

R. MARSIL JOHNSON
 BLAIR STERLING JOHNSON & MARTINEZ
 A PROFESSIONAL CORPORATION
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 TELEPHONE: (671) 477-7857

Attorneys for Appellant Mid Pac Far East

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**IN THE OFFICE OF PUBLIC ACCOUNTABILITY
 PROCUREMENT APPEAL**

In the Appeal of)
)
 MID PAC FAR EAST, LLC,)
)
 Appellant.)
)
)
)
)

Docket No. OPA PA- 17-012

**NOTICE OF
 PROCUREMENT APPEAL**

MID PAC FAR EAST, L.L.C. ("MPFE") hereby appeal a decision issued by the General Services Agency ("GSA") and the Port Authority of Guam ("PAG"), both agencies of the Government of Guam, on November 14, 2017, denying a protest raised by MPFE regarding GSA/PAG's Invitation for Bid No. GSA/PAG-025-17 11,000 Lbs (5.5 Ton) Fork Trucks (NEW).

PART II - APPELLANT INFORMATION:

Mid Pac Far East, L.L.C.
 474 Mendioka St.
 Dededo, Guam 96929
 Telephone: (671) 635-5891
 Email: craig.wade@jrvgroup.com

For purposes of this appeal, please direct and documents and correspondence to MPFE's counsel:

R. Marsil Johnson
238 Archbishop Flores St, Ste. 1008
Hagåtña, Gu 96910
Telephone: (671) 477-7857
Facsimile: (671) 472-4290
Email: rmarsjohnson@bsjmlaw.com

PART III - APPEAL INFORMATION:

A. **PURCHASING AGENCY:** The General Services Agency and the Port Authority of Guam.

B. **IDENTIFICATION NUMBER OF THE PROCUREMENT, SOLICITATION, OR CONTRACT:** Invitation for Bid No. GSA/PAG-025-17

C. **DECISION BEING APPEALED:** Decision dated November 14, 2017, made by the head of the purchasing agency.

D. **APPEAL IS MADE FROM:** A decision on protest of method, solicitation, or award.

E. **NAMES OF COMPETING BIDDERS, OFFERORS, OR CONTRACTORS KNOWN TO APPELLANT:**

PART IV - FORM AND FILING:

This is a Procurement Appeal by Mid Pac Far East, LLC ("MPFE") of the protest decision issued by GSA on November 14, 2017 in response to a protest letter submitted by MPFE on October 12, 2017.

In its protest letter, MPFE claimed that the color specification required by GSA/PAG-025-17 violates Guam procurement law as it unlawfully restricts competition by limiting the number of bidders and the ability of those bidders to compete. The color specification in question required bidders to provide equipment with a "Main Body Safety

Yellow and Black trimming” color. In issuing its protest decision, GSA claimed that MPFE’s protest was with merit, yet did not remove the color specification. Instead, GSA amended the color from “Main Body Safety Yellow and Black trimming” to “yellow and black trimming”, thus maintaining the restrictive color requirement that MPFE protested.

MPFE maintains that the color specification required by GSA/PAG-025-17, even as amended by the November 14, 2017 procurement decision, violates Guam law by improperly narrowing specification and unduly restricting competition.

Guam’s procurement law requires that “[a]ll specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Territory’s needs, and shall not be unduly restrictive.” 5 G.C.A. § 5265. This section is in line with the underlying purpose and policy of procurement law “to foster effective broad-based competition within the free-enterprise system.” 5 G.C.A. § 5001(b)(6). Further, Guam’s procurement regulations specifically state that “[s]pecifications shall not include requirements, such as but not limited to restrictive dimensions, weights or materials, which unnecessarily restrict competition, and shall include only the essential physical characteristics and functions required to meet the government of Guam’s minimum needs.” 2 G.A.R. § 4109(a).

The Office of Public Accountability itself has recognized in prior instances that “generally, specifications shall not include requirements which unnecessarily restrict competition and shall include only the essential physical characteristics and functions required to meet the Government of Guam’s minimum needs.” *Morrico Equipment, L.L.C.*, Appeal No. OPA-PA-13-001, 7 (2003).

The color specification is a non-essential characteristic of the subject equipment. No functional purpose has been attributed to the yellow and black specification by GSA or PAG. Furthermore, PAG currently uses equipment, purchased in January of 2017, that does not meet the yellow and black color specification. *See* Exhibit A through Exhibit I. The equipment shown in the exhibits are both orange and yellow. Further, the trim on all of the equipment is red and white. Therefore, even if the amended specification is seen as to limit the color specification only to the trim on the equipment, the fact remains that there is a great deal of equipment at the port that does not comply with that specification. Clearly, the colors specified in the equipment are not necessary for the safe or effective use of the equipment at the port if there is currently equipment being used at the port that do not meet the color specification.

The color specification also restricts competition based on brand as opposed to the minimum needs of the government of Guam. Heavy equipment of the type specified in this solicitation typically comes in one of two colors: orange and yellow. Whether a producer makes equipment that comes in yellow or orange depends on the producer's brand. By specifying that the solicited equipment come in yellow as opposed to orange, the solicitation is restricting the brands and companies that may bid on the solicitation.

MPFE requests that the Office of Public Accountability issue a ruling, ordering the General Services Agency and the Port Authority of Guam to remove the color specification from the GSA/PAG-025-17, in its entirety.

The following exhibits are enclosed herewith:

1. Exhibit A: Picture of PAG Equipment (both orange and yellow, with white and red trim) from GuamPDN.com article, dated January 6, 2017.
2. Exhibit B: Picture of PAG Equipment (both orange and yellow, with white and red trim) from GuamPDN.com article, dated January 6, 2017.
3. Exhibit C: Picture of PAG Equipment (both orange and yellow, with white and red trim) from GuamPDN.com article, dated January 6, 2017.
4. Exhibit D: Picture of PAG Equipment (both orange and yellow, with white and red trim) from GuamPDN.com article, dated January 6, 2017.
5. Exhibit E: Picture of PAG Equipment (both orange and yellow, with white and red trim) from GuamPDN.com article, dated January 6, 2017.
6. Exhibit F: Picture of PAG Equipment (both orange and yellow, with white and red trim) from GuamPDN.com article, dated January 6, 2017.
7. Exhibit G: Picture of PAG Equipment (both orange and yellow, with white and red trim) from kuam.com article, dated January 6, 2017.
8. Exhibit H: GuamPDN.com article about new PAG equipment, dated January 6, 2017.
9. Exhibit I: kuam.com article about new PAG equipment, dated January 6, 2017.
10. Exhibit J: MPFE Procurement Protest Letter, dated October 12, 2017.
11. Exhibit K: GSA Protest Decision Letter, dated November 14, 2017.

