in this matter in accordance with Guam law."*

Pursuant to 5 GCA § 5249, the record of procurement shall include the following:

(a) the date, time, subject matter and names of participants at any meeting including government employees that is in any way related to a particular procurement;

A copy of the bidder/offers register is enclosed.

(b) a log of all communications between government employees and any member of the public, potential bidder, vendor or manufacturer which is in any way related to the procurement;

Copies of responsive documents/communications including amendment logs are enclosed.

(c) sound recordings of all pre-bid conferences; negotiations arising from a request for proposals and discussions with vendors concerning small purchase procurement;

A mini-cassette copy of the responsive sound recordings is enclosed.

(d) brochures and submittals of potential vendors, manufacturers or contractors, and all drafts, signed and dated by the draftsman, and other papers or materials used in the development of specifications;

Page 2 of 2.

The GMHA does not have responsive documents in its possession.

(e) the requesting agency's determination of need.

Copies of GMHA IFB # 020-2012 and amendments 1 through 4 are enclosed.

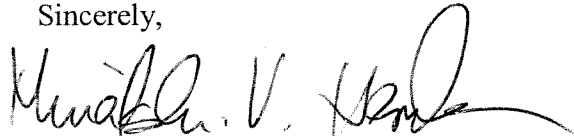
2. *"Documents detailing a joint venture or other partnership between the other offerors of this bid and the manufacturers they obtained their product from."*

The GMHA does not have responsive documents in its possession.

3. *"Evaluation sheets, reviewer notes, internal memoranda, and documents in whatever format that detail GMHA's decision to award solicitation GMHA 020-2012 to the awardee."*

GMHA 020-2012 has not been officially awarded; however, copies of GMHA's bid analysis and abstract are enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Minakshi V. Hemlani". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Minakshi V. Hemlani, Esq.