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RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
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FILE NO OPA-PA: 16-005

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

In the Appeal of

TLK Marketing,

Appellant.

DOCKET NO. OPA-PA-_____

NOTICE OF APPEAL

1 TLK MARKETING CO., LTD. (“TLK”) hereby appeals a decision rendered by the Guam
2 Visitors Bureau (“GVB”), an agency of the Government of Guam, on May 24, 2016, denying the Bid
3 Protest raised by TLK regarding RFP No. GVB RFP No. 2016-006 seeking proposals from
4 “professional and experienced companies” to be GVB’s marketing representative in Korea. TLK
5 requests that this appeal be consolidated with its pending appeal before the Public Auditor, OPA-PA-
6 16-003 (“Protest 1 Appeal”).

7
8 **I. APPELLANT INFORMATION**

9 Name: TLK Marketing Co., Ltd.
10 Mailing Address: Rm 616 Koryo Bldg.,
11 24, Sinmunro 1-Ga, Jongro-Gu,
12 Seoul, Korea 110-796
13 Business Address: *same address indicated above*
14

15 For purposes of this appeal, please direct correspondence to TLK’s counsel, Joyce C.H. Tang,
16 Esq. (jtang@civilletang.com) and Joshua Walsh, Esq. (jdwalsh@civilletang.com), Civile & Tang,
17 PLLC, 330 Hernan Cortez Avenue Suite 200, Hagatna, Guam 96910. Telephone: 671/472-8868;
18 Facsimile: 671/477-2511.
19

20 **II. APPEAL INFORMATION**

- 21 A. Purchasing Agency: Guam Visitors Bureau
22 B. Contract No: GVB RFP No. 2016-006
23 C. Date of Contract: Solicitation issued on November 25, 2015
24 D. This appeal is made from the GVB’s denial of TLK’s April 21, 2016 protest issued on May
25 24, 2016.
26 E. The name of competing bidders known to appellant are: PROMAC, EDELMANN, and HIC,
27 INC.
28

1 RFP and Guam Procurement Law by withholding information relating to the ranking and the award
2 of the Contract to TLK and other Offerors; (2) GVB failed to obtain Board approval to negotiate
3 with HIC and to award the contract as required under §3.10 of the RFP; (3) HIC Failed to disclose
4 Karl Pangelinan’s consulting relationship with HIC; and (4) HIC misrepresented its experience by
5 relying on an unrelated entity, SD Pharm’s, experience.

6 On May 24, 2016, GVB issued its decision denying Protest 2, which was transmitted to TLK
7 counsel by US Mail, and received on May 25, 2016. *See*, Denial of Protest, attached as **Exhibit F**.

8
9 **IV. STATEMENT OF GROUNDS FOR APPEAL**

10 **A. TLK’s Protest 2 was Timely Filed**

11 TLK’s timely filed Protests 2 on April 21, 2016, respectively. At the time Protests 1 and 2
12 were filed, GVB had not awarded the Contract to HIC. Protest 2 was timely filed because TLK was
13 not aware of the factual basis of the four new grounds for protest until it received GVB’s responses to
14 TLK’s Sunshine Act Requests on April 7, 2016, *See*, 4/7/16 Transmittal Letter, attached as **Exhibit**

15 **D.** Because Protest 1 and Protest 2 were timely filed, the 5 GCA §5425(g) automatic stay applies.

16
17
18 **B. GVB Colluded with HIC, Inc. to Violate the RFP and Guam Procurement Law**
19 **by Withholding Information Regarding the Ranking and Award of the Contract**
20 **to Deprive the Offerors of Their Rights Under the Guam Procurement Law**

21 On March 4, 2016, Gina Kono, a Marketing Officer II with GVB notified Mr. Don Park (HIC,
22 Inc.) by e-mail that HIC was selected as the highest-rated most qualified offeror, and attached
23 contract negotiation documents. *See*, 3/04/16 email, attached as **Exhibit G**. However, GVB *did not*
24 notify TLK or the two other offerors of the ranking and selection of HIC, Inc. as the “highest rated
25 and most qualified offeror.” TLK, along with the three other Offerors, received a “Notice of Non-
26 Selection” from GVB six (6) days later, on March 10, 2016. GVB treated HIC preferentially by
27 giving HIC information regarding the ranking, and by delaying and improperly withholding this
28 information from the other Offerors for at least six (6) days, which TLK believes was intended to cut
off the rights of parties to file a meaningful protest.

1 GVB's internal communications obtained by TLK through its Sunshine Act requests confirm
2 that GVB was intentionally withholding this information to cut off protest rights. On March 9, 2016,
3 Ms. Kono contacted HIC urging Mr. Park to "urgently respond to...GVB RFP2016-006 Retainer Fee
4 Negotiation communication..." Ms. Kono reiterated that: "GVB General Manager would like to
5 finalize the RFP and finalize all the necessary paperwork and communications to the other offerors."
6 In closing, she said:

7 BTW, I was contacted by someone mentioning that HIC is communicating
8 with the Korea media announcing that they have successfully been
9 awarded the GVB Marketing Representative contract. **Please refrain
10 from publicly mentioning this until we have finalized the negotiations
and signed a contract. We do not want any protest from the other
offerors....**

11 See, 3/09/16 email exchange, attached as **Exhibit H**. (Emphasis added.)
12

13 Mr. Park's