PART V - DECLARATION RE COURT ACTION:

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 Public Accountability within 24 hour if court action commences regarding this Appeal or the underlying procurement action.

SUBMITTED this 24th day of November 2017.


By: 
R. MARSIL JOHNSON
Appellant's Duly Authorized Representative

cc: Claudia Acfalle – General Services Agency
Joanne Brown – Port Authority of Guam

VERFICIATION

I, **CRAIG WADE**, President/CFO of Mid Pac Far East, L.L.C., hereby declare under penalty of perjury under the laws of Guam that I have read the foregoing NOTICE OF PROCUREMENT APPEAL and that it is true and correct of my own knowledge, except as to those matters alleged upon information and belief, and as to those matters, I believe them to be true.

DATED this 24th day of November, 2017.



CRAIG WADE

U71\049140-01
G:\PLD\RMJ\156 -D 049140-01 NOTICE OF PROCUREMENT
APPEAL.DOCX



Port upgrades container yard equipment

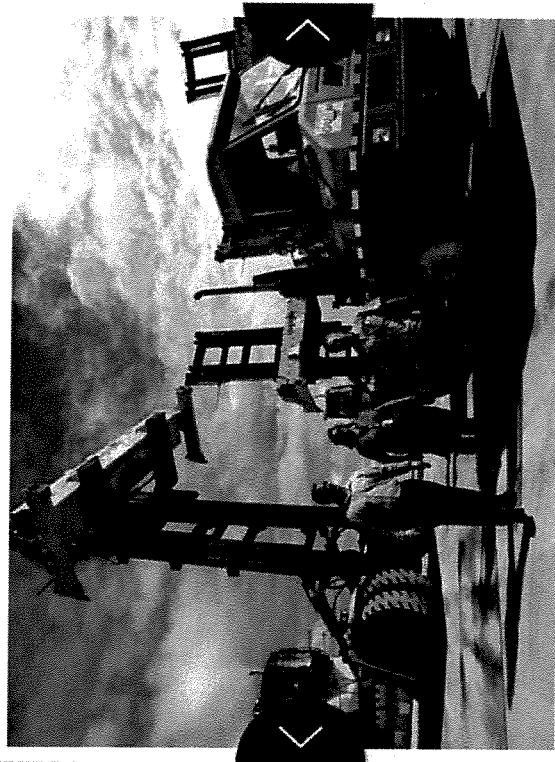
The Port Authority of Guam management showcased their latest acquisition of container yard equipment during a brief ceremony at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct Loan and Port funds, the port was able to



1 of 12



Exhibit "A"



Port upgrades container yard equipment

Port Authority of Guam General Manager Joanne Brown, center, is flanked by Legislative Committee on Guam U.S. Military Buildup, Infrastructure and Transportation Chairman Sen. Frank Aguon Jr., left, and Dan Tydingco, former Port Board of Directors chairman, as they examine some of the authority's latest acquisition



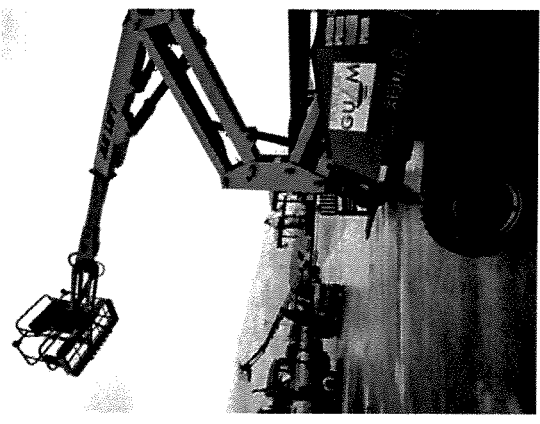
2 of 12

Exhibit "B"



Port upgrades container yard equipment

The Port Authority of Guam management showcased their latest acquisition of container yard equipment during a brief ceremony at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct Loan and Port funds, the port was able to



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BLACK FRIDAY SPECIAL SALE

Exhibit "C"



Fullscreen

Port upgrades container yard equipment

The Port Authority of Guam management showcased their latest acquisition of container yard equipment during a brief ceremony at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct Loan and Port funds, the port was able to



5 of 12



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TERMS & CONDITIONS APPLY.

Exhibit "D"



9 of 12

Fullscreen



Port upgrades container yard equipment

The Port Authority of Guam management showcased their latest acquisition of container yard equipment during a brief ceremony at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct Loan and Port funds, the port was able to



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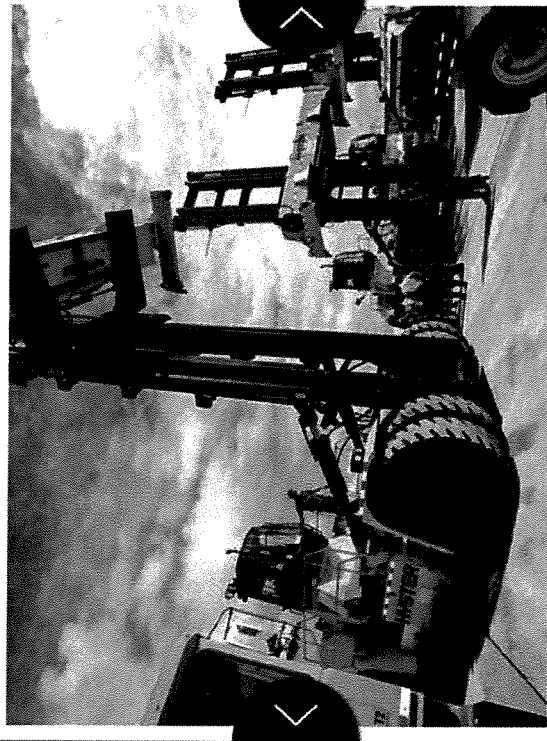
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Exhibit "E"



