

Torres Rojas, Genara

FOI #14648

From: rickt@a-agroup.com
Sent: Friday, February 07, 2014 2:55 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: Richard
Last Name: Tomaiko
Company: A&A Industrial Piping, Inc.
Mailing Address 1: 6 Gardner Road
Mailing Address 2:
City: Fairfield
State: NJ
Zip Code: 07004
Email Address: rickt@a-agroup.com
Phone: 973-882-2622
Required copies of the records: Yes

List of specific record(s):

The PAs Chief Engineers breach of contract letter to GDS Mechanical, Inc. for Contract No EWR-910.829.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

February 13, 2014

Mr. Richard Tomaiko
A&A Industrial Piping, Inc.
6 Gardner Road
Fairfield, NJ 07004

Re: Freedom of Information Reference No. 14648

Dear Mr. Tomaiko:

This is in response to your February 7, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy attached) for a copy of "The Pas Chief Engineers breach of contract letter to GDS Mechanical, Inc. for Contract No EWR-910.829."

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/14648-C.pdf>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator

Attachment

*225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 3642
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THE PORT AUTHORITY OF NY & NJ

November 12, 2010

Mr. Pramod J. Panackal
Officer
GDS Mechanical, Inc.
39 East Hanover Ave, Suite B1
Morris Plains, NJ 07950

**RE: NEWARK LIBERTY INTERNATIONAL AIRPORT – CONTRACT EWR 910.829 –
CENTRAL HEATING AND REFRIGERATION PLANT REPLACEMENT OF HIGH
TEMPERATURE HOT WATER GENERATORS**

Dear Mr. Panackal:

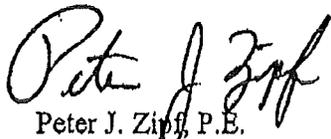
The Port Authority of New York and New Jersey (Port Authority) awarded Contract EWR 910.829 (the Contract) to GDS Mechanical, Inc. (GDS) on December 21, 2009. Section 28 of the Contract, *Time for Completion and Damages for Delay*, provides that the Contract shall be completed within 1,200 calendar days after acceptance of the Contractor's Proposal. It has come to the Port Authority's attention that GDS has failed to install a temporary hot water generator by the anticipated completion date of October 15, 2010. Based on this failure, the Chief Engineer is of the opinion that the performance of the entire Contract has been materially delayed.

Because of this failure, the Port Authority must invest substantial capital and time refurbishing the existing generators and will likely have to postpone the project until the end of the heating season in April of 2011. This failure resulted from a pattern of inadequate plan submissions and resultant missed deadlines, which make it unlikely that GDS will successfully perform its obligations under the Contract.¹

Therefore, because of GDS's failure to complete the work in accordance with the terms and conditions of the Contract, GDS is hereby declared in Breach of Contract EWR 910.829. The Port Authority reserves the right to hold GDS liable for all damages incurred because of GDS's breach, including any costs incurred in having the work completed by others. In addition, the Port Authority reserves all other rights it may have against GDS in law or in equity.

Very truly yours,

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY


Peter J. Zipp, P.E.
Chief Engineer

¹ Despite its assurances at the October 5, 2010 meeting, GDS has not provided a 'recovery plan' outlining its strategy for curing its breach.

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