

November 19, 2007

Doris Flores Brooks
Guam Public Auditor
Suite 401 Pacific News Building
238 Archbishop Flores Street
Hagatna, Guam 96910

RECEIVED
OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

NOV 20 2007
TIME: 9:30 AM
BY: T. Gumaotao
FILE No. OPA-PA 07-010

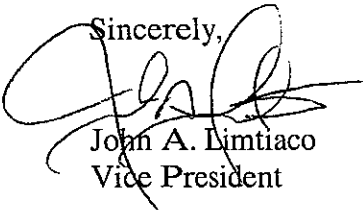
Re: GSA/PAG 07-006, Notice of Appeal

Dear Mrs. Brooks,

Transmitted herewith for filing is a Notice of Appeal in triplicate, by Far East Equipment Company LLC, arising from the referenced invitation for bid. Appellant protest the method of Award, particularly the failure of GSA/PAG to award items to the lowest responsible bidder who has met the performance criteria of the bid.

Appellant received notice of denial of its protest on November 9, 2007 and would like to request your office hold a hearing to review the method of award.

Sincerely,


John A. Limtiaco
Vice President

ORIGINAL



OFFICE OF THE PUBLIC AUDITOR

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

PART I- To be completed by OPA

In the Appeal of _____)
) **NOTICE OF APPEAL**
)
)
 (Name of Company), APPELLANT) Docket No. OPA-PA 07-016
)
)
 _____)

PART II- Appellant Information

Name: Far East Equipment Company LLC
 Mailing Address: P.O. Box 10838
Tamuning, Guam 96931
 Business Address: 17-3311 Corsair Rd.
Tiyan Barrigada, Guam 96913
 Daytime Contact No: 671-888-6270

PART III- Appeal Information

- A) Purchasing Agency: Port Authority of Guam
- B) Identification/Number of Procurement, Solicitation, or Contract: GSA/PAG 07-006
- C) Decision being appealed was made on 11/7/2007 (date) by:
 Chief Procurement Officer Director of Public Works Head of Purchasing Agency

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

- D) Appeal is made from:
 (Please select one and attach a copy of the Decision to this form)
- Decision on Protest of Method, Solicitation or Award
 Decision on Debarment or Suspension
 Decision on Contract or Breach of Contract Controversy
 (Excluding claims of money owed to or by the government)
 Determination on Award not Stayed Pending Protest or Appeal
 (Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

ORIGINAL

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

<u>Morrice Equipment</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____

PART IV- Form and Filing

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;
2. A statement specifying the ruling requested;
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.

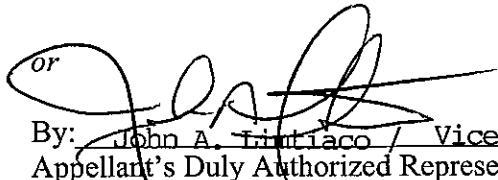
PART V- Declaration Re Court Action

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 20 day of ~~November~~ 20 07

By: John A. Lintiacco
APPELLANT

or 

By: John A. Lintiacco / Vice President
Appellant's Duly Authorized Representative
(Address)
(Phone No.)

APPENDIX A

ORIGINAL

Statement of Appeal
GSA/PAG 07-006
Forklift Bid

1. On August 24, 2007 Appellant submitted its bid for GSA/PAG 07-006.
2. Bids were publicly open and read allowed. Appellant submitted a bid for only item 4.1 which was specified as a 40,000# forklift @ 24" center. Appellant primary bid was for a 40,000# @ 24" center forklift as required in the bid specification at a price of \$ 227,830.00. Appellant's optional bid was for a 44,000# forklift @ 48" center at a price of \$ 286,610.40. Morrico Equipment bid for item 4.1 was for a 45,000# forklift @ 36" center at a price of \$ 252,999.00. See bid abstract Exhibit A.
3. On Oct 8, 2007 Appellant was provided a Bid Status notification advising that its primary bid for item 4.1 was rejected because its bid did not meet the minimum horsepower requirement of 230 hp and a minimum fork length of 96 inches. See Exhibit B
4. On Oct 17, 207 Appellant filed a formal letter of protest to General Services Agency (GSA) advising GSA that their determination that the fork length did not meet the minimum requirement of 96 inches was an error as it was clearly stated in our bid submittal that we would comply with the fork length requirement. We also noted in our letter of protest that the difference of 10 horsepower from the specification does not reduce the forklift capability of lifting 40,000# that it was designed to meet and which was called for in the bid specifications. See Exhibit C protest letter and Exhibit D Forklift brochure.
5. On Nov 9, 2007 Appellant received notice from the General Services Agency denying our protest. See Exhibit E.

