

Suite 401 DNA Building
238 Archbishop Flores St.
Hagåtña, Guam 96910



TRANSMITTAL

To:	Ms. Adriana Quitugua Acting Chief Procurement Officer General Services Agency Division Department of Administration 590 South Marine Corps Drive, ITC Buidling, Suite 230 Tamuning, Guam 96913 Phone: (671) 475-1705/1706 Email: andriana.u.quitugua@gsadoa.guam.gov	From:	Benjamin J.F. Cruz Public Auditor Office of Public Accountability
		Pages:	11 (including cover page)
CC:	Mr. Michael J. Berman, Esq. Attorney for Appellant Far East Company, LLC Berman Law Firm 111 W Chalan Santo Papa Ste 503 Hagatna GU 96910 Phone: (671) 477-2778 Fax: (671) 477-4366 Email: mjberman@pacificlawyers.law ; ofc.manager@pacificlawyers.law	Date:	May 12, 2025
		Phone : Fax:	(671) 475-0390 x. 204 (671) 472-7951

Re: OPA-PA-25-008 Notice of Receipt of Appeal

For Review

Please Comment

Please Reply

Please Recycle

Comments:

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,

Jerrick Hernandez, Auditor

jhernandez@guamopa.com



OFFICE OF PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910

Phone: (671) 475-0390 / FAX: (671) 472-7951

May 12, 2025

Andriana Quitugua
Acting Chief Procurement Officer
General Services Agency Division
Department of Administration
590 South Marine Corps Drive, ITC Buidling, Suite 230
Tamuning, Guam 96913

VIA EMAIL: andriana.u.quitugua@gsadoa.guam.gov

Re: Notice of Receipt of Appeal – OPA-PA-25-008

Dear Ms. Quitugua,

Please be advised that Far East Equipment Company, LLC (hereinafter referred to as “Far East”) filed an appeal with the Office of Public Accountability (OPA) on May 9, 2025, regarding the General Services Agency’s (GSA) denial of its protest decision related to the procurement for Ariticulating Boom Lift and Indoor Scissor Lift (GSA-017-25). OPA has assigned this appeal case number OPA-PA-25-008.

Immediate action is required of GSA pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA’s office and on its website at www.opaguam.org. The notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeal. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Monday, May 19, 2025**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Tuesday, May 27, 2025**, ten work days following receipt of this notice.

When filing all required documents with our office, please provide one original and one copy to OPA (**electronic filings will be acceptable and highly encouraged, and can be emailed to jhernandez@guamopa.com**), and serve a copy to Far East.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at jhernandez@guamopa.com or 475-0390 ext. 204 should you have any questions regarding this notice.

Sincerely,



Benjamin J.F. Cruz
Public Auditor

Enclosure: Notice of Appeal – OPA-PA-25-008

Cc: Michael J. Berman, Esq., Attorney for Far East



Notice of Appeal Form
PROCUREMENT APPEAL

PART I- To be completed by OPA

In the Appeal of) **NOTICE OF APPEAL**
FAR EAST EQUIPMENT COMPANY,)
LLC, APPELLANT) Docket No. OPA-PA _____

PART II- Appellant Information

Name: Far East Equipment Company, LLC
Mailing Address: P.O. Box 10838, Tamuning, Guam 96931

Business Address: Perimeter Road, Barrigada, Guam 96913
Email Address: jlimtiaco@fareastequipment.com
Daytime Contact No: 671-473-4376

Fax No.: 671-473-4370

PART III- Appeal Information

A) Purchasing Agency: General Services Agency

B) Identification/Number of Procurement, Solicitation, or Contract: GSA-017-25

C) Decision being appealed was made on April 24, 2025 by:

XX 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)

XX 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)

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

Morrico Equipment
International Royal, Inc.

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.

