



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

In the Appeal of

JJ Global Services,

Appellant.

**DOCKET NO. OPA-PA-\_\_\_\_\_**

\_\_\_\_\_

JJ Global Services (“JJ”) hereby appeals a decision rendered by the Guam Visitors Bureau (“GVB”), an agency of the Government of Guam, on December 18, 2018, denying the Bid Protest raised by JJ in GVB IFB 2018-001 regarding Tumon Landscape Maintenance.

**APPELLANT INFORMATION**

Name: JJ Global Services

Mailing Address: PO Box 217881, GMF Barrigada Guam 96921

Business Address: 215 Rojas St. Suite 126, Harmon Industrial Park, Tamuning, 96913

**APPEAL INFORMATION**

- A. Purchasing Agency: Guam Visitors Bureau
- B. Contract No: GVB IFB 2018-001 (Tumon Landscape Maintenance)
- C. Date of Contract: Solicitation issued on July 19, 2018
- D. This appeal is made from the Guam Visitors Bureau denial of JJ’s Protest provided to JJ Global on December 18, 2018.

Physical Address: 215 Rojas Street, Suite 126 Harmon Industrial Park, Tamuning Guam, 96913  
Mailing Address: PO Box 217881, GMF Barrigada Guam 96921  
Tel: (671) 632-1179 Fax: (671) 632-3550  
Email: [jjg@teleguam.net](mailto:jjg@teleguam.net)

E. The name of competing bidders known to appellant are: LMS and Canton Construction.

### RELEVANT PROCEDURAL HISTORY

The Key Events in this Procurement Protest are as follows:

- 07/19/18 The IFB was announced. The IFB is attached as **Attachment A**.
- 08/20/18 JJ submitted its bid, bids were opened, and its bid was the lowest.
- 11/7/18 GVB delivers to JJ Global a notice of non-responsibility. The letter is dated 10/31/18, but was kept by GVB away from JJ Global for a week. GVB's letter about non-responsibility is attached as **Attachment B**.
- 11/19/18 JJ Global lodge Procurement Protest with GVB .JJ's Protest is attached as **Attachment C**.
- 12/18/18 JJ Global receives response to JJ Global's protest letter. GVB rejected the merits of JJ's Protest. GVB's response is attached as **Attachment D**.

#### IV. STATEMENT OF GROUNDS FOR APPEAL

GVB's Claim that JJ Global Services is an Non-responsible bidder is without merit.

GVB Claimed that JJ Global Services is a Non-responsible bidder due to past performance on four prior jobs: The Guam Power Authority, Guam Waterworks Authority, The Guam International Airport Authority, and the Department of Parks and Recreation. GVB's response to JJ's Protest of November 19, 2018 provided no substantive response to the information provided by JJ Global Services in the protest. To the contrary, GVB maintained its determination that "JJ Global was not a responsible bidder." GVB's ignoring of JJ's points in response to the responsibility determination was an error. Furthermore, GVB also did not consult with the agency personnel who had direct involvement and oversight over JJ Global Services' work at the various agencies. More, all invoices submitted to GPA, GIAA, DPR, and GWA have been paid for the satisfactory work that was completed. Simply put, GVB concocted stories of agency dissatisfaction by consulting with unknown persons about JJ Global Services, and did so by also avoiding

investigation with those government employees with the most direct oversight over JJ' prior work.

A summary of the points ignored by GVB follows:

#### **The GPA Contract.**

GVB falsely claimed that JJ Global Services' contract with GPA was terminated 3 months prior to expiration. The contract was not terminated. The contract was put on hold 3 months prior the expiration due to the three (3) purchase orders blanket amounts have exhausted, pending amendments in which we later received. No letter of termination was ever issued by GPA. GVB also failed to consult with the project point of contact at the agency. Purchase orders continued to be issued, and JJ Global Services was fully paid on the GPA contract.

#### **GWA Contract**

GVB claims that JJ Global Services work for GWA work was not satisfactory. GWA never made any such inspection or expression of displeasure to JJ Global Services, and the company was fully paid on the GWA Contract. GVB also failed to consult with the project point of contact at the agency.

#### **DPR Contract**

No individual who had direct oversight over the DPR contract with JJ Global Services ever expressed concern or transmitted any such concern to JJ Global Services. The company was also fully paid on the DPR contract. GVB also failed to consult with the project point of contact at the agency.