ORIGINAL

Appellant request the Office of the Public Auditor to rule that Appellant is the lowest responsible bidder for GSA/PAG 07-006 Item 4.1 for a 40,000# forklift @ 24" center.

ORIGINAL



OFFICE OF THE PUBLIC AUDITOR

**Appendix D: Hearing Request/Waiver Form
PROCUREMENT APPEAL**

In the Appeal of)	
)	
Far East Equipment Company LLC)	HEARING
(Name of Company), APPELLANT)	REQUEST/WAIVER
_____)	Docket No. OPA-PA <u>07-010</u>
)	

Please select one:

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

Submitted this 20 day of November, ~~20~~ 07.

By: (Please select one)

- APPELLANT
- Chief Procurement Officer
- Director of Public Works
- Head of Purchasing Agency



Signature

John A. Limtiaco / Vice President
Print Name

ORIGINAL



OFFICE OF THE PUBLIC AUDITOR

**Appendix B: Declaration Form
PROCUREMENT APPEAL**

In the Appeal of)
)
Far East Equipment Company LLC)
(Name of Company), APPELLANT)
_____)

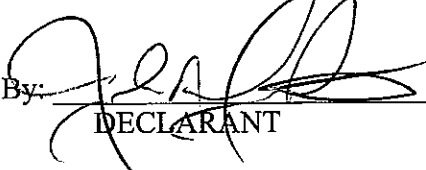
Docket No. OPA-PA 07-010

DECLARATION RE COURT ACTION
(To be signed by the Government Purchasing Agency.)

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 20 day of November, 2007

By: 

DECLARANT

John A. Lintiaco/Vice President
Print Declarant's Name

APPENDIX B

ORIGINAL

DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM

DATA SHEET NUMBER
DAG 07-006
DATE
8/10/07 TIME
10:00 A.M.

ABSTRACT OF BIDS

DESCRIPTION OF SUPPLIES OR SERVICES
Fork Trucks

BIDDER	ACCEPT- ANCE DATE	DISCOUNT	DELIVERY TERMS (If any)	UNIT	QTY	UNIT PRICE	EXT.	UNIT	QTY	UNIT PRICE	EXT.
(1) Far East Equipment Co.				1.1			EXT.	2.1			EXT.
Bid Guarantee: Brochures Affidavit of Disclosure of Major Shareholders x Local Improvement Preference application x Non-Collusion affidavit: 8/16/07 Insurance Coverage upon award: Bond Standing affidavit: 8/16/07 Ethical Standards affidavit: 8/16/07 Non Inactivity affidavit: 8/16/07 Special Instructions: Letter HOI-SB-0496 52,500				16/B			2.00	H/B			

EXHIBIT A

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

APPROVED BY: *[Signature]*
DATE: **8/27/07**

5007 *[Signature]*

APPROVAL OF AWARD (B) (Bidder's and Purchaser's check above)

REASON FOR AWARD

LOWEST RESPONSIVE BIDDING

TWO BID

ONLY BID

OTHER THAN LOWEST RESPONSIVE BIDDING (Please explain on reverse insert or attached)

NUMBER OF AWARD (Contractors)



GENERAL SERVICES AGENCY

(Añensian Setbielon Hinirad)

Government of Guam

P.O. box FG, Agana, Guam 96910

Tel: 477-8836 -- 8 • Telefax: 472-4217

EXHIBIT B

Accountability • Impartiality • Competence • Openness • Value

BID STATUS

Date: OCT 01, 2007

FAR EAST EQUIPMENT CO. LLC
P.O. BOX 10838
TAMUNING GUAM 96931

BID INVITATION NO.: GSA-PAG-07-006 **OPENED:** 24 AUGUST 2007

DESCRIPTION: 5(EA.) 11,000lbs 2(EA) 16,000lbs 1(EA) 20,000lbs 1(EA) 40,000lbs
FORK LIFT TRUCKS

The following is the result of the above-mentioned bid. Refer to the items checked below.

