



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-23-004, In the Matter of the Appeal of Dooik Eng, Co., Ltd.

Camarine Hopkins <camarine@camachotaitano.law>

Wed, Nov 15, 2023 at 4:53 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

Cc: Marianne Woloschuk <mwoloschuk@gpagwa.com>, "Theresa G. Rojas" <tgrojas@guamwaterworks.org>, Beatrice Lintiaco <tlintiaco@gpagwa.com>, Shannon Taitano <shannon@camachotaitano.law>

Hafa Adai Jerrick,

Camacho & Taitano LLP through Shannon Taitano, Esq., hereby submits this email filing regarding the above subject procurement appeal. This email consists of one (1) filing, as follows:

- Protest of Substantial Interest Determination (**3 pages**)

Please let me know if you have any questions. Enjoy the rest of your day.

Thank you,
Camarine

--

Camarine Ann S. Hopkins
Office Manager



204 Hesler Place
Suite 203B
Hagåtña, Guam 96910
Phone: (671) 989-2023
www.camachotaitano.law

Confidentiality Notice: This communication may contain privileged and confidential information and is intended only for the use of the recipient(s) named above. If you are not the intended recipient, any review, disclosure, distribution, or duplication of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately, delete the message and destroy any reproductions.

 **Protest of Substantial Interest Determination.pdf**
111K

1 **SHANNON TAITANO, Esq.**
2 **CAMACHO & TAITANO LLP**
3 204 Hesler Place, Suite 203B
4 Hagåtña, Guam 96910
5 Telephone: (671) 989-2023

6 Attorneys for Appellant *Dooik Eng Co., Ltd.*

7 **THE OFFICE OF PUBLIC ACCOUNTABILITY**

8 **IN THE MATTER OF THE APPEAL OF**

) Docket No. OPA-PA-23-004

9)
10 **DOOIK ENG CO., LTD.,**

) **PROTEST OF SUBSTANTIAL**
) **INTEREST DETERMINATION**

11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
Appellant.

Dooik Eng. Co., Ltd. (Dooik) sympathizes with the ongoing load shedding Guam’s people have endured while Guam Power Authority (GPA) continues to restore generation capacity. Dooik fully supports a quick resolution to this matter and is not interested in unnecessarily delaying this procurement. However, GPA has not met its burden of proving that a substantial interest exists to allow this procurement to proceed before this protest has been resolved.

Pursuant to 5 GCA § 5425(g), Dooik respectfully submits the following reasons to resolve the protest without lifting the stay¹.

1. GPA has not met all the legal requirements to have the stay lifted.

GPA cannot proceed with the award of a contract prior to final resolution of this protest absent a written concurrence of the General Manager (GM) and the Attorney

¹ Dooik is submitting this under your statute, but reserves the right to submit or supplement an opposition.
Protest of Substantial Interest Determination
Page 1 of 3

1 General (AG) or his designee that award of the contract without delay is necessary to
2 protect the substantial interests of Guam. 5 GCA § 5425. GPA concedes that it had not
3 obtained the Attorney General's written substantial interest concurrence when it filed
4 its request.

5
6 Furthermore, it's unclear if GPA has followed the legal procedure set out under
7 Guam law. Substantial interest is determined *after* consultation with and written
8 concurrence of the GM and AG. 5 GCA §5425(g)(1). In this instance, the GM has
9 submitted a written determination of substantial interest and served a copy of the
10 Motion for Confirmation of Substantial Interest to the AG for his concurrence. GPA has
11 not demonstrated whether there has been a consultation because it would have resulted
12 in the written concurrence of both officials. This has been done in past procurements
13 such as the government of Guam health insurance determination of substantial interest
14 to proceed with the procurement pending a protest. Should GPA present a written
15 determination of substantial interest concurred by the GM and the AG, then the Public
16 Auditor may consider the request to confirm the substantial interest.
17 Dooik would be unfairly prejudiced if the stay is lifted at this stage of the procurement
18 process.

19
20
21 2. Dooik would be unfairly prejudiced if the stay is lifted at this stage of the
procurement process.

22 This appeal will cause minimal delay. The hearing on the merits of this matter is
23 set in approximately one month. GPA has not demonstrated how the delay of an
24 additional month or two warrants permitting it to proceed with the procurement
25 without delay.
26

1 Dooik should not be prejudiced by GPA's delay in promptly reissuing the
2 performance management contract (PMC) procurement. In 2020, GPA determined
3 there was a need to procure a PMC contract and issued a multi-step IFB. GPA canceled
4 the procurement even though the procurement committee recommended the contract
5 be awarded to Dooik. GPA then waited for several years before re-initiating the
6 procurement. Events that now give rise to this emergency could have been avoided if
7 GPA had been diligent with issuing the procurement.
8

9 Dooik is merely asking for the opportunity to move forward with the
10 procurement process by reevaluating its technical proposal. GPA's decision to deny
11 Dooik this opportunity appears arbitrary considering Dooik was eligible for the same
12 procurement in 2020. GPA's position that the contractor may have to supply the
13 personnel is not a significant change in the scope to now deem Dooik ineligible.
14

15 For these reasons, Dooik submits this protest to the substantial interest
16 determination.

17 Dated: November 15, 2023.

18 **CAMACHO & TAITANO LLP**
19 Attorneys for Appellant

20 By: 
21 **SHANNON TAITANO**
22
23
24
25
26