Port upgrades container yard equipment

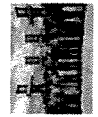
Acting Gov. Ray Tenorio emerges from the cab of a top-lifter vehicle as Port Authority of Guam management showcases their latest acquisition of container yard equipment at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct



November 24 - November 30, 2017



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10 of 12

Exhibit 'F'



working at the agency. Santos says the port has come a very long way since the 1970s. Police responded to the scene, where a man driving a 1993 Toyota pickup lost control of the pickup truck and ran off the road. Investigators say it appears he had been

way back in the 70s when I first worked at the port authority in 1974, we only had one gantry old beat-up gantry number one. We had two straddle lifts, three TCMs (transport cargo mobile), two stick cranes that operated the port at that time, and now

Exhibit "G"

Port celebrates new equipment

Jerick Sablan, jpsablan@guampdn.com Published 4 12 p.m. ChT Jan. 6, 2017 | Updated 5:35 p.m. ChT Jan. 6, 2017



12 Photos

Port upgrades container yard equipment

1 of 12



(Photo: Rick Cruz/PDN)

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The Port Authority of Guam has new equipment that officials said will help its operations and services for years to come.

The Port showcased some of the new equipment during a press conference Friday at its container yard.

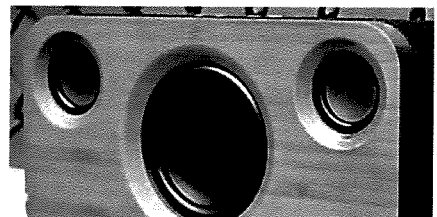
The Port acquired the essential container yard equipment using a \$2 million loan from the Bank of Guam, a \$2 million U.S. Department of Agriculture direct loan and more than \$1.5 million in Port funds.

EXHIBIT "H"

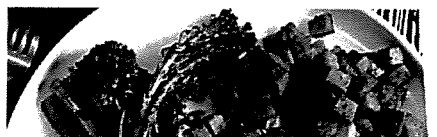
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The Port received: 16 tractors; four 40-ton top lifters; four five-ton forklifts; two man lifts with 126-feet and 40-feet reach; two welding machines and a street sweeper.

The Port also expects to receive two more forklifts in April.

Former Port board chairman and a long-time employee Frank Santos said when he started working at the Port in the 1970s, there wasn't a lot of equipment.

"Take a look at us now. Behind us, we can move any kind of cargo that is coming into the port," he said. "We should be proud of this beautiful world-class port in this part of the world."

General Manager Joanne Brown said it's a major step for the Port, after going months trying to manage operations with limited equipment. At one point, the Port was tracking its equipment on an hourly basis, she said.

She thanked the Port employees who helped maintain and keep things together during those months.

"It's not the type of operation we want, and certainly, moving forward, it's not the type of operation we will have," Brown said. "At the end of the day, having equipment when we need it is very important," she said.

The new equipment will give the Port a reserve capacity and will help the Port as it refurbishes old equipment, she said.

If equipment breaks, the Port can use a replacement to keep operations going smoothly.

"We've come a long way," Brown said.

The Port has close to \$48 million in annual revenue, and Brown said a percentage is being set aside to replace equipment and prevent a future crisis.

Other Port stories:

[Port Authority to renovate Hotel Wharf](#)

[Port authority disappointed in Guam YTK arbitration decision](#)



We tried Blue Apron and its competitors—here's what happened

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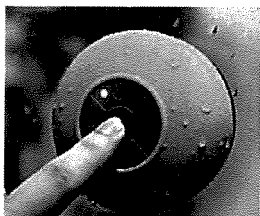
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LifeDaily.com



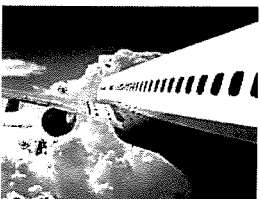
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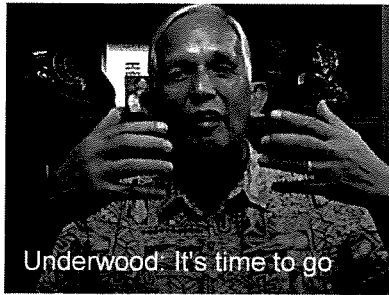
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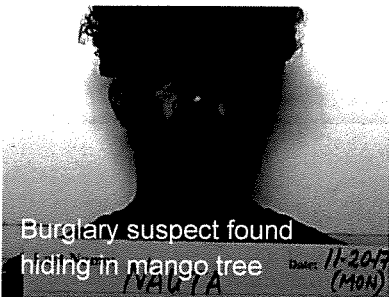
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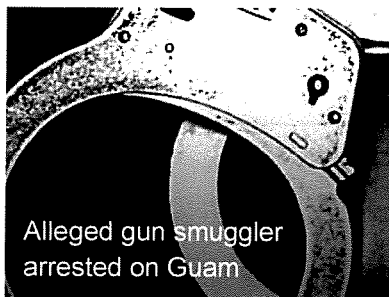
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New year, new gear: Port Authority rolls out \$5M of equipment



Posted: Jan 06, 2017 3:08 PM
Updated: Jan 13, 2017 3:08 PM



In a time when it's experiencing unprecedented growth, the Port Authority of Guam hit another major milestone today as it unveiled more than \$5 million worth of new equipment with more to come well into the New Year.

"We should stand high, and we must be proud, because our port now becomes one of the world class ports in this part of the world," said former port chairman Francisco Santos. And with decades of experience working at the agency, Santos says the port has come a very long way. "I remember way back in the 70s when I first worked at the port authority in 1974, we only had one gantry old beat up gantry number one. We had two straddle hoist, three TCMs (transport cargo mobile), two stick cranes that operating the port at that time, and now look at us!" he shared.

Today before island leaders and the real VIPs - the hardworking employees, Port Authority management unveiled essential equipment set to enhance port operations and service capabilities. As part of the new equipment inventory include 16 new tractors, four 40-ton top lifters, four 5-ton forklifts, two man lifts, two welding machines, and one street sweeper.