Cancelled (in its entirety), or partially cancelled due to:

- () Insufficient funds;
- () Change of specifications; or
- () Insufficient number of bidders.

Rejected due to:

- () Late submission of bid;
- () No bid security or insufficient bid security amount submitted; as required by Section 11 of the General Terms and Conditions;
- () Not meeting the delivery requirement as stated in the IFB;
- (xx) Non-conformance with the specifications; For Option 1.
- () Inability to provide future maintenance and services to the equipment;
- (xxx) High price; or For Option 2.
- (xxx) Others:
 - 1. Did not meet minimum horsepower requirements. Minimum horsepower required as per specifications 230hp-Far East 220hp
 - 2. Did not meet fork dimensions. As per specification Length of for 96" Far East 47".

Bid is recommended for award to:

MORRICO EQUIPMENT LLC IN THE TOTAL AMOUNT OF 920,391.00.

REMARKS:

THANK YOU FOR PARTICIPATING IN THIS BID. PLEASE HAVE YOUR AUTHORIZED REPRESENTATIVE COME BY OUR OFFICE TO PICK UP THE ORIGINAL BID STATUS AND BID GUARANTEE DEPOSIT. SI YU'US MA'ASE

Received: 10-8-2007
Time: 10:22 AM
[Signature]
John Limbaco

PSN for: Pedro F. San Nicolas
CLAUDIA S. ACAPALE
Chief Procurement Officer





EXHIBIT C

P.O. Box 10838 • Tamuning, Guam 96931
Tel: (671) 473-4374 • Fax: (671) 473-4370
Email: jlimtiaco@fleetservicesguam.com

October 17, 2007

Mr. Pedro San Nicolas
Acting Chief Procurement Officer
General Services Agency
Government of Guam
148 Route 1 Marine Dr.
Piti, Guam 96915

Re: GSA/PAG 07-006 Protest of Award for 40,000# forklift.

Dear Mr. San Nicolas,

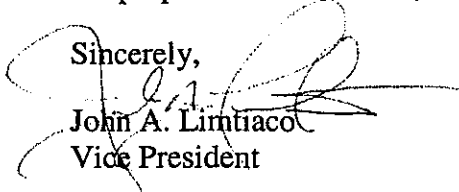
Our company is formally protesting the Award of the 40,000# forklift on GSA/PAG 07-006. Although we were the low bidder GSA has indicated that our proposed supply did not meet the horsepower requirement and that the length of our proposed forks was only 47". It is true that the horsepower of the unit we offered was only 220HP versus the request for 230HP by the government. However the length of the fork we provided is clearly 96" as indicated in our comply remarks on the bid specifications and we have met all of the other specifications of the bid and most importantly the bid lift capacity of 40,000#.

It is important to understand that the proposed forklift offered by Morrico Equipment is not a 40,000# forklift. The Hyster H450HD proposed by Morrico in their bid is a 45,000# forklift and is the reason why it is outfitted with a larger engine and comply with the 230HP required by the government. Had Morrico offered a 40,000# forklift it more than likely would be equipped with a smaller engine and less than 230HP required by the government as was the case with the unit our company proposed.

The procurement law does not allow a bidder to provide a unit in excess of the specification unless the unit is also priced lower than other bids which meet the specifications. In this case Morrico Equipment provided equipment in excess of the specification and at a price \$ 25,169.00 higher than our company that quoted a 40,000# forklift as requested in the bid advertisement.

In closing, we look forward to your review of our protest, Morrico's Bid offer which clearly states a H450HD (45,000# capacity forklift), Hyster brochure provided by Morrico equipment that show that Hyster has a 40,000# forklift that it did not offer, and the proper award of the 40,000# forklift to Far East Equipment Company LLC.

