

1 **GUAM DEPARTMENT OF EDUCATION**  
Christina M. Pederson, Legal Counsel  
2 P.O. Box DE  
Hagåtña, Guam 96910  
3 Telephone (671) 300-1537  
Email: legal-admin@gdoe.net

RECEIVED  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
JUN 14 2012  
TIME 11:30 AM BY: OUPA  
FILE NO. OPA-PA-12-010

4 *Attorney for Guam Department of Education*

5 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**  
6 **PROCUREMENT APPEAL**

7  
8 IN THE APPEAL OF  
9 ALLIED PACIFIC BUILDERS, INC.,  
10  
11 Appellant.

APPEAL NO. OPA-PA-12-010  
12  
13 **REQUEST FOR DECISION**

14 Comes now the Guam Department of Education (“GDOE”) by and through its counsel  
15 and files this Request for Decision as promptly as possible on the basis that Allied Pacific  
16 Builders, Inc. (“Appellant”) filed a Letter of Formal Hearing Request Withdrawal (“Hearing  
17 Request Withdrawal”) with the Office of Public Accountability (“OPA”) on June 13, 2012. *See*  
18 Exhibit 1.

19 This request is supported by the Memorandum of Points and Authorities below.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 Appellant filed a protest with GDOE on January 5, 2012 regarding GDOE IFB 035-2011  
22 and GDOE IFB 036-2011 (hereinafter referred to as “Protested IFBs”). GDOE has worked  
23 diligently at resolving this protest as expeditiously as possible. As shown in Exhibit 2, GDOE  
24 first responded to Appellant on March 3, 2012, stating that “at least one of the issues raised in  
25 your protest may be influenced by a case currently before the [OPA]. GDOE intends to issue a  
26 response to your protest once it has had an opportunity to review the ruling from the OPA case.”  
27 GDOE formally responded to that protest on April 3, 2012, a mere three (3) business days after a  
28 Decision was rendered in OPA-PA-11-019/020/021. Ten (10) days later on April 13, 2012,

1 Appellant filed this Appeal with the OPA. On May 10, 2012, Appellant filed its Request for a  
2 Formal Hearing. At the May 25, 2012 hearing it was indicated that Appellant had the right to  
3 waive its right to a formal hearing and a decision would be rendered within thirty (30) days of the  
4 waiver.

5 The Hearing Request Withdrawal states Appellant is "withdrawing our requested hearing,  
6 knowing that your office will do its due diligence in providing the right review and judgment."  
7 Exhibit 1. On the basis of the filed Hearing Request Withdrawal and 2 GAR § 12110(a), GDOE  
8 respectfully requests that within thirty (30) days, or July 13, 2012, the OPA issue a decision on all  
9 filed motions, and if the Motions to Dismiss are denied, a decision on the merits of the Appeal.

10 *See also 5 GCA § 5701.*

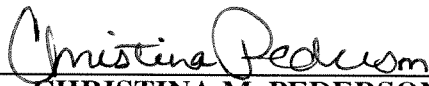
### 11 CONCLUSION

12 For the foregoing reasons, GDOE requests that given the time-sensitive nature of the  
13 funds available for this procurement, that a determination of all filed motions, and if the Motions  
14 to Dismiss are denied, a decision on the merits of the Appeal, be made as soon as possible, but in  
15 no event, no later than Friday, July 13, 2012.

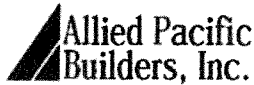
16 Dated this 14<sup>th</sup> day of June, 2012.

