

To OPA,

Neglect of duties and responsibilities by the Chief Procurement Office, Buyer Supervisor II and Procurement Counsel led to the improper determination to method of selection on Possible Intent of Award.

DATE: Sept 29 2017
TIME: 2:15 AM PM BY: AL
FILE NO OPA-PA: 15-010

There are strong grounds that the following current statutes of CH5GCA, terms & conditions are not adhered.

- a) General Terms & Condition #22
- b) General Terms & Condition #15 (Exh D)
- c) Section 5001 of 5GCA Purposes and Policies (Exh E)
- d) Section 5003 - Requirement of Good Faith (Exh F)
- e) Section 5008 - Policy in favor of Local Procurement (Exh G)
- f) Section 5010 - Policy in favor of Planned Procurement (Exh H)
- g) Section 5118 - Procurement counsel (Exh I)
- h) Section 5211 - Competitive sealed Bidding (Exh J)
- i) Section 5262 - Duties of Chief Procurement (Exh K)
- j) Section 5264 - Relationship with using agencies (Exh L)
- k) Section 5265 - Maximum practicable competition (Exh M)
- l) Section 5267 - Publication of source of specification (Exh N)
- m) Section 5501 - Federal funds (Exh O)

With the Submission of Procurement Records by GSA, I have discoveries that the selected bidder should not be selected for award.

a. Misrepresentation by stating that the overall width is as specified on the bidding remarks colum. The catalog sheets submitted doesn't match (Exh P)

b Non conformance with the specification of the product pertaining to the color parchment. Model # 41825 C is not specific on the color GPE is the only one that submitted the correct model # 41825 C PAD that specified parchment color (Exh Q)


This is not the first time that GPE was aggrieved. GSA BID # 047-15 Promo items Worth 50 K GPE was the lone bidder but was not awarded due to delivery requirement. (Exh R)

GPA-049-15, GPE was the lone bidder but was not awarded due to delivery requirement and nonconformance (Exh S)

I'm requesting that as per section 12103 of chapter 12, the Public Auditor or Hearing Officer compel the attendance of GSA Chief Procurement Officer, Buyer Supervisor and procurement counsel It's also pertinent that the OPA compel the attendance of all the procurement officers of all Gov Guam Agencies including autonomous agencies and Ghura at the hearing date. Violation of procurement laws, manipulation of the bids are prevalent that place the potential bidders at unnecessary disadvantage.

My appeal is justified and substantiated with evidences and merits therefore GSA should overturn there decision and award the bid to GPE Inc.

Respectfully,
Sedfrey Linsangan


GPE INC
President

GOVERNMENT OF GUAM
GENERAL TERMS AND CONDITIONS

SEALED BID SOLICITATION AND AWARD

Exh D

Only those Boxes checked below are applicable to this bid.