General manager Joanne Brown said, "We're looking at close to \$5.5 million worth of equipment...the only thing that's missing is we have another 10- and 20-ton that's

NEWS HEADLINES

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Feral pigs will be removed from Naval Base Guam property

Getting a handle on the feral pig population, Naval Base Guam confirming the start of a cooperative agreement with non-profit conservation organization, White Buffalo Inc. This project, which runs from now through May of next year, will work to remove all non-native feral pigs from the base property in Santa Rita. Officials say high population densities of feral pigs have devastating effects on the environment, impacting native species and causing large scale erosion. USDA regulation...
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Bank of Guam merges Santa Cruz branch with Hagatna HQ

On Tuesday, Bank of Guam celebrated the merging of the Santa Cruz branch with their headquarters in Hagatna. After more than 40 years, a time capsule that was buried at the Bank in 1975 was unveiled and is now on display. The last day of the Santa Cruz Branch operations is Monday December 11, 2017.
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DOE schools closed for Black Friday

Just as a reminder - Friday the 24th has been declared a Government of Guam holiday by Governor Eddie Calvo. There will be no classes held for any of the island's public schools. Classes will resume on Monday.
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Young woman dead after Yigo crash

A woman, 20, is dead after a serious crash in Yigo early Thursday. It happened along Route 15 near the Church of Christ around 4:21 am. Police responded to the scene where a man driving a 1991 Toyota Hilux lost control of the pickup truck and ran off the road. Investigators say it appears he had been heading westbound towards Dededo when it occurred. The woman, who was in the passenger seat, was ejected from the truck. Authorities say the driver was conscious and alert, ...
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Salvation Army aiming to raise \$70K from kettle bells this year

While you're out at the stores shopping on Black Friday or throughout this holiday season, why not give a little to the Salvation Army? Black Friday also marks their Kettle Kickoff at the Agana Shopping Center. Corps Commander Captain Thomas Stambaugh

EXHIBIT "I"

arriving within the next month, in addition to that a major step forward for us and the port. Because I came into a situation where essentially we were living not feast to famine but famine to famine and we essentially were sometimes keeping track of the equipment on an hourly basis. There were times when we had our vessels in and we were down to zero toplifters and that's not the way to operate."

The port is also building toward a reserve capacity as the existing equipment will also be refurbished. And while these new equipment is definitely a welcome addition, it actually only represents less than 45 percent of new acquired equipment the port expects in the next year to fill up its extended yard. Brown said, "At the end of the day we have very important mission and this is our key role of what we do here of moving cargo and having equipment available when we need it, is very important."

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says they have a \$70,000 goal. All the money, stays on island and support their services, telling KUAM News, "Our kettles are going to be throughout the island. People can donate monetarily into those kettles - all the funds stay ...
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After 46 years, Sanctuary remains focused to helping neglected children

Sanctuary celebrates its 46th anniversary this month. Its mission has been to serve as a safe haven for abused and neglected children. More than four decades later, the federally-funded program's services are still needed more than ever.

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More pressure on policymakers over hospital

This time it's the doctors and administrators at GMH who are weighing in.

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Guam gets money to add more cops to the force

More bodies could be coming soon to the police force. The US Department of Justice has awarded the Guam Police Department more than \$1.6 million. The money will allow GPD to bring on 15 police officers to its ranks. It's all part of the 2017 COPS hiring grant program.
More >>

Woman charged with child abuse after kids reveal bruises

Two elementary students found with multiple bruises on their body resulted in police arresting a 27 year old mother. Krystal Rose Flores San Juan is charged with two counts of family violence. Court documents state, police responded to a public elementary school on Monday to a child abuse complaint. Cops noted one child has bruises on her arms, back and butt, while the other had a bruise on his rib cage area and a cut on his bottom lip. One victim told the officer, "Mommy took..."

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GPD stocks streets with DUI checkpoints

With the holidays in full swing, there's plenty to celebrate. But if you do have plans to party this weekend, you'll want to make sure to get a designated driver. Tonight, Thursday, and Friday, the Guam Police Department will be conducting DUI checkpoints on all major roadways from 6 p.m. to 6 a.m. You can also expect to come across roving DUI enforcement.
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JOHNSON MARTINEZ**

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Tel: 671.477.7857
Fax: 671.472.4290
www.bsjmlaw.com

Sender's email:
rmarsjohnson@bsjmlaw.com

October 12, 2017

**VIA HAND DELIVERY &
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Claudia S. Acfalle
Chief Procurement Officer
General Services Agency
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

**RE: PROCUREMENT PROTEST
INVITATION FOR BID NO. GSA/PAG-025-17
11,000 LBS (5.5 TON) FORK TRUCKS (NEW)**

Dear Ms. Acfalle:

This law firm represents Mid Pac Far East (MPFE). MPFE hereby protests Invitation for Bid No. GSA/PAG-025-17.

Contract Number: GSA/PAG-025-17

Name of Protestor: Mid Pac Far East

Address of Protestor:

474 Mendioka St.
Dededo, Guam 96929

Address of Protestor for Purposes of this Protest:

c/o R. Marsil Johnson
Blair Sterling Johnson & Martinez, P.C.
238 Archbishop Flores St Ste 1008
Hagåtña, Guam 96910

Statement of Reasons for Protest:

MPFE hereby protests Invitation for Bid No. GSA/PAG-025-17 on the basis that the body color designated in the bid unfairly restricts competition on the bid.

EXHIBIT "J"

A LexMundi Member

The body color designated in Invitation for Bid No. GSA/PAG-025-17 is “Main Body Safety Yellow and Black trimming”. Only certain manufacturers produce equipment that meet the other specification listed in Invitation for Bid No. GSA/PAG-025-17 and produce said equipment with a “Main Body Safety Yellow and Black trimming” color.

MPFE asked that said specification be removed through a letter dated September 26, 2017. The General Services Agency (GSA) responded on October 4, 2017, stating that it would not remove the specification. It should be noted that no reason was given for why the color specification should remain. Further, MPFE takes note that the Port Authority of Guam currently uses equipment that is painted yellow, orange, and green. Newspaper articles are attached showing various equipment that is orange in color. Further, the gantry cranes at the Port Authority of Guam are all painted green. There does not seem to be any reason to limit bidders to a “Main Body Safety Yellow and Black trimming” designation.