17 Respectfully submitted,

18 **GUAM DEPARTMENT OF EDUCATION**

19 By:   
20 **CHRISTINA M. PEDERSON, ESQ.**  
21 *Legal Counsel*

# **Exhibit 1**



**Allied Pacific Builders, Inc.**  
 P.O Box 21988  
 GMF, Guam 96921  
 Tel: 671-475-7408  
 Fax: 671-475-7409

**LETTER OF TRANSMITTAL**

Date:	Request No.	Transmittal No.
13-Jun-12	IFB NO. 035-2011	APB-GDOE-TF-13
& IFB NO. 036-2011		
Letter of Formal Hearing Request Withdrawal		
STRUCTURAL REPAIRS AND ROOF COATING		
NORTHERN A & B		
Various Locations, Guam		

TO: THE DEPARTMENT OF EDUCATION  
Supply Management Administrator  
Hagatna, Guam

ATTN: MARCUS Y. PIDO

WE ARE SENDING YOU  ATTACHED  Under separate cover via \_\_\_\_\_ the following items:

- |  |                                  |  |   |
|--|----------------------------------|--|---|
| <input type="checkbox"/> Subcontracts              | <input type="checkbox"/> Plans   | <input type="checkbox"/> Proposal      | <input type="checkbox"/> Submittals       |
| <input checked="" type="checkbox"/> Copy of Letter | <input type="checkbox"/> Invoice | <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> Tender Documents |

ITEM	DATE	COPIES	DESCRIPTION
1	6/13/2012	1	Letter of Formal Hearing Request Withdrawal for the Appeal OPA-PA-12-010

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> For Approval            | <input type="checkbox"/> Approved as submitted  | <input type="checkbox"/> Resubmit _____ copies for approval   |
| <input checked="" type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted      | <input type="checkbox"/> Submit _____ copies for distribution |
| <input type="checkbox"/> As requested            | <input type="checkbox"/> Return for Corrections | <input type="checkbox"/> Return _____ corrected prints        |
| <input type="checkbox"/> For review and Comment  | <input type="checkbox"/> FOR BIDS DUE           |   |
| <input type="checkbox"/> Other _____             |   |   |

**PROCUREMENT SECTION  
 RECEIVED**

JUN 13 2012

DEPARTMENT OF EDUCATION

TIME: 3:53 INITIAL: JP

REMARKS:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Received by: \_\_\_\_\_

Signed By:   
 Noel Tolentino / Senior Project Manager



Contractor License # CLB06-0010  
RME # 5242  
www.alliedpacificbuilders.com

P.O. Box 21988  
GMF, GU 96921  
Ph. (671) 475-7408  
Fax. (671) 475-7409

June 12, 2012

Doris Flores Brooks  
Guam Public Auditor  
Office of Public Accountability  
Suite 401 DNA Building  
238 Archbishop Flores St  
Hagatna Guam 96910

PROCUREMENT SECTION  
RECEIVED

JUN 13 2012

DEPARTMENT OF EDUCATION  
TIME: 3:54 INITIAL: JB

RE: Formal Hearing

SUBJ: Letter of Hearing, Dated July 2, 2012  
Structural Repairs and Roof Coating –  
Northern A Solicitation IFB035-2011 and Northern B Solicitation IFB036-2011

Dear Ms Brooks,

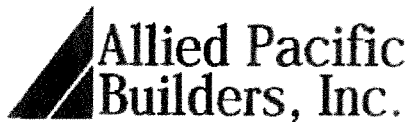
This letter is in reference to the Formal Hearing Scheduled Date July 2, 2012, Structural Repairs and Roof Coating with the Guam Department of Education (GDOE). Please be advised that we will not pursuing the requested hearing as scheduled by OPA on July 2, 2012.

We entered our protest appeal to OPA to point out that GDOE has not satisfied our protest based on the APB letter of response and comments on the GDOE Motion to Dismiss dated May 18, 2012. With that being said we request that OPA review thoroughly our pointers and make their own right judgment, In the interest of making a timely award, and of providing the best value to GDOE. We would like to suggest also that the Construction Management Team that GDOE hired recommend that the bids be qualified by each Bidder submitting a Schedule of Values, indicating the following:

- 1) Total Roof Area (in square feet) on which bid was based.
- 2) Total Ceiling Area (in square feet) on which bid was based.
- 3) Total Wall Area (in square feet) on which bids was based.
- 4) Total Length of Cracks to be Repaired (in linear feet) on which bid was based.
- 5) Total Area of Spalls to be Repaired (in square feet) on which bid was based.