1. **AUTHORITY:** This solicitation is issued subject to all the provision of the Guam Procurement Act (5GCA, Chapter 5) and the Guam Procurement Regulations (copies of both are available at the Office of the Complier of laws, Department of Law, copies available for inspection at General Services Agency). It requires all parties involved in the Preparation, negotiation, performance, or administration of contracts to act in good faith.
2. **GENERAL INTENTION:** Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and conditions for the bidder to provide the Government of Guam (Government) with specified services or with materials, supplies or equipment completely assembled and ready for use.
3. **TAXES:** Bidders are cautioned that they are subject to Guam Income Taxes as well as all other taxes on Guam Transactions. Specific information on taxes may be obtained from the Director of Revenue and Taxation.
4. **LICENSING:** Bidders are cautioned that the Government will not consider for award any offer submitted by a bidder who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.
5. **LOCAL PROCUREMENT PREFERENCE:** All procurement of supplies and services where possible, will be made from among businesses licensed to do business on Guam in accordance with section 5008 of the Guam Procurement Act (5GCA, Chapter 5) and Section 1-104 of the Guam Procurement Regulations.
6. **COMPLIANCE WITH SPECIFICATIONS AND OTHER SOLICITATION REQUIREMENTS:** Bidders shall comply with all specifications and other requirements of the Solicitation.
7. **"ALL OR NONE" BIDS:** NOTE: By checking this item, the Government is requesting all of the bid items to be bided or none at all. The Government will not award on an itemized basis.
8. **INDEPENDENT PRICE DETERMINATION:** The bidder, upon signing the Invitation for Bid, certifies that the prices in his bid were derived at without collusion, and acknowledge that collusion and anti-competitive practices are prohibited by law. Violations will be subject to the provision of Section 5651 of that of the Guam Procurement Act. Other existing civil, criminal or administrative remedies are not impaired and may be in addition to the remedies in Section 5651 of the Government code.
9. **BIDDER'S PRICE:** The Government will consider not more than two (2) (Basic and Alternate) item prices and the bidder shall explain fully each price if supplies, materials, equipment, and/or specified services offered comply with specifications and the products origin. Where basic or alternate bid meets the minimum required specification, cost and other factors will be considered. Failure to explain this requirement will result in rejection of the bid.
10. **BID ENVELOPE:** Envelope shall be sealed and marked with the bidder's name, Bid number, time, date and place of Bid Opening.
11. **BID GUARANTEE REQUIREMENT:** Bidder is required to submit a Bid Guarantee Bond or standby irrevocable Letter of Credit or Certified Check or Cashier's Check in the same bid envelope to be held by the Government pending award. The Bid Guarantee Bond, Letter of Credit, Certified Check or Cashier's Check must be issued by any local surety or banking institution licensed to do business on Guam and made payable to the Treasure of Guam in the amount of fifteen percent (15%) of his highest total bid offer. The Bid Bond must be submitted on Government Standard Form BB-1 (copy enclosed). Personal Checks will not be accepted as Bid Guarantee. If a successful Bidder (contractor) withdraws from the bid or fails to enter into contract within the prescribed time, such Bid guarantee will be forfeited to the Government of Guam. Bids will be disqualified if not accompanied by Bid Bond, Letter of Credit, Certified Check or Cashier's check. Bidder must include in his/her bid, valid copies of a Power of Attorney from the Surety and a Certificate of Authority from the Government of Guam to show proof that the surety company named on the bond instrument is authorized by the Government of Guam and qualified to do business on Guam. For detailed information on bonding matters, contact the Department of Revenue and Taxation. Failure to submit a valid Power of Attorney and Certificate of Authority on the surety is cause for rejection of bid. Pursuant to 5 GCA § 5212, all competitive sealed bidding for the procurement of supplies or services exceeding \$25,000.00 a 15% Bid Security of the total bid price must accompany the bid package. The bid bond, Letter of Credit, Certified Check or Cashier's Check will serve as Bid Security for this procurement.
12. **PERFORMANCE GUARANTEE:** Bidders who are awarded a contract under this solicitation, guarantee that goods will be delivered or required services performed within the time specified. Failure to perform the contract in a satisfactory manner may be cause for suspension or debarment from doing business with the Government of Guam. In addition, the Government will hold the Vendor liable and will enforce the requirements as set forth in Section 40 of these General Terms and Conditions.
13. **SURETY BONDS:** Bid and Bid Bonds coverage must be signed or countersigned in Guam by a foreign or alien surety's resident general agent. The surety must be an Insurance Company, authorized by the government of Guam and qualified to do business in Guam. Bids will be disqualified if the Surety Company does not have a valid Certificate of Authority from the Government of Guam to conduct business in Guam.
14. **COMPETENCY OF BIDDERS:** Bids will be considered only from the such bidders who, in the opinion of the Government, can show evidence of their ability, experience, equipment, and facilities to render satisfactory service.
15. **DETERMINATION OF RESPONSIBILITY OF BIDDERS:** The Chief Procurement Officer reserves the right for securing from bidders information to determine whether or not they are responsible and to inspect plant site, place of business; and supplies and services as necessary to determine their responsibility in accordance with Section 15 of these General Terms and Conditions. (2 GAR, Div. 4 § 3116)

G.S.A. Form 112 Revised 8/12

Exh D

16. **STANDARD FOR DETERMINATION OF LOWEST RESPONSIBLE BIDDER:**

In determining the lowest responsible offer, the Chief Procurement Officer shall be guided by the following:

Exh D

- a) Price of items offered.
 - b) The ability, capacity, and skill of the Bidder to perform.
 - c) Whether the Bidder can perform promptly or within the specified time.
 - d) The quality of performance of the Bidder with regards to awards previously made to him.
 - e) The previous and existing compliance by the Bidder with laws and regulations relative to procurement.
 - f) The sufficiency of the financial resources and ability of the Bidder to perform.
 - g) The ability of the bidder to provide future maintenance and services for the subject of the award.
 - h) The compliance with all of the conditions to the Solicitation.
- [X] 17. **TIE BIDS:** If the bids are for the same unit price or total amount in the whole or in part, the Chief Procurement Officer will determine award based on 2 GAR, Div. 4, § 3109(o) (2) or to reject all such bids.
- [X] 18. **BRAND NAMES:** Any reference in the Solicitation to manufacturer's Brand Names and number is due to lack of a satisfactory specification of commodity description. Such preference is intended to be descriptive, but not restrictive and for the sole purpose of indicating prospective bidders a description of the article or services that will be satisfactory. Bids on comparable items will be considered provided the bidder clearly states in his bid the exact articles he is offering and how it differs from the original specification.
- [X] 19. **DESCRIPTIVE LITERATURE:** Descriptive literature(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The literature furnished must clearly identify the item(s) in the Bid. The descriptive literature is required to establish, for the purpose of evaluation and award, details of the product(s) the bidder proposes to furnish including design, materials, components, performance characteristics, methods of manufacture, construction, assembly or other characteristics which are considered appropriate. Rejection of the Bid will be required if the descriptive literature(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the descriptive literature(s) by the time specified in the Solicitation will require rejection of the bid.
- [] 20. **SAMPLES:** Sample(s) of item(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The sample(s) should represent exactly what the bidder proposes to furnish and will be used to determine if the item(s) offered complies with the specifications. Rejection of the Bid will be required if the sample(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the sample(s) by the time specified in the Solicitation will require rejection of the Bid.
- [] 21. **LABORATORY TEST:** Successful bidder is required to accompany delivery of his goods with a Laboratory Test Report indicating that the product he is furnishing the Government meets with the specifications. This report is on the bidder's account and must be from a certified Testing Association.
- [X] 22. **AWARD, CANCELLATION, & REJECTION:** Award shall be made to the lowest responsible and responsive bidder, whose bid is determined to be the most advantageous to the Government, taking into consideration the evaluation factors set forth in this solicitation. No other factors or criteria shall be used in the evaluation. The right is reserved as the interest of the Government may require to waive any minor irregularity in bid received. The Chief Procurement Officer shall have the authority to award, cancel, or reject bids, in whole or in part for any one or more items if he determines it is in the public interest. Award issued to the lowest responsible bidder within the specified time for acceptance as indicated in the solicitation, results in a bidding contract without further action by either party. In case of an error in the extension of prices, unit price will govern. It is the policy of the Government to award contracts to qualified local bidders. The Government reserves the right to increase or decrease the quantity of the items for award and make additional awards for the same type items and the vendor agrees to such modifications and additional awards based on the bid prices for a period of thirty (30) days after original award. No award shall be made under this solicitation which shall require advance payment or irrevocable letter of credit from the government (2 GAR, Div.4 §1103).
- [X] 23. **MARKING:** Each outside container shall be marked with the Purchase Order number, item number, brief item description and quantity. Letter marking shall not be less than 3/4" in height.
- [X] 24. **SCHEDULE FOR DELIVERY:** Successful bidder shall notify the General Services Agency, Telephone Nos. 475-1707 or 475-713, at least twenty-four (24) hours before delivery of any item under this solicitation.
- [] 25. **BILL OF SALE:** Successful supplier shall render Bills of Sale for each item delivered under this contract. Failure to comply with this requirement will result in rejection of delivery. The Bill of Sale must accompany the items delivered but will not be considered as an invoice for payment. Supplier shall bill the Government in accordance with billing instructions as indicated on the Purchase Order.
- [] 26. **MANUFACTURER'S CERTIFICATE:** Successful bidder is required, upon delivery of any item under this contract, to furnish a certificate from the manufacturer indication that the goods meet the specifications. Failure to comply with this request will result in rejection of delivery payment. Supplier shall bill the Government in accordance with billing instructions as indicated on the Purchase Order.
- [X] 27. **INSPECTION:** All supplies, materials, equipment, or services delivered under this contract shall be subject to the inspection and/or test conducted by the Government at destination. If in any case the supplies, materials, equipment, or services are found to be defective in material, workmanship, performance, or otherwise do not conform with the specifications, the Government shall have the right to reject the items or require that they be corrected. The number of days required for correction will be determined by the Government.
- [] 28. **MOTOR VEHICLE SAFETY REQUIREMENTS:** The Government will only consider Bids on motor vehicles which comply with the requirements of the National Traffic and Motor Vehicle safety Act of 1966 (Public Law 89-563) and Clean Air Act as amended (Public Law 88-206), that are applicable to Guam. Bidders shall state if the equipment offered comply with these aforementioned Federal Laws.

**SUBARTICLE B
DETERMINATIONS**

§ 5020. Determinations.

Exh E

**SUBARTICLE C
DEFINITIONS IN THIS CHAPTER**

§ 5030. Definitions.

**SUBARTICLE A
PURPOSES, CONSTRUCTION AND APPLICATION**

§ 5001. Purposes, Rules of Construction.

(a) Interpretation. This Chapter shall be construed and applied to promote its underlying purposes and policies.

(b) Purposes and Policies. The underlying purposes and policies of this Chapter are:

(1) to simplify, clarify, and modernize the law governing procurement by this Territory;

(2) to permit the continued development of procurement policies and practices;

(3) to provide for increased public confidence in the procedures followed in public procurement;

(4) to ensure the fair and equitable treatment of all persons who deal with the procurement system of this Territory;

(5) to provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Territory;

(6) to foster effective broad-based competition within the free enterprise system;

(7) to provide safeguards for the maintenance of a procurement system of quality and integrity; and

fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this Chapter.

SOURCE: GC § 6950.1. MPC § 1-102.

§ 5003. Requirement of Good Faith.

This Chapter requires all parties involved in the negotiation, performance, or administration of territorial contracts to act in good faith.

SOURCE: GC § 6950.2. MPC § 1-103.

§ 5004. Application of this Chapter.

(a) General Application. This Chapter applies only to contracts solicited or entered into after the effective date of this Chapter unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

(b) Application to Territorial Procurement. This Chapter shall apply to every expenditure of public funds irrespective of their source, including federal assistance funds except as otherwise specified in § 5501 of this Chapter, by this Territory, acting through a governmental body as defined herein, under any contract, except that this Chapter shall not apply to either grants or contracts between the Territory and another government. Nothing in this Chapter or in regulations promulgated hereunder shall prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

SOURCE: GC § 6950.3. MPC § 1-104 modified.

COMMENT: The MPC assumes the existence of counties, municipalities having a separate government, and other local governments. This Section has been modified to refer to Guam's structure, unified government, at the time of enactment.

Note that this Chapter does not affect existing contracts. Also, it does not affect agreements with private parties, such as when a person gives something to the government with conditions as to its use. Also, agreements with other governments, such as the Federal Government in areas of, say, Intergovernmental Personnel Exchanges, are not affected by this Chapter. The reason is, of course, that the other government may very well place conditions upon the agreement which are not compatible with this Act, but which must be followed. Thus, federal regulations must be followed in federal agreements notwithstanding any local laws.