By limiting bidders to parties that can deliver equipment that meets the “Main Body Safety Yellow and Black trimming” color specification, the General Services Agency is limiting the number of prospective bidders. This is particularly troubling given that no reason has been stated for specifying that color and the fact that the Port Authority of Guam currently uses equipment that does not meet the “Main Body Safety Yellow and Black trimming” color specification.

Supporting Documents

Attached is a letter sent from MPFE to Claudia Acfalle, dated September 26, 2017 whereby MPFE asked GSA to remove the color specification. Also attached is a “Response to Questions”, dated October 4, 2017, whereby GSA noted that it would not remove the color specification. Lastly, newspaper articles, printed from news websites are attached, showing other port equipment that does not meet the “Main Body Safety Yellow and Black trimming” color specification.

Very truly yours,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation



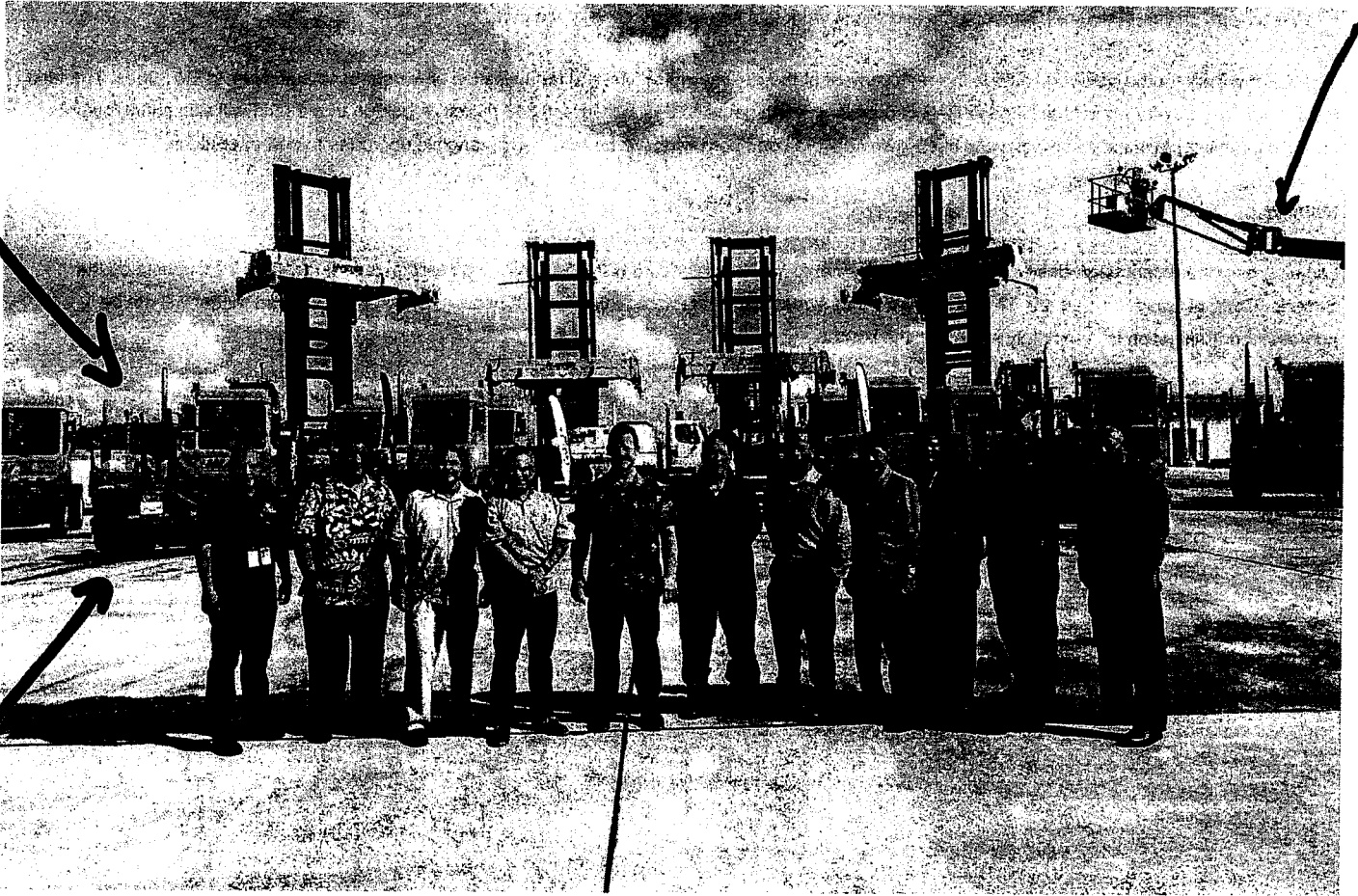
R. MARSIL JOHNSON

Enclosure(s): As noted.

U68\049140-01\G:\LTR\RMJ\071-C
ACFALLE GSA RE PROCUREMENT PROTEST.DOCX

Port purchases \$5.5M worth of new assets

John O'Connor | Post News Staff Jan 7, 2017



NEW EQUIPMENT: Acting Gov. Ray Tenorio, center, and Port Authority of Guam General Manager Joanne Brown, third from right, stand with other dignitaries at the new asset presentation ceremony at the port on Friday, Jan. 6. Norman M. Taruc/Post

Employees at the Port Authority of Guam will have over \$5 million in new equipment to work with thanks to a couple loans and increasing operational revenue. The equipment – a total of 29 items comprised of top lifters, forklifts, tractors and other machines – were purchased through a \$2 million Bank of Guam Loan, a \$2 million U.S. Department of Agriculture Direct Loan and over \$1.5 million in port funds.

The new equipment will relieve aging port assets, assists in maintaining reserves with the refurbishment of older equipment and help port management continue operations without having to live "famine to famine," as port General Manager Joanne Brown recalled of the situation at the port in the past.