Knowing that the GDOE was able to get the CIP funding for this project, they should have an initial or Government estimates to compare, if the winning bidder is really responsible enough to execute and complete the project within the contract.

We are withdrawing our requested hearing, knowing that your office will do its due diligence in providing the right review and judgment.



Contractor License # CLB06-0010  
RME # 5242  
www.alliedpacificbuilders.com

P.O. Box 21988  
GMF, GU 96921  
Ph. (671) 475-7408  
Fax. (671) 475-7409

However, we would like to stress the importance of this hearing for its accountability, trust, and the integrity in the decision making. Our main concern is that this protest/ appeal and hearing will result in the adherence to sound bidding procedures and standards, and to high quality control and assurance practices on any procurement process that the Government will enter into.

Should you have any questions, please do not hesitate to contact me @ 475-7405/8.

Sincerely,

A handwritten signature in black ink, appearing to read "Genaro Q. Danila". The signature is fluid and cursive, written over a faint horizontal line.

Genaro Q. Danila,  
General Manager

# **Exhibit 2**



Talling M. Taitano  
Interim Superintendent of Education

**DEPARTMENT OF EDUCATION  
OFFICE OF SUPPLY MANAGEMENT**

[www.gdoe.net](http://www.gdoe.net)  
Manuel F.L. Guerrero/Administration Building  
2<sup>nd</sup> Floor, Suite B-220  
Hagatna, Guam 96932  
Telephone: (671) 475-0438 Fax: (671) 472-5001  
Email: [procurement@gdoe.net](mailto:procurement@gdoe.net)



Marcus Y. Pido  
Supply Management Administrator

March 3, 2012

Mr. Genaro Q. Danila  
General Manager  
Allied Pacific Builders, Inc.  
P.O. Box 21988  
GMF, GU 96921  
Phn: (671) 475-7408  
Fax: (671) 475-7409  
[genaro@alliedpacificbuilders.com](mailto:genaro@alliedpacificbuilders.com)

**DELIVERY VIA FACSIMILE AND E-MAIL TRANSMISSION ONLY**

**RE: Response to Letter of Protest dated January 5, 2012  
IFB 035-2011 and IFB 036-2011  
Structural Repairs and Roof Coating – Northern A and Northern B**

Dear Mr. Danila:

This letter is written in response to your letter of January 5, 2012 regarding Guam Department of Education (“GDOE”) Invitations for Bids Numbers 035-2011 and 036-2011 for Structural Repairs and Roof Coating. GDOE is continuing its review of the allegations in your protest. The response to at least one of the issues raised in your protest may be influenced by a case currently before the Office of Public Accountability (“OPA”).

GDOE intends to issue a response to your protest once it has had an opportunity to review the ruling from the OPA case. We expect the ruling from the OPA will be issued within thirty (30) days and upon review of the OPA ruling, GDOE will promptly issue a response to your protest.

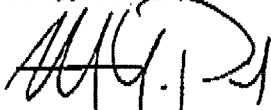


Response to Allied Pacific Letter of Protest dated January 5, 2012  
March 3, 2012  
Page 1 of 2

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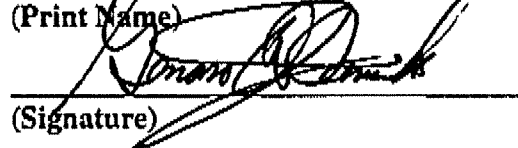
**Please acknowledge receipt of this document by signing below and return acknowledgment via fax: (671) 472-5001.**

Senseramente

  
MARCUS Y. PIDO

**Acknowledge Receipt:**

GENARO Q. DANILA / GEN. MANAGER  
(Print Name)

  
(Signature)

ALLIED PACIFIC BUILDERS, INC.  
(Company Name)