§ 5008. Policy In Favor of Local Procurement.

All procurement of supplies and services shall be made from among businesses licensed to do business on Guam and that maintain an office or other facility on Guam, whenever a business that is willing to be a contractor is:

(a) a licensed bona fide manufacturing business that adds at least twenty-five percent of the value of an item, not to include administrative overhead, using workers who are U. S. Citizens or lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United State to work, based on their former citizenship in the Trust Territory of the Pacific Islands; or

(b) a business that regularly carries an inventory for regular immediate sale of at least fifty percent (50%) of the items of supplies to be procured; or

(c) a business that has a bona fide retail or wholesale business location that regularly carries an inventory on Guam of a value of at least one half of the value of the bid or One Hundred Fifty Thousand Dollars (\$150,000) which ever is less, of supplies and items of a similar nature to those being sought; or

(d) A service business actually in business, doing a substantial portion of its business on Guam, and hiring at least 95% U. S. Citizens, lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

Procurement of supplies and services from off Guam may be made if no business for such supplies or services may be found on Guam or if the total cost F.O.B. job site, unloaded, of procurement from off island is no greater than eighty-five percent (85%) of the total cost F.O.B. job site, unloaded, of the same supplies or services when procured from a business licensed to do business on Guam that maintains an office or other facility on Guam and that is one of the above-designated businesses entitled to preference.

(e) The specifications, terms, conditions and qualifications for all solicitations shall be drafted to promote participation in the

Exhibit

(2) the qualified PPA provider(s) shall be experienced in designing, implementing and installing solar energy systems, have a record of established projects, demonstrate technical, operational, financial and managerial capabilities to design and operate the solar energy system.

SOURCE: Added by P.L. 32-095:4 (Nov. 27, 2013).

NOTE: P.L. 32-095 does not define "PPA" as used in subsection (b)(2), but this public law also added 17 GCA § 7120 entitled "Power Purchase Agreement to Purchase Solar Energy"; therefore, "PPA" appears to refer to "power purchase agreement."

§ 5009. Effective Date.

This Chapter shall become effective at 12:01 A.M. on October 1, 1983, but shall be deemed effective immediately for purposes of planning and organization.

SOURCE: GC § 6950.8. MPC § 1-109 modified.

COMMENT: The Official Comments state:

"The effective date of this Code should be set at least six months after enactment to allow adequate time for development of regulations and the other administrative matters necessitated by its enactment."

Testimony by the Director of Administration and others also note that the original effective date of this Bill, Oct. 1, 1982, was impractical and, coupled with other dates in this Chapter, would conflict with existing budget cycle requirements.

If the government is given just over one year to prepare, these objections will be nullified.

§ 5010. Policy in Favor of Planned Procurement.

All procurements of supplies and services shall, where possible, be made sufficiently in advance of need for delivery or performance to promote maximum competition and good management of resources. Publication of bids and requests for proposals shall not be manipulated so as to place potential bidders at unnecessary competitive disadvantage. Except in emergency situations, lower price bids are generally preferable to shorten delivery or performance bids. Delivery time may be considered as a factor in making an award to a responsive bidder only if his average delivery time bid is at least ten percent (10%) shorter than the average delivery time of a lower price responsive bidder and if the price offered by the bidder offering the faster delivery or performance does not exceed one hundred five percent (105%) of the lower price bidder.

Exh I

by government agencies obtaining supplies from the General Services Agency.

SOURCE: GC 6954.5. New Section.

COMMENT: This creates the Fund and mechanism necessary to regularize the present practice of stocking supplies and then “selling” them to the Using Agencies. This replaces the “Government Store” created by Executive Order 81-3.

§ 5116. Procurement may be Delegated to GPA Board.

Notwithstanding any other provision of Guam Procurement Law, the authority to procure supplies and services for the Guam Power Authority may be delegated by the Chief Procurement Officer only to the Guam Power Authority Board of Directors.

SOURCE: Added by P.L. 25-168:2.

§ 5117. Procurement Shall Be Delegated to the Guam Preservation Trust.

Notwithstanding any other provision of Guam Procurement Law, the authority to procure supplies and services for the Guam Preservation Trust shall be delegated by the Chief Procurement Officer to the Board of Directors of the Guam Preservation Trust.

SOURCE: Added by P.L. 27-89:6.

§ 5118. Procurement Counsel.

The Department of Administration may employ an attorney to assist the General Services Agency, to be called the Procurement Counsel. The Director of Administration shall set the terms and conditions of employment for the attorney and determine his or her compensation consistent with the laws of Guam. The attorney shall be a full-time employee, and shall be admitted to practice before the courts of Guam under the same conditions as are attorneys employed by the government pursuant to Title 7 GCA, §§ 9A114 and 9A114A. The Procurement Counsel shall assist and advise the Chief Procurement Officer on all civil matters in which the General Services Agency is legally interested, provided that the Office of the Attorney General shall represent the General Services Agency. The attorney shall provide technical assistance to the Guam Procurement Advisory Council, and shall assist with the preparation of any legislation, rules or regulations. The incumbent procurement advisor shall be designated as the procurement counsel.

(5) Section 5216 of this Article for services specified in § 5121 of this Chapter; or

(6) Section 5217 of this Article.