(See, Exhibit "A")

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

PART V- Declaration Re Court Action

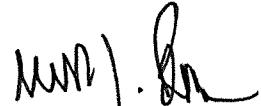
Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of Public Accountability will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

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

Submitted this 9th day of May, 2025.

By: FAR EAST EQUIPMENT, LLC
APPELLANT

or

By: 

MICHAEL J. BERMAN
Appellant's Duly Authorized Representative
Berman Law Firm
111 Chalan Santo Papa, Suite 503
Hagatna, Guam 96910

EXHIBIT "A"

This is an appeal from a Decision made by the Department of Administration on April 24, 2025, a copy of which is attached hereto as Attachment Number One.

Appellant's appeal is based on the fact that it offered as security for the bid a Letter of Credit for the requirement amount. However, the Department of Administration refused to accept a Letter of Credit and instead only agreed to accept a Certified Check as a Surety Bond. A copy of Appellant's Bank of Guam Letter of Credit for the full amount required is attached hereto as Attachment Number Two.

Appellant has in all previous public bids submitted a Letter of Credit as its bid security, and a Letter of Credit was also accepted.

Appellant submits that it is not rational to reject a Letter of Credit. Further, competitive bidding is in the public interest and should be encouraged and not discouraged for rigid irrational reasons.

Appellant requests that it's bid security of a Letter of Credit be allowed, and that it be awarded the bid for the articulating boomlift for which it was the lowest bidder.

Attachment Number One

(Decision Appealed From)



EDWARD M. BIRN
Director (Direktor)
ELIZABETH T. FISHER
Deputy Director (Sigundo Direktor)

**DEPARTMENT OF
ADMINISTRATION**
DIPATTAMENTON ATMENESTRASION
GENERAL SERVICES AGENCY DIVISION
(Ahension Setbision Hinirat)
Telephone (Telifon): (671) 475-1705/1706



LOURDES A. LEON GUERRERO
Governor (Maga'haga)
JOSHUA F. TENORIO
Lt. Governor (Sigunda Maga'haga)

April 24, 2025

Mr. John Limtiaco
Far East Equipment Company, LLC
P.O. Box 10838
Tamuning, Guam 96931
Email: jlimtiaco@fareastequipment.com

RE: Response to Protest Filed by Far East Equipment Company, LLC on April 7, 2025 for Invitation for Bid No. GSA-017-25, Articulating Boom Lift and Indoor Scissor Lift (Latest Model)

Dear Mr. Limtiaco:

We are in receipt of your protest dated April 7, 2025, in which you indicated that you are protesting that the Letter of Credit submitted with your bid proposal covers the 15% bid bond requirement.

GSA Response:

The General Services Agency (GSA) conducted the procurement for Invitation for Bid (IFB) No. GSA-017-25, Articulating Boom Lift and Indoor Scissor Lift (Latest Model), in accordance with Guam procurement regulations. GSA issued IFB No. GSA-017-25, Articulating Boom Lift and Indoor Scissor Lift (Latest Model) on January 24, 2025. Questions and comments were due on March 5, 2025. No comments or questions were received from Far East Equipment Company, LLC regarding the bid guarantee requirements. The bid opening was held on March 21, 2025. Far East Equipment Company, LLC submitted a protest dated April 7, 2025. Based on the protest, GSA issued a stay of procurement, pursuant to 5 GCA §5425g, which states that "in the event of a timely protest under Subsection (a) of this Section or under Subsection (a) of §5480 of this Chapter, Guam shall not proceed further with the solicitation or with the award of the contract prior to final resolution of such protest ..."

The Special Reminder to Prospective Bidders, signed by you on February 25, 2025, indicates that there are two acceptable options for the bid guarantee (15% of bid amount), and they are (a) Cashier's Certified Check or (b) Surety Bond. Far East Equipment Company, LLC submitted a Letter of Credit with its bid proposal, which does not satisfy the requirements listed in the Special Reminder to Prospective Bidders. Nothing in the specifications contained within IFB No. GSA-017-25, Articulating Boom Lift and Indoor Scissor Lift (Latest Model) violate the procurement code provisions.