"Sometimes when we had a vessel in, we couldn't discharge cargo because we had no top lifters to assist our truckers," Brown said. "That's not the kind of operation we want, and certainly moving forward that's not the kind of operation we can count on."

The port is closing in on becoming a \$48 million operation per year in terms of revenue, Brown added.

Looking ahead

In addition to the equipment available now, the port will be receiving two more forklifts in April. The new assets will join several other improvement projects planned for the port, such as the procurement of a new gantry crane to replace Gantry 3, which was retired last year after about 30 years of service.

Port celebrates new equipment

Jerick Sablan, jpsablan@guampdn.com Published 4:12 p.m. ChT Jan. 6, 2017 | Updated 5:35 p.m. ChT Jan. 6, 2017



(Photo: Rick Cruz/PDN)

The Port Authority of Guam has new equipment that officials said will help its operations and services for years to come. [Fullscreen](#)

The Port showcased some of the new equipment during a **Port upgrades container yard equipment**

The Port acquired the essential container yard equipment using a \$2 million loan from the Bank of Guam, a \$2 million U.S. Department of Agriculture direct loan and more than \$1.5 million in Port funds.

The Port received: 16 tractors; four 40-ton top lifters; four five-ton forklifts; two man lifts with 126-foot and 10-foot reach; two welding machines and a street sweeper.

The Port also expects to receive two more forklifts in April.

Former Port board chairman and a long-time employee Frank Santos said when he started working at the Port in the 1970s, there wasn't a lot of equipment.

"Take a look at us now. Behind us, we can move any kind of cargo that is coming into the port," he said. "We should be proud of this beautiful world-class port in this part of the world."

General Manager Joanne Brown said it's a major step for the Port, after going months trying to manage operations with limited equipment. At one point, the Port was tracking its equipment on an hourly basis, she said.

She thanked the Port employees who helped maintain and keep things together during those months.

"It's not the type of operation we want, and certainly, moving forward, it's not the type of operation we will have," Brown said. "At the end of the day, having equipment when we need it is very important," she said.

The new equipment will give the Port a reserve capacity and will help the Port as it refurbishes old equipment, she said.

If equipment breaks, the Port can use a replacement to keep operations going smoothly.

"We've come a long way," Brown said.

The Port has close to \$48 million in annual revenue, and Brown said a percentage is being set aside to replace equipment and prevent a future crisis.

Other Port stories:

[Port Authority to renovate Hotel Wharf](http://www.guampdn.com/story/news/2016/10/20/portrenovatehotelwharf/92449900/)

[\(http://www.guampdn.com/story/news/2016/10/20/portrenovatehotelwharf/92449900/\)](http://www.guampdn.com/story/news/2016/10/20/portrenovatehotelwharf/92449900/)

[Port authority disappointed in Guam YTK arbitration decision](http://www.guampdn.com/story/news/2016/12/30/port-authority-disappointed-guam-ytk-arbitration-decision/95988980/)

[\(http://www.guampdn.com/story/news/2016/12/30/port-authority-disappointed-guam-ytk-arbitration-decision/95988980/\)](http://www.guampdn.com/story/news/2016/12/30/port-authority-disappointed-guam-ytk-arbitration-decision/95988980/)

Read or Share this story: <http://www.guampdn.com/story/news/2017/01/06/port-celebrates-new-equipment/96230340/>

Interior cites problems at Port Authority of Guam

Haidee V Eugenio, heugenio@guampdn.com Published 10:13 a.m. ChT Jan. 20, 2017 | Updated 4:49 p.m. ChT Jan. 22, 2017



of potential issues concerning the Port Authority of
g inspections in 2016 despite modernization efforts.

federal agency noted concrete roofing leaks, crumbling
ance building. The visits also found the authority's lack of
nd prolonged equipment breakdowns affect Port

plement corrective steps before doing a more thorough

on Jan. 12 about a closeout notice, saying the federal
equipment, but may consider conducting a more thorough

of them and has begun implementing corrective action.
es before we complete a more thorough review," Kendall

federal n

The Port

Mary L. I

agency i

review in

"Although

Therefore

wrote Calvo.

In December 2015, the federal agency cited the Port's completion of a \$50 million modernization project intended to provide planning, design and construction to improve facilities and provide for greater access while also relieving port congestion.

But the Interior's inspector general said during the same month, a Guam news media article reported a breakdown of obsolete cargo-handling equipment that resulted in backlogged shipping containers and their delayed release.

The Port refuted the claim the equipment was obsolete, attributing the problem to the procurement process at Guam's General Services Agency, the Interior said.

The Interior said it appreciates the Port management and staff's cooperation and assistance during the evaluation. Since changes are underway to improve cargo-handling operations and support the needs of Port users, the Interior said it would like to give the Port time to implement them.

Joanne M.S. Brown, general manager of the Port Authority of Guam, said Friday the port is pleased with the Interior inspector general's recent notice to suspend its review of Port cargo handling facilities and equipment.

She said this shows the interior believes in the Port's capability in addressing all issues identified in the 2016 visits.

Brown said the Port is putting its maintenance plan to work, making sure there is no disruption of service and operations when some equipment need to be put offline for maintenance.

She also cited the Port's recent acquisition of container yard equipment using a \$5.5 million loan. The new purchases included 16 tractors, four top-lifters, four forklifts, two man lifts, two welding machines and a street sweeper vehicle, the Port said. Later this year, the Port will have additional forklifts, a 10-ton and a 20-ton.

"Overall, we are pleased with the assessment of the inspector general. When they came here to inspect, we were already addressing the concerns they identified. They ended up suspending the evaluation, that's favorable to the Port. However, we look forward to a follow-up visit for them to see the progress we have made," Brown added.