(b) Nothing in this Section requiring competitive bidding shall prohibit the development of specifications which require compatibility with existing supplies, equipment or data processing systems.

SOURCE: GC § 6959. MPC § 3-202 modified. Subsections (a)(4) and (a)(5) amended, and (a)(6) added by P.L. 18-15:X:24.

NOTE: With respect to subsection (a)(1), section 5212 (regarding Competitive Sealed Proposals) was repealed in 1985 by P.L. 18-8:8. However, subsection (a) was not amended to reflect that repeal. In 2004, section 5212 was added as a new completely unrelated law (Bid Security and Performance Bond Requirement for Contractors) by P.L. 27-127:2.

COMMENT: In the past, some problems have arisen due to the requirement for competitive bidding for equipment which should have been, but was not, compatible with existing equipment. The reason alleged was that the lowest bidder had to be chosen. Of course, the proper writing of specifications could have prevented the problem and Subsection (b) makes clear that compatibility may be a legitimate part of the specifications. Changed by Committee on GGO.

§ 5211. Competitive Sealed Bidding.

(a) Conditions for Use. Contracts shall be awarded by competitive sealed bidding except as otherwise provided in § 5210 of this Article.

(b) Invitation for Bids. An Invitation for Bids shall be issued and shall include a purchase description, a recitation of the Wage Determination most recently issued by the U.S. Department of Labor, and all contractual terms and conditions applicable to the procurement including a demonstration of compliance with §§ 5801 & 5802 of this Chapter, if applicable..

(c) Public Notice. Adequate public notice of the Invitation for Bids shall be given a reasonable time prior to the date set forth therein for the opening of bids, in accordance with regulations promulgated by the Policy Office. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. If a bid is given public notice which is within the time specified in the Policy Office's rules and regulations on the subject, it shall not be challenged unless the bidder can show exceptional circumstances which would

Exh J

render the rules and regulations inapplicable in the case of a particular bid being requested.

(d) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection.

(e) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Chapter. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the Invitation for Bids.

(f) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in accordance with regulations promulgated by the Policy Office. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Territory or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Chief Procurement Officer, the Director of Public Works or head of a purchasing agency.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids and whose bid amount is sufficient to comply with Article 13 of this Chapter, if applicable. In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such funds by more than

Exh K L M

§ 5261. Duties of the Policy Office.

The Policy Office shall promulgate regulations governing the preparation, maintenance, and content of specifications for supplies, services and construction required by the Territory.

SOURCE: GC § 6965.1. MPC § 4-202.

§ 5262. Duties of the Chief Procurement Officer and Director of Public Works.

Exh K

(a) The Chief Procurement Officer shall prepare, issue, revise, maintain and monitor the use of specifications for supplies and services required by the Territory.

(b) The Director of Public Works shall prepare, issue, revise, maintain and monitor the use of specifications for construction required by the Territory.

SOURCE: GC § 6965.2. MPC § 4-202 modified.

COMMENT: This Section is changed to reflect the split between construction and other procurement.

§ 5263. Exempted Items.

Specifications for supplies, services or construction items procured under § 5120 of this Chapter, or exempted pursuant to § 5121 of this Chapter, may be prepared by a purchasing agency in accordance with the provisions of this Article and regulations promulgated hereunder.

SOURCE: GC § 6965.3. MPC § 4-203.

§ 5264. Relationship With Using Agencies.

Exh L

The Chief Procurement Officer and the Director of Public Works shall obtain expert advice and assistance from personnel of Using Agencies in the development of specifications and may delegate in writing to a using agency the authority to prepare and utilize its own specifications.

SOURCE: GC § 6965.4. MPC § 4-204.

§ 5265. Maximum Practicable Competition.

Exh M

All 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.

SOURCE: GC § 6965.5. MPC § 4-205.

Exh A

§ 5266. Specifications Prepared by Architects and Engineers.

The requirements of this Article regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers and draftsmen for public contracts.

SOURCE: GC § 6965.6. MPC § 4-206.

§ 5267. Publication of Source of Specifications.

The specifications contained in any invitation for bids or request for proposals, and any amendment thereto, for the procurement of supplies shall identify the person responsible for drafting the specifications and any persons, technical literature or manufacturer's brochures relied upon by the responsible person in drafting the specifications.

SOURCE: GC § 6965.7 added by P.L. 18-044:21 (Nov. 14, 1986).

§ 5268. Salient Features.

(a) Specifications 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 Territory's minimum needs.

(b) Purchase descriptions shall not specify a product having features which are peculiar to the products of one manufacturer, producer or distributor unless it has been determined in writing by the Director of the using agency that those particular features are essential to its requirements and specifying the reason that similar products lacking those features would not meet minimum requirements for the item.

(c) Purchase descriptions shall describe the salient technical requirements or desired performance characteristics of supplies or services to be procured without including restrictions which do not significantly affect the technical requirements or performance characteristics.

SOURCE: GC § 6565.8 added by P.L. 18-044:22 (Nov. 14, 1986).

§ 5269. Purchase of Drugs by Generic Names.

As used in § 5257 through § 5259 of this Article, generic drug means the chemical or generic name, as determined by the United States

investigation and consideration of the evidence submitted, shall submit its findings to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer of employee or his representative. The administrative authority shall take the corrective action that the Commission recommends. No right or power granted to the Civil Service Commission shall bar or preclude the Court from issuing such orders, imposing such sanctions or providing such remedy or relief as it deems proper.