Sincerely,

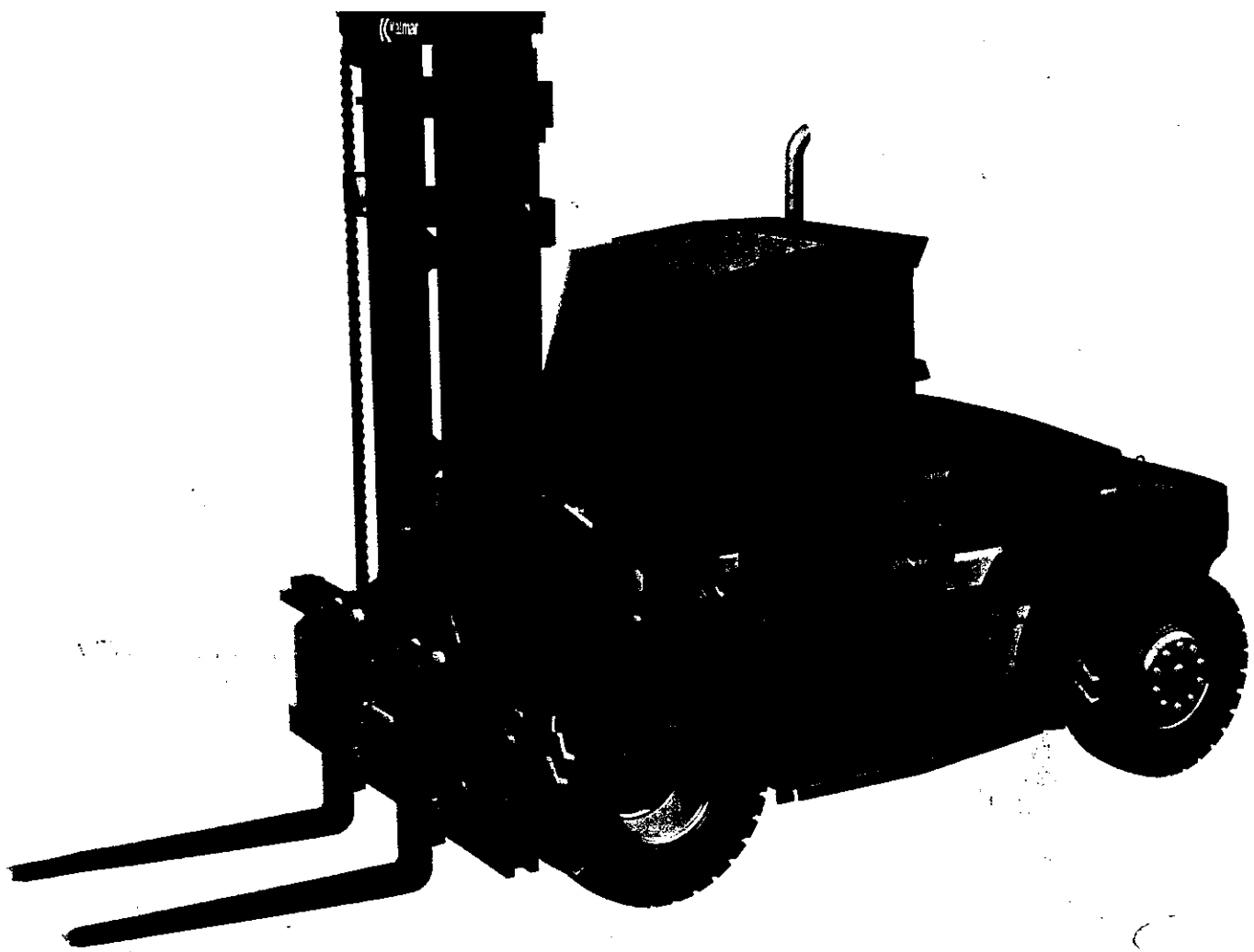

John A. Limtiaco
Vice President

GENERAL SERVICES AGENCY
148 Route 1
Marine Drive
Piti, Guam 96925
Tel: (671) 473-4374