Related stories:

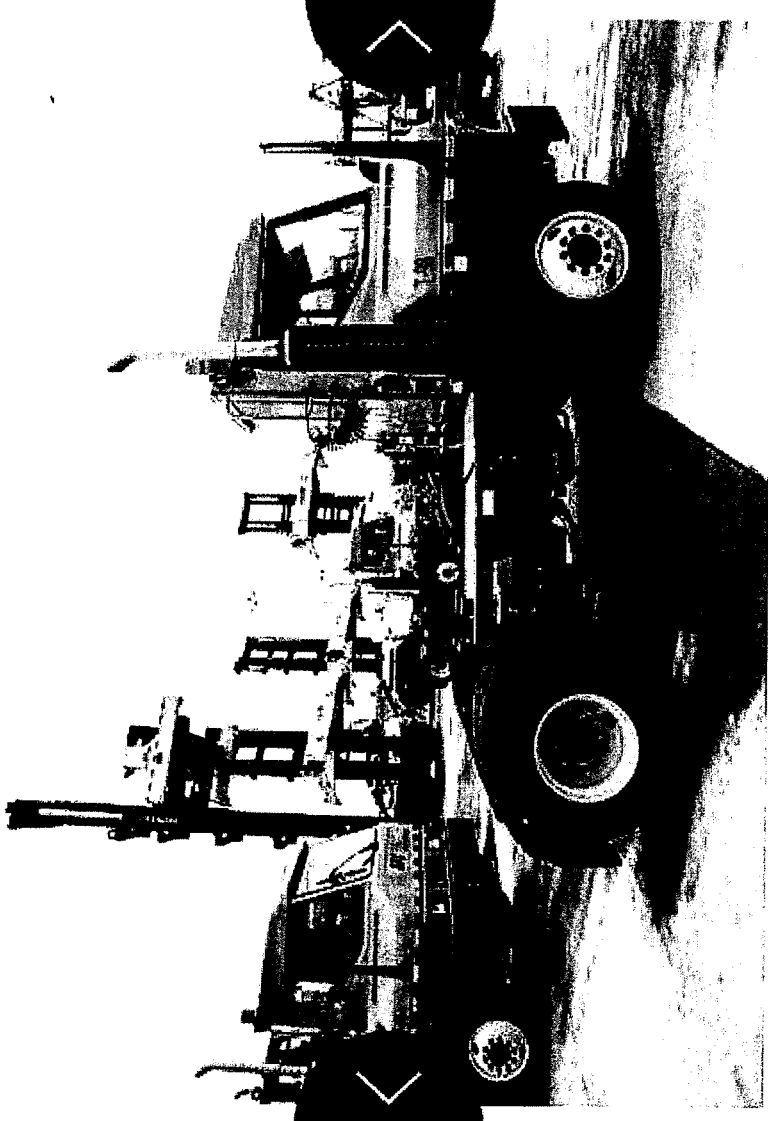
[Port celebrates new equipment](#)

(<http://www.guampdn.com/story/news/2017/01/06/port-celebrates-new-equipment/96230340/>)



Port upgrades container yard equipment

The Port Authority of Guam management showcased their latest acquisition of container yard equipment during a brief ceremony at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct Loan and Port funds, the port was able to



5 of 12

island **freshest**

October 1 - October 12, 2017
GROCERY

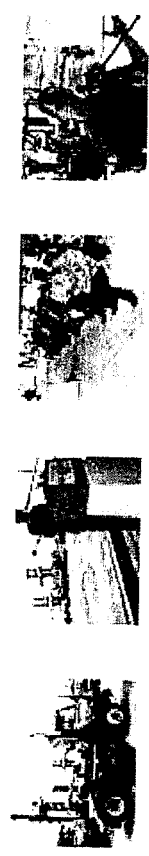
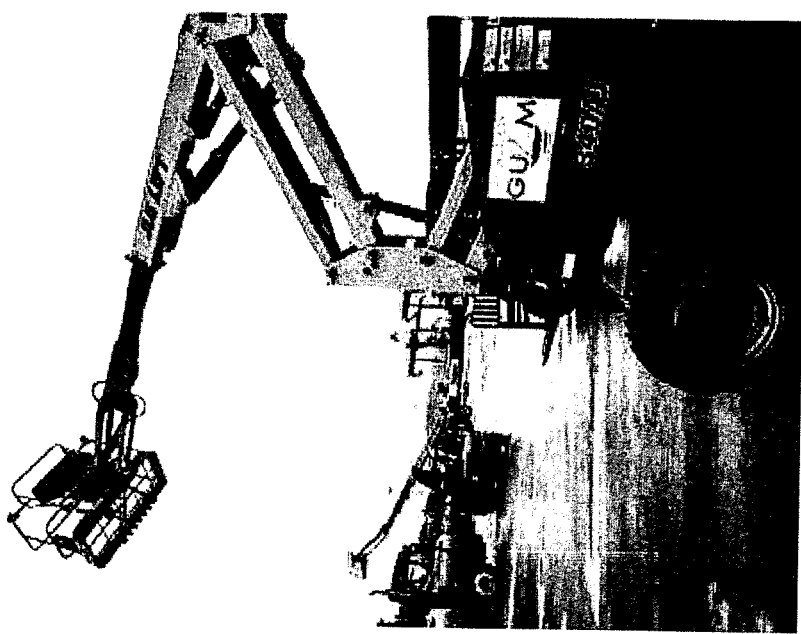
CLICK HERE TO SEE MORE ITEMS ON SALE!



Fullscreen

Port upgrades container yard equipment

The Port Authority of Guam management showcased their latest acquisition of container yard equipment during a brief ceremony at the port on Friday, Jan. 6, 2017. With a \$5.5 million loan, made possible through monies from the Bank of Guam, U.S. Department of Agriculture Direct Loan and Port funds, the port was able to



4 of 12



Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY
(Aghensian Setbision Hinirat)
Department of Administration
148 Route 1 Marine Corps Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727/472-4217

Roy Tenorio
Lieutenant Governor

Christine Won Pat Baletto
Director

Vince Arriola
Deputy Director

INVITATION FOR BID NO. GSA/PAG-025-17
11,000 LBS (5.5 TON) FORK TRUCKS (NEW)

October 4, 2017

Questions submitted by Pacific Unlimited, Inc. dated September 25, 2017

Inquiry 1 PAG is requesting a standard 3 stage mast, we have a 5 Ton dual front tire forklift with 2 stage mast rated 10,000 lbs. at 600 mm [24"] load centers and will operate inside an ISO standard low cube container. Will this be acceptable?

Response: PAG will not accept this offer

Inquiry 2 As an option, our 5 Ton dual front tire forklift and standard 3 stage mast with 600 mm [24"] load centers is rated at 10,000 lbs. and will operate inside an ISO standard low cube container. Will this be acceptable?