(f) In the event of noncompliance with the order of the Court, the Superior Court may punish for contempt, the responsible employees or officer.

SOURCE: GC § 6978.2 added by P.L. 18-044:27 (Nov. 14, 1986).

ARTICLE 10
COMPLIANCE WITH FEDERAL REQUIREMENTS

§ 5501. Federal Funds.

§ 5501. Federal Funds.

Where a procurement involves the expenditure of federal assistance or contract funds, or other federal funds as defined by Section 20 of the Organic Act of Guam, all persons within the government of Guam shall comply with such federal law and regulations which are applicable and which may be in conflict with or may not be reflected in this Chapter.

SOURCE: GC § 6979. MPC § 11-301 modified.

COMMENT: The only modification is to reflect the limitation on the power of the Legislature to appropriate contained in Section 20 of the Organic Act which reads:

“Appropriations, ..., and except such appropriations as shall be made from time to time by the Congress of the United States, shall be by the Legislature.”

ARTICLE 11
ETHICS IN PUBLIC CONTRACTING

Part A. Definitions.

Exh P

ITEM NO.	DESCRIPTION	QTY	UOM	UNIT PRICE	EXTENDED PRICE
1.1	Filing Cabinet, Vertical Four (4) Drawer Fire Proof	6	Each	\$ 2955.00	\$17730.00

Ref.: Model No. 1.0 Fire King

SPECIFICATIONS

Overall Width: 17 3/4"
 Overall Height: 52 3/4"
 Overall Depth: 25"
 Drawer Quantity: Four (4)
 Color: Parchment
 Material(s): Steel
 Special Features: Letter Size
 Carton/Item Weight: 508
 UL Listed 350 degree, Impact resistance ensures protection against a 30-foot drop or collapsing ceiling.
 Insulation between drawers makes each drawer a separate, fire proof unit.
 Water-resistant - designed to prevent water damage resulting from sprinklers and fire hoses.
 Drill and pick resistant high security lock.

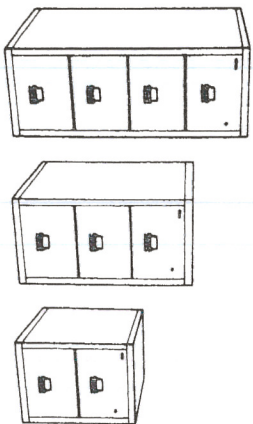
BIDDING ON/REMARKS COLUMN

As Specified

BIDDING ON:

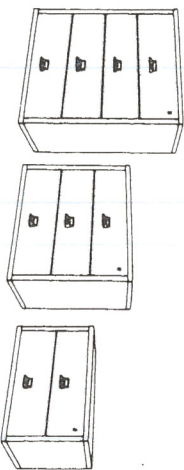
Manufacturer: FireKing
 Model: 4-1825-C
 Make: 4 door, letter
 Place of Origin: USA
 Delivery Date: As Specified

FireKing® Vertical Files



Catalog No.	Description	Inside Dimensions			Outside Dimensions			Approx. Shipping Weight	Suggested List Price
		H	W	D	H	W	D		
4-1831-C	4-Drawer Letter	10 ³ / ₈ "	12 ³ / ₁₆ "	26"	52 ³ / ₄ "	17 ³ / ₄ "	31 ⁹ / ₁₆ "	603 lbs.	\$3,900.00
4-2131-C	4-Drawer Legal	10 ³ / ₈ "	15 ¹ / ₄ "	26"	52 ³ / ₄ "	20 ¹³ / ₁₆ "	31 ⁹ / ₁₆ "	664 lbs.	\$4,005.00
3-1831-C	3-Drawer Letter	10 ³ / ₈ "	12 ³ / ₁₆ "	26"	40 ¹ / ₄ "	17 ³ / ₄ "	31 ⁹ / ₁₆ "	476 lbs.	\$3,625.00
3-2131-C	3-Drawer Legal	10 ³ / ₈ "	15 ¹ / ₄ "	26"	40 ¹ / ₄ "	20 ¹³ / ₁₆ "	31 ⁹ / ₁₆ "	526 lbs.	\$3,695.00
2-1831-C	2-Drawer Letter	10 ³ / ₈ "	12 ³ / ₁₆ "	26"	27 ³ / ₄ "	17 ³ / ₄ "	31 ⁹ / ₁₆ "	348 lbs.	\$2,555.00
2-2131-C	2-Drawer Legal	10 ³ / ₈ "	15 ¹ / ₄ "	26"	27 ³ / ₄ "	20 ¹³ / ₁₆ "	31 ⁹ / ₁₆ "	383 lbs.	\$2,630.00