#### **GIAA Contract**

GVB claims that GIAA found discrepancies with JJ Global Services' performance. GIAA had not previously relayed significant concern over such issues to JJ Global Services, and GVB also failed to consult with the project point of contact at the agency. The company was also fully paid on the DPR contract.

GVB's has prejudiced JJ Global Services by secretly executing a contract with LMS before informing JJ Global Services of the non-responsibility finding in order to avoid the statutory stay of procurement.

Physical Address: 215 Rojas Street, Suite 126 Harmon Industrial Park, Tamuning Guam, 96913  
Mailing Address: PO Box 217881, GMF Barrigada Guam 96921  
Tel: (671) 632-1179 Fax: (671) 632-3550  
Email: [jjg@teleguam.net](mailto:jjg@teleguam.net)

JJ Global Services' timely protest triggered the automatic stay mandated by 5 GCA §5425(g). 5 GCA §5425(g) declares that "in the event of a timely protest... the Territory shall not proceed further with the solicitation of with the award of the contract prior to final resolution of such protest, and any such further action is void, unless there is a written determination by the Chief Procurement Officer with the written concurrent of the head of the purchasing agency and the Attorney General, that the award of the contract without delay is necessary to protect the substantial interests of the Territory. . . ." 5 GCA § 5425(g)(1). In previous decisions, the OPA has made it clear to the agencies that the automatic stay is triggered by a timely filed protest, and remains in place during the entire protest process, including any appeals to the courts of Guam. *See In the Appeal of JMI Edison*, Decision, OPA-PA-13-009, 5 (November 27, 2013).

Here, GVB, in an effort to circumvent the §5425(g) stay, colluded with LMS to negotiate, award and execute a contract **before informing other bidders that a selection had been made.** GVB fails to address this fact. 2GAR, Division 4, §3109 (q) requires that "Written notice of award shall be sent to the successful bidder. In procurement over \$25,000, each unsuccessful bidder shall be notified of the award. Notice of award shall be made available to the public." Here, GVB specifically chose not to inform and provide such written notice the JJ Global Services. An order from the OPA confirming that the automatic stay is in effect and preventing GVB from further violations of the automatic stay is necessary to protect JJ Global Services' rights and to protect the integrity of the procurement system where an agency, such as GVB, chooses to avoid its notice requirements to unsuccessful bidders.

GVB has completely avoided addressing the obvious bias shown to favor the incumbent contractor, LMS.

GVB rejected the any response to the substantive allegations raised in JJ Global Service's protest regarding a biased procurement process designed to favor incumbent contractor LMS.

GVB provides no response regarding its lack of communication to JJ, or the fact that the solicitation was delayed to keep work flowing to incumbent LMS and allow time for GVB to concoct a determination of non-responsibility against JJ. GVB's failure to address this bias as shown in the record of procurement timelines and communication was an error.

**D. Relief Requested**

Appealing bidder JJ Global Services Requests a ruling from the OPA as follows:

1. A ruling that GVB's determination that JJ was a non-responsible bidder was without merit or legal support, and a determination that JJ Global Services is a responsible bidder.

2. A determination that GVB cannot avoid the protections of 5 GCA 5425(g) by discussing and entering into a contract with a selected offeror prior to informing other offerors that they have not been selected for award;

3. For a ruling that all offerors responding to a Request for Proposal or other similar procurement process be informed at the same time, and also be informed that a selection was made by an Agency;

4. That the ranking of LMS as the highest ranked responsible offeror for the IFB be set aside;

5. A declaration that the Contract negotiated and executed between GVB and LMS be declared void *ab initio* and set aside;

6. A determination that as the lowest priced responsible offeror, GVB should immediately begin enter into a contract for the IFB with JJ Global Services;

7. For an award of reasonable a fees and costs of this protest and appeal; and

8. For such other relief that the OPA may determine is just and proper.

**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 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.

### VERIFICATION

I, Luis Bustamante, am the president of Appellant JJ Global Services, and I am authorized to make this verification. I have read the foregoing Notice of Appeal and, based on information and belief and to the best of my knowledge, the facts stated therein are true and correct. I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

This verification was executed on the Jan 31, 2019.

By:   
Luis Bustamante