Response: PAG will not accept this offer.

Questions submitted by Pacific Unlimited, Inc. dated October 3, 2017

Inquiry 1 PAG is amending the specifications TO NOW READ: Hydraulically Controlled, side shift of 24" inches left or right with either left or right individual fork or dual fork.

WE believe that what PAG is requesting is fork positioners to move 24" inches left or right with either left or right individual fork or dual forks. To request a side shift of 24" inches would require a wider carriage, which in turn completely throws off your capacity rating and it would be outside the stability triangle making it unsafe.

Please confirm that it is fork positioners that you are requesting?

Response: Yes, it is fork positioners that PAG is requesting

Inquiry 2 We submitted questions 09.26.17, when can we expect to get a response?

Response: This document; as the response from the end-users become available and reviewed by GSA before it is distributed via fax and/or email.

Questions submitted by Morrigo Equipment dated September 26, 2017

Inquiry 1 Question #1- Accessories: Diagnostic and Troubleshooting software
Can you clarify the use for the "Diagnostic and Troubleshooting software?
Does Port Authority of Guam require a laptop to accompany this software?
How does Port Authority of Guam plan on using the software without a manufacturer certified technician?

Response: Software required should be capable of reading/displaying fault codes or trouble codes on forklifts to properly direct technicians. A laptop is not required; a thumb drive with requested software is acceptable (1 per unit). Software is for use after warranty period to guide/direct Port Technicians on what problem is. Port will request additional training at a later date.

Questions submitted by Morrigo Equipment dated October 3, 2017

Inquiry 1 Request for (7) day extension to the bid opening from date of receipt of the responses to questions submitted by Morrigo Equipment LLC on 26 September 2017.

Response: See Amendment #3

Questions submitted by Mid Pac Far East dated September 26, 2017

Inquiry 1 In the bid specs under Fork Adjustment, the specs says, "Hydraulically Controlled, side shift of 24" left or right individual fork and dual." DOOSAN Industrial Vehicles does not have individual fork positioners available on units under 8-tons. Please change spec to Hydraulically Controlled, 24" side-shift and Dual Fork Positioner."

Response: See Amendment # 3

Inquiry 2 Under Body Color, please remove the spec (as per GSA/PAG-004-16) or change it to manufacturer's standard color.

Response: Specification will remain.

Please Print	
ACKNOWLEDGEMENT COPY (Re-fax to GSA)	
Received By:	Chris Camacho <i>[Signature]</i>
Date:	10/15/17
Company Name:	Mid Pac Far East, LLC.
Fax to: 475-1727 or 472-4217	
E-mail to: gsaprocurement@gsadoa.guam.gov	

[Signature]
 CLAUDIA S. ACFALLE
 Chief Procurement Officer

MPFE

MID PAC FAR EAST

P.O. Box 20989
Barrigada, Guam 96921
United States of America
T: 671.632.5160
F: 671.632.5167

mcruz@midpacfareast.com

September 26, 2017

Claudia Acfalle
Chief Procurement Officer
General Services Agency
Government of Guam
Piti, Guam

Re: GSA/PAG-022-17 11000LBS (5.5-TON) Fork Trucks NEW Bid Questions

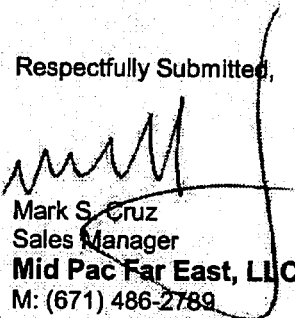
Hafa Adai Ms. Acfalle,

Our questions for the Above-named Bid are as follows:

- 1) In the Bid Specs under Forks Adjustment, the specs says "Hydraulically Controlled, side shift of 24" left or right Individual fork and dual". DOOSAN Industrial Vehicles does not have individual fork positioners available on units under 8-tons. Please change the Spec to "Hydraulically Controlled, 24" Side-Shift and Dual Fork Positioner".
- 2) Under Body Color, please remove the spec (as per GSA/PAG-004-16) or change it to Manufacturer's Standard Color.

Feel free to contact me regarding clarification on any of the above questions.

Respectfully Submitted,


Mark S. Cruz
Sales Manager
Mid Pac Far East, LLC
M: (671) 486-2789



Allison

McValley



FEDERAL SIGNAL

KENWORTH



Power Generation



INTERNATIONAL MAC

Altec

Snorkel



Bobcat

DOOSAN

DOOSAN

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)

Department of Administration

148 Route 1 Marine Drive, Piti, Guam
96915

Tel: (671) 475-1707 Fax No.: (671) 475-1727 / 472-4217

Ray Tenorio
Lieutenant Governor

Christine Baletto
Director

Vincent P. Arriola
Deputy Director

November 14, 2017

Mid-Pac Far East
Blair Sterling Johnson & Martinez
Attn: Mr. R. Marsil Johnson
238 Archbishop Flores St., Ste. 1008
Hagatna, GU 96910-5205

RE: Response to protest letter in reference to the invitation for bid GSA PAG-025-17 11,000 (5.5Ton) Fork Trucks

Dear Mr. Johnson,

Hafa Adai! Pursuant to 5 GCA §5425 (b), and careful consideration of the protested issue, we find that your protest is indeed with merit, and have decided to make adjustments to ensure that the bid does not unfairly restrict competition. Under body color of the required specifications on this bid, the specification will be amended to read from, "main body safety yellow and black trimming," to now read yellow and black trimming.

Upon receipt of this letter, you are, therefore notified of our determination and that you have a right to seek administrative and judicial review.

If you have any questions regarding this matter, please call 475-1711 or 475-1713.

Please Print	
ACKNOWLEDGEMENT COPY (Re-fax to GSA)	
Received By:	<i>Mark S. Cerv</i>
Date:	<i>11/15/17</i>
Company Name:	<i>Mid Pac Far East</i>
Fax to: 475-1727 or 472-4217	
E-mail to: gsaprocurement@gsadoa.guam.gov	

Sincerely

CLAUDIA S. ACFALLE
Chief Procurement Officer

EXHIBIT "K"