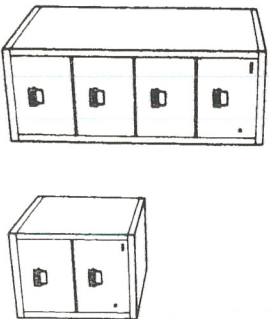
FireKing® Lateral Files



Catalog No.	Description	Inside Dimensions			Outside Dimensions			Approx. Shipping Weight	Suggested List Price
		H	W	D	H	W	D		
4-3122-C	4-Drawer	10 ³ / ₈ "	25 ³ / ₁₆ "	15 ¹ / ₈ "	52 ³ / ₄ "	31 ³ / ₁₆ "	22 ¹ / ₈ "	794 lbs.	\$5,160.00
4-3822-C	4-Drawer	10 ³ / ₄ "	31 ¹⁵ / ₁₆ "	15 ¹ / ₈ "	52 ³ / ₄ "	37 ¹ / ₂ "	22 ¹ / ₈ "	907 lbs.	\$6,160.00
4-4422-C	4-Drawer	10 ³ / ₄ "	38 ¹⁵ / ₁₆ "	15 ¹ / ₈ "	52 ³ / ₄ "	44 ¹ / ₂ "	22 ¹ / ₈ "	1019 lbs.	\$7,405.00
3-3122-C	3-Drawer	10 ³ / ₈ "	25 ³ / ₁₆ "	15 ¹ / ₈ "	40 ¹ / ₄ "	31 ³ / ₁₆ "	22 ¹ / ₈ "	574 lbs.	\$4,720.00
3-3822-C	3-Drawer	10 ³ / ₄ "	31 ¹⁵ / ₁₆ "	15 ¹ / ₈ "	40 ¹ / ₄ "	37 ¹ / ₂ "	22 ¹ / ₈ "	756 lbs.	\$5,600.00
3-4422-C	3-Drawer	10 ³ / ₄ "	38 ¹⁵ / ₁₆ "	15 ¹ / ₈ "	40 ¹ / ₄ "	44 ¹ / ₂ "	22 ¹ / ₈ "	791 lbs.	\$6,450.00
2-3122-C	2-Drawer	10 ³ / ₈ "	25 ³ / ₁₆ "	15 ¹ / ₈ "	27 ³ / ₄ "	31 ³ / ₁₆ "	22 ¹ / ₈ "	456 lbs.	\$3,475.00
2-3822-C	2-Drawer	10 ³ / ₄ "	31 ¹⁵ / ₁₆ "	15 ¹ / ₈ "	27 ³ / ₄ "	37 ¹ / ₂ "	22 ¹ / ₈ "	532 lbs.	\$4,230.00
2-4422-C	2-Drawer	10 ³ / ₄ "	38 ¹⁵ / ₁₆ "	15 ¹ / ₈ "	27 ³ / ₄ "	44 ¹ / ₂ "	22 ¹ / ₈ "	584 lbs.	\$4,585.00

Laterals: Multi-purpose lateral files designed for letter and legal filing. The Lateral file comes standard to hang legal or letter sized hanging files front to back as well as legal size hanging files side to side. An adaptor bar is available to hang letter size files side to side. call customer service for price and availability.

FireKing 25®



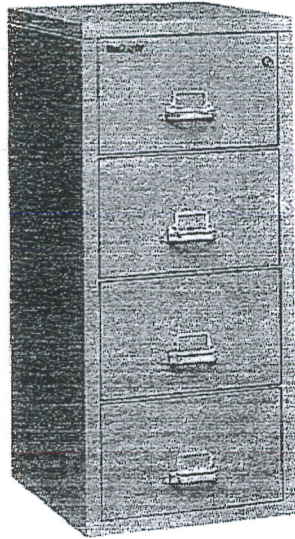
Catalog No.	Description	Inside Dimensions			Outside Dimensions			Approx. Shipping Weight	Suggested List Price
		H	W	D	H	W	D		
4-1825-C	4-Drawer Letter 25" Deep	10 ³ / ₈ "	12 ³ / ₁₆ "	19 ³ / ₄ "	52 ³ / ₄ "	17 ³ / ₄ "	25 ¹ / ₁₆ "	508 lbs.	\$3,220.00
4-2125-C	4-Drawer Legal 25" Deep	10 ³ / ₈ "	15 ¹ / ₄ "	19 ³ / ₄ "	52 ³ / ₄ "	20 ¹³ / ₁₆ "	25 ¹ / ₁₆ "	551 lbs.	\$3,275.00
2-1825-C	2-Drawer Letter 25" Deep	10 ³ / ₈ "	12 ³ / ₁₆ "	19 ³ / ₄ "	27 ³ / ₄ "	17 ³ / ₄ "	25 ¹ / ₁₆ "	287 lbs.	\$2,055.00
2-2125-C	2-Drawer Legal 25" Deep	10 ³ / ₈ "	15 ¹ / ₄ "	19 ³ / ₄ "	27 ³ / ₄ "	20 ¹³ / ₁₆ "	25 ¹ / ₁₆ "	326 lbs.	\$2,095.00

Follow-up blocks sold separately. See vertical file accessories for details.

Exh P

Exh P

FireKing 1-Hour 4-Drawer 25" Letter Fire Resistant Vertical Cabinet **Parchment** Model: **41825CPAD**



Product Details

FireKing 4-Drawer 25" letter fire resistant vertical file cabinet in parchment color measures 52 3/4" x 17 3/4" x 25 1/16" and is used to hang file folders without any additional accessories.

FireKing 4-Drawer 25" letter fire resistant vertical file cabinet in parchment color measures 52 3/4" x 17 3/4" x 25 1/16" and provide insulation between the drawers. Cabinet offers 1 hr fire protection.