Response to Protest Filed by Far East Equipment Company, LLC
April 24, 2025
Page 2

GSA hereby finds that there is no merit to the Far East Equipment Company, LLC's claim that their bid was the most responsive. Far East Equipment Company, LLC's bid submission was properly rejected due to no bid security or insufficient bid security.

This is the final decision concerning your protest. You are hereby advised that Far East Equipment Company, LLC has the right to seek any administrative or judicial review as authorized by law.


Andriana Quitugua
Acting Chief Procurement Officer

Please Print
Acknowledgement Copy (Email to GSA)

Received By: Marisa Reyes AB
Date: 4/24/25
Company Name: Far East Equipment Co. LLC
Email to: gaprocurement@gsa.gov

Attachment Number Two
(Letter of Credit from
Bank of Guam)

LETTER OF CREDIT

Irrevocable Standby

Date: March 18, 2025

Amount: \$35,000.00

Letter of Credit No: 01-SB-2061

Expiration Date: June 18, 2025

APPLICANT:

Far East Equipment Company, LLC.
17-3311 Corsair Road Tiyan
Barrigada, Guam 96913

BENEFICIARY:

General Services Agency
2nd Floor ITC Bldg. Rm 215
Tamuning, Guam 96931

To General Services Agency:

We hereby establish our Irrevocable Standby Letter of Credit No. 01-SB-2061 in your favor for the account of Far East Equipment Company, LLC., 17-3311 Corsair Road Tiyan, Barriagada, Guam 96913 up to the aggregated amount of \$35,000.00 (Thirty-Five Thousand and no/100) available by your drafts drawn at SIGHT on Bank of Guam, 111 Chalan Santo Papa, Hagatna, Guam 96910 and accompanied by documents specified as follows:

- 1) Beneficiary's signed certificate stating that the applicant has defaulted on the terms and conditions set forth under Invitation for Bid No. GSA-017-25 for Articulating Boom Lift and Indoor Scissor Lift (Latest Model).
- 2) The original Letter of Credit and all Amendments, if any.

Partial drawings under this credit are not allowed.

We hereby agree with you that all drafts drawn under and in compliance with the terms of this credit shall be met with due honor upon presentation and delivery of documents as specified to the drawee if drawn and presented for negotiation on or before June 18, 2025.

All documents are to be marked with Bank of Guam reference no. 01-SB-2061 and are to be forwarded in one cover to Bank of Guam, Headquarters, Attn: Letters of Credit Department, 111 Chalan Santo Papa, Hagatna, Guam 96910.

***** END *****

Sincerely,
BANK OF GUAM

BY _____
Authorized Signer: Anjanette Gibbons - AVP/LC Manager

BY _____
Authorized Signer: Janine Eustaquio - VP Credits Officer

PROVISIONS APPLICABLE TO THIS CREDIT: This credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Provision) International Chamber of Commerce Publication No. 600.



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-25-008 Notice of Receipt of Appeal

Jerrick Hernandez <jhernandez@guamopa.com>

Mon, May 12, 2025 at 7:09 AM

To: andriana.u.quitugua@gsadoa.guam.gov, "Andriana U. Quitugua" <Andriana.Quitugua@doa.guam.gov>

Cc: "Michael J. Berman" <mjberman@pacificlawyers.law>, Janet Sardoma <ofc.manager@pacificlawyers.law>

Hafa Adai,

Please see the attached Notice of Receipt of Appeal for OPA-PA-25-008. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

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Best Regards,

Jerrick J.J.G. Hernandez, MA, CGFM, CFE, CICA, CGAP
Accountability Auditor

Office of Public Accountability
+1 671 475 0390 (ext. 204)
jhernandez@guamopa.com
<https://www.opaguan.org/>



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 25-008 Notice of Receipt of Appeal.pdf
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