EXHIBIT D

FORKLIFT TRUCKS 20,000-40,000 LBS
TECHNICAL INFORMATION KALMAR DCE90-180



Felix P Camacho
Governor



EXHIBIT E

GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration
Government of Guam

148 Route 1 Marine Drive, Piti, Guam 96915

Michael W. Cruz,
Lt. Governor

Joseph C. Manibusan
Deputy Director

Department of Administration

Tel: (671)475-1707 thru 1739/Fax Nos: (671)472-4217/475-1716

Department of Administration

November 7, 2007

John A. Limtiaco
Vice President
Far East Equipment Co.
P.O. Box 10838
Tamuning, Guam 96931
(T) 473-4374 (F) 473-4370

Re: Protest Letter – Invitation for Bid No. GSA/PAG 07-006
Item #1.4 - 40,000# Forklift

Dear Mr. Limtiaco

Hafa Adai! This is to acknowledge receipt of your protest letter dated October 17, 2007
That was lodged on reference bid number GSA/PAG 07-006.

Upon review of your protest it has been determined that your protest letter is without
merit based on the following factual evaluations:

Issue No. 1

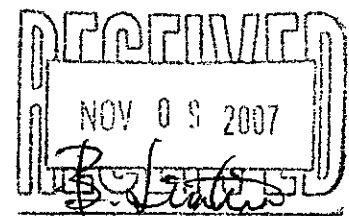
Although we were the low bidder PAG has indicated that our proposed supply did not
meet the horsepower of the unit we offered was only 220HP. However the length of the
fork we provided is clearly 96" as indicated in our comply.

Response:

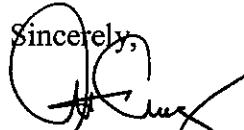
After reviewing the specification that was submitted you did indicate that you complied
with the 96", however as you should note you did not meet the minimum 230HP as
specified in the requirement for a 40,000 lb forklift @\$227,830.80. You acknowledged
this failure in your letter.

As you stated Morrico Equipment had met all requirements due to offering a 45,000#
forklift. Please note that on Option# 1 submitted by your company you offered a
44,000 lbs @48" and stated comply with all requirement but @\$286,610.40 which was a
high price.

COMMITTED TO EXCELLENCE



Therefore you have failed to meet the specifications. It is our determination that your protest is without merit. Upon receipt of this letter, you are, therefore, notified of our determination and that you have a right to seek administrative and judicial review.

Sincerely,


ANITA T. CRUZ
Assist. Chief Procurement Officer (A)

cc : General Manager, Port Authority of Guam
Office of the Attorney General

Confirmation Report - Memory Send

Date & Time: Nov-07-2007 05:25pm
Tel line : +6714751716
Machine ID : GSA

Job number : 381
Date & Time : Nov-07 05:24pm
To : 94734370
Number of pages : 002
Start time : Nov-07 05:24pm
End time : Nov-07 05:25pm
Pages sent : 002
Status : OK

Job number : 381 *** SEND SUCCESSFUL ***

Felix P Camacho
Governor
Lourdes M. Perez
Director
Department of Administration



GENERAL SERVICES AGENCY
(Ahensian Setbision Hinirat)
Department of Administration
Government of Guam
148 Route 1 Marine Drive, P.O. Box 96915
Tel: (671)475-1707 thru 1709/Fax Nos: (671)472-4217/475-1716

Michael W. Cruz,
Lt. Governor
Joseph C. Manibusan
Deputy Director
Department of Administration

November 7, 2007

John A. Limtiaco
Vice President
Far East Equipment Co.
P.O. Box 10838
Tamuning, Guam 96931
(T) 473-4374 (F) 473-4370

Re: Protest Letter - Invitation for Bid No. GSA/PAG 07-006
Item #1.4 - 40,000# Forklift

Dear Mr. Limtiaco

Hafa Adai! This is to acknowledge receipt of your protest letter dated October 17, 2007 That was lodged on reference bid number GSA/PAG 07-006.

Upon review of your protest it has been determined that your protest letter is without merit based on the following factual evaluations:

Issue No. 1

Although we were the low bidder PAG has indicated that our proposed supply did not meet the horsepower of the unit we offered was only 220HP. However the length of the fork we provided is clearly 96" as indicated in our comply.

Response:

After reviewing the specification that was submitted you did indicate that you complied with the 96", however as you should note you did not meet the minimum 230HP as specified in the requirement for a 40,000 lb forklift @\$227,830.80. You acknowledged this failure in your letter.

As you stated Morrico Equipment had met all requirements due to offering a 45,000# forklift. Please note that on Option# 1 submitted by your company you offered a 44,000 lbs @48" and stated comply with all requirement but @\$286,610.40 which was a high price.

Please fax to 475-1716 after acknowledgment
ACKNOWLEDGEMENT COPY

RECEIVE BY _____

DATE _____

COMMITTED TO EXCELLENCE

Confirmation Report - Memory Send

Date & Time: Nov-07-2007 05:11pm
Tel line : +6714751716
Machine ID : GSA

Job number : 380
Date & Time : Nov-07 05:10pm
To : 94774445
Number of pages : 002
Start time : Nov-07 05:10pm
End time : Nov-07 05:11pm
Pages sent : 002
Status : OK

Job number : 380

*** SEND SUCCESSFUL ***

Felix P Camacho
Governor
Lourdes M. Perez
Director
Department of Administration



GENERAL SERVICES AGENCY
(Ahensian Setbision Hinirat)
Department of Administration
Government of Guam
148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671)475-1707 thru 1759/Fax Nos: (671)472-4217/475-1716

Michael W. Cruz
Lt. Governor
Joseph C. Manibusan
Deputy Director
Department of Administration

November 7, 2007

John A. Limtiaco
Vice President
Far East Equipment Co.
P.O. Box 10838
Tamuning, Guam 96931
(T) 473-4374 (F) 473-4370

Re: Protest Letter - Invitation for Bid No. GSA/PAG 07-006
Item #1.4 - 40,000# Forklift

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Upon review of your protest it has been determined that your protest letter is without merit based on the following factual evaluations:

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Response:

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COMMITTED TO EXCELLENCE

**Jose D. Leon Guerrero Commercial Port
"Aturidat I Puetton Guahan"**

Procurement/Supply Division

November 1, 2007

INTER-OFFICE MEMORANDUM

TO: Assistant Chief Procurement Officer, Acting
FROM: Supply Management Administrator 
SUBJECT: GSA/PAG 07-006, One (1) each 40,000 lbs Fork Trucks

Various individuals from the Port have completed its review of the above said bid. The findings stated Far East Equipment as the bidder, to be non-compliant with its bid submission.

Based on the findings, I recommend that a notification to proceed be issue to the bidder awarded. Attached are the letter to Morrico and the response to Far East Equipment for your review and approval as recommended.

Thank you.

Cc: Corporate Services Manager
GSA/PAG 07-006 Fork Trucks Bid Packet

Felix P Camacho
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration
Government of Guam

Michael W. Cruz,
Lt. Governor

Lourdes M. Perez
Director
Department of Administration

Tel: (671)475-1707 thru 1729/Fax Nos: (671)472-4217/475-1716

Joseph C. Manibusan
Deputy Director
Department of Administration

November 1, 2007

Facsimile: (671) 649-1947
Mr. Frank Flores, Sales
Morrico Equipment LLC
197 Ypao Road
Tamuning, Guam 96913

RE: GSA/PAG 07-006, One (1) Each 40,000 LBS Fork Truck

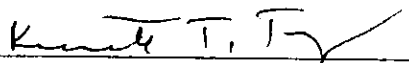
Dear Mr. Flores:

This is a notification to proceed with the purchase of the above item. Please reference Purchase Order No. 7083 OS.

Thank you for your continued interest.

ANITA T. CRUZ
Assistant Chief Procurement Officer, Acting

CONCURRED BY:


KENNETH T. TAGAWA
General Manager, Port Authority of Guam

cc: Corporate Services Manager
GSA/PAG 07-006, Fork Trucks Bid Packet

Felix P Camacho
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration
Government of Guam

148 Route 1 Marine Drive, Piti, Guam 96915

Lourdes M. Perez
Director
Department of Administration

Tel: (671)475-1707 thru 1729/Fax Nos: (671)472-4217/475-1716

Michael W. Cruz,
Lt. Governor

Joseph C. Manibusan
Deputy Director

Department of Administration

November 1, 2007

Facsimile: (671) 473-4370
Mr. John Limtiaco, Vice President
Far East Equipment LLC
P.O. Box 10838
Tamuning, Guam 96931

Dear Mr. Limtiaco,

The Authority is in receipt of your letter of Protest, dated, 2006 to Invitation for Bid Number GSA/PAG 07-006 for one (1) each 40,000 lbs fork truck.

Upon thoroughly reviewing your bid submission for the item in question, the Port Authority has found your submission to be non-compliant with the following:

1. Minimum horsepower required as per specification is 230 hp. Far East Equipment submitted 220 hp and therefore did not meet the minimum horsepower requirement.
2. The specification for the Length of fork is 96". Far East Equipment submitted 47" and therefore did not meet the fork dimensions.
3. Far East Equipment's Option is too high.
4. Page 2q, Item A, states "Discrepancies Listed: Should any bidder have deviations from these descriptions or specifications in this bid and cannot meet every requirement, bidder shall submit letter and attach it to their bid submission, explaining the deviations. Failure to do so will cause their bid submission to be rejected and being non-responsive."

As a result of the above and having being disqualified for non-compliance with the bid specification, your protest letter does not have merit, therefore your protest is denied.

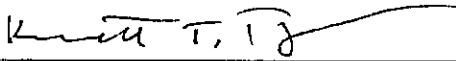
Please note that you have the right to seek judicial review within the confines of the law.

Thank you for your continued interest in the Invitation for Bid No. GSA/PAG 07-006, for the 40,000 lbs fork trucks.

Sincerely,

ANITA T. CRUZ
Assistant Chief Procurement Officer, Acting

CONCURRED BY:



KENNETH T. TAGAWA
General Manager, Port Authority of Guam

Cc: Corporate Services Manager
GSA/PAG 07-006, Fork Trucks Bid Packet

Felix P Camacho
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration
Government of Guam

Michael W. Cruz,
Lt. Governor

Lourdes M. Perez
Director
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915

Joseph C. Manibusan
Deputy Director

Tel: (671)475-1707 thru 1729/Fax Nos: (671)472-4217/475-1716 Department of Administration

October 22, 2007

Memorandum

To: Attorney General
From: Chief Procurement Officer
Subject: Protest - Far East Equipment Company

Hafa Adai! Pursuant to 2GAR Chapter 9 §9109 (4) Notification of the Attorney General, attached is a copy of the protest letter lodge by Far East Equipment Company dated October 17, 2007 reference to Port Authority of Guam Invitation for Bid for the 40,000lbs Forklift. The protest was received by the General Services Agency on Wednesday, October 18, 2007.

CLAUDIA S. ACPALLE



P.O. Box 10838 • Tamuning, Guam 9693
Tel: (671) 473-4374 • Fax: (671) 473-437
Email: jllmtlaco@fleetservicesguam.com

October 17, 2007

Mr. Pedro San Nicolas
Acting Chief Procurement Officer
General Services Agency
Government of Guam
148 Route 1 Marine Dr.
Piti, Guam 96915

Re: GSA/PAG 07-006 Protest of Award for 40,000# forklift.

Dear Mr. San Nicolas,

Our company is formally protesting the Award of the 40,000# forklift on GSA/PAG 07-006. Although we were the low bidder GSA has indicated that our proposed supply did not meet the horsepower requirement and that the length of our proposed forks was only 47". It is true that the horsepower of the unit we offered was only 220HP versus the request for 230HP by the government. However the length of the fork we provided is clearly 96" as indicated in our comply remarks on the bid specifications and we have met all of the other specifications of the bid and most importantly the bid lift capacity of 40,000#.