- Four drawer
- 52-3/4"H x 17-3/4"W x 25-1/16"D
- UL Certified 1-Hour Fire Protection
- Accepts letter size hanging file folders
- Weight: 546 lbs.
- Parchment colored environmentally friendly, electrostatic powder coating
- UL drill and pick resistant, high-security key lock
- Passed a 30 foot drop test simulating a collapsing ceiling or wall
- Drawer suspensions are maintenance free and guaranteed for life
- Insulation between the drawers makes each one a separate, fireproof unit

Exh R

INVITATION FOR BID

ISSUING OFFICE:

GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM
148 ROUTE 1, MARINE DRIVE
PITI, GUAM 96915


CLAUDIA S. ACFALLE
Chief Procurement Officer

DATE ISSUED: 5/15/15

BID INVITATION NO: GSA-047-15

BID FOR: PROMOTIONAL ITEMS

SPECIFICATION: See Attached

DESTINATION: GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER

REQUIRED DELIVERY DATE: INITIAL DELIVERY TO BE NO LATER THAN JUNE 25, 2015. FOR ALL OTHER REQUIREMENTS 30 DAYS UPON RECEIPT OF PURCHASE ORDER. THIS IS AN INDEFINITE BID QUANTITY.

INSTRUCTION TO BIDDERS:

INDICATE WHETHER: INDIVIDUAL PARTNERSHIP CORPORATION

INCORPORATED IN: Guam

This bid shall be submitted in duplicate and sealed to the issuing office above no later than (Time) 9:00 AM Date: 6/2/15 and shall be publicly opened. Bid submitted after the time and date specified above shall be rejected. See attached General Terms and Conditions, and Sealed Bid Solicitation for details.

The undersigned offers and agrees to furnish within the time specified, the articles and services at the price stated opposite the respective items listed on the schedule provided, unless otherwise specified by the bidder. In consideration to the expense of the Government in opening, tabulating, and evaluating this and other bids, and other considerations, the undersigned agrees that this bid remain firm and irrevocable within 60 calendar days from the date opening to supply any or all the items which prices are quoted

NAME AND ADDRESS OF BIDDER:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS BID:

Guam Pacific Enterprise, Inc.

P.O. Box 23128

Barrigada, Guam 96921



AWARD: CONTRACT NO.: _____ AMOUNT: _____ DATE: _____

ITEM NO(S) AWARDED: _____

CONTRACTING OFFICER:

CLAUDIA S. ACFALLE
Chief Procurement Officer

NAME AND ADDRESS OF CONTRACTOR:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS CONTRACT:



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Exh S

BID STATUS

September 08, 2016

Sedfrey Linsangan
President
Guam Pacific Ent.
P.O. Box 23128
Barrigada, Guam 96921

BID INVITATION: GPA-049-15

OPENED: July 31, 2015

DESCRIPTION: Multiple Reel Trailer

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

- Cancelled (in its entirety), or partially canceled due to:**
 - () Insufficient funds;
 - () Change of specifications;
 - () Best interest of the Government

- Not awarded 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;
 - (X) Not meeting the delivery requirements as stated in the IFB: Line Item 1.0 (Basic Offer): 10-12 Weeks ARO, GPA requirement of 8 Weeks ARO, Line Item 1.0 (Alternate Offer): 10-12 Weeks ARO, GPA requirement of 8 Weeks ARO
 - (X) Non-conformance with the specifications; Line Item 1.0 (Basic Offer): Reel width/area 60 inches, GPA requirement of 72 inches; Line Item 1.0 (Alternate Offer): Reel width/area 60 inches, GPA requirement of 72 inches.
 - () Inability to provide future maintenance and services to the equipment;
 - () High price;
 - () Others:

Remarks:

A re-bid is recommended for this procurement.

The Guam Power Authority greatly appreciates your interest and participation in our bid.


JOHN M. BENAVENTE, P.E.
General Manager

Exh S

Gmail

Guam Pacific Enterprises <guampacific@gmail.com>

Re: GPA-049-15 Multiple Reel Trailer - Bid Status

1 message

Guam Pacific Enterprises <guampacific@gmail.com>

Wed, Sep 23, 2015 at 10:45 AM

To: Dawn KP Fejeran <dfejeran1@gpagwa.com>

Dear Mr Benavente,

Pertaining to subject Bid Status I would like to provide my perspective.

- a.) Reference Model and part # in the bid is already discontinued. The author of the bid should coordinate with the supplier before publishing the bid.
- b.) Delivery requirement is not realistic. Please compute the lead time from the factory , travel time to west coast and ocean travel to Guam on future bids.
- c.) Provision that state that any delivery extension for the specified bid should not be granted is violation of Guam Procurement laws.

Hoping that my opinion can be addressed and taken to consideration.

Sincerely,

Sedfrey Linsangan

GPE Inc.

President

cc Ms. Pangelinan/ Supply Administrator

Dawn Fejeran / Buyer 11

On Mon, Sep 14, 2015 at 3:17 PM, Dawn KP Fejeran <dfejeran1@gpagwa.com> wrote:

Hafa Adai Sedfrey,

Kindly acknowledge receipt of attached bid status letter relative to the above subject bid.

Regards,

Dawn KP Fejeran

Buyer II