It is important to understand that the proposed forklift offered by Morrico Equipment is not a 40,000# forklift. The Hyster H450HD proposed by Morrico in their bid is a 45,000# forklift and is the reason why it is outfitted with a larger engine and comply with the 230HP required by the government. Had Morrico offered a 40,000# forklift it more than likely would be equipped with a smaller engine and less than 230HP required by the government as was the case with the unit our company proposed.

The procurement law does not allow a bidder to provide a unit in excess of the specification unless the unit is also priced lower than other bids which meet the specifications. In this case Morrico Equipment provided equipment in excess of the specification and at a price \$ 25,169.00 higher than our company that quoted a 40,000# forklift as requested in the bid advertisement.

In closing, we look forward to your review of our protest, Morrico's Bid offer which clearly states a H450HD (45,000# capacity forklift), Hyster brochure provided by Morrico equipment that show that Hyster has a 40,000# forklift that it did not offer, and the proper award of the 40,000# forklift to Far East Equipment Company LLC.

Sincerely,


John A. Lintiac
Vice President

*Review
CST (PAG)
10/18/07*

PORT AUTHORITY OF GUAM BID SPECIFICATIONS

for
Invitation for Bid Number PAG 07-006
One (1) Each 40,000 lbs Fork Trucks

n	DESCRIPTION OR SCOPE OF WORK	Bidding or Remarks
	General: The specifications describes the minimum mechanical and electrical requirements to be provided by the equipment manufacture bidding. Reasonable test may be conducted upon delivery before acceptance.	COMPLY
	The Port Authority of Guam reserves the right to accept and/or reject any and all bids, to waive any irregularities or specification discrepancies and to award the bids as the Authority deems to be in the best interest of the Government of Guam pursuant to Guam Procurement Regulations.	
	Discrepancies Listed: Should any bidder have deviations from these descriptions or specifications in this bid and cannot meet every requirement, bidder shall submit letter and attach it to their bid submission, explaining the deviations. Failure to do so will cause their bid submission to be rejected as being non-responsive.	
	Deliver: One (1) each - 40,000 lbs Fork Trucks with all accessories, <i>234"</i> attachments and components. Fork Trucks shall be new and ready for operation upon delivery and final acceptance. Fork Trucks shall be current standard production. Partial Delivery is unacceptable. Delivery: 180-280 Days.	COMPLY
	Each Fork Truck shall be equipped with the following specifications and requirements:	COMPLY
	Engine:	
	a). Diesel Engine	COMPLY
*	b). Minimum of 230 Horse power <i>COMINS 220 HP</i>	
	c). Engine shut off protection system (low oil, high engine temperature, and transmission high temperature.)	COMPLY
	Transmission: Planetary Power Shift (PLANETARY POWER SHIFT OBSOLETE) DANA TE 13000	COMPLY
	Number of speed forward/reverse: <i>2/2</i> minimum <i>ELECTRONICALLY CONTROLLED</i>	COMPLY
	Brakes:	
	a). Service - Hydraulic Foot	COMPLY
	b). Parking - Air, Hand <i>ELECTRIC/HYDRAULIC</i>	
	Forks:	
	a). Thickness - Back 4 inches max, Flared Front Tip to no more than 3/4 inch.	COMPLY
*	b). Length - Must be 98 inch	COMPLY
	c). Width - Not to exceed 11 inches	COMPLY

File w/ Bid Packet

Port Authority of G
Jose D. Leon Guerrero Com
1026 Cabras Highway, S
Piti, Guam 9692.

*Mag - Pls. provide
a copy to
Pete.*

October 5, 2007

ORIGINAL

MEMORANDUM

To: Corporate Services Manager
From: Kin Pangelinan
Ernie Candoleta
Jorge Javelosa
Raymond Santos
Alex Aflague

Subject: Letter of Non-Compliance

After reviewing Far East Equipment Bid Packet, the committee found the bidder to be non-compliant in the following areas:

1. Did not meet the minimum horsepower requirements. Minimum horsepower required as per specification is 230 hp – Far East 220 hp.
2. Did not meet fork dimensions. As per specifications; Length of fork – 96". Far East 47".
3. Option #1, to costly

The evaluation committee recommended to award Morrico Equipment Co. Due to non-compliance of Far East Bids.

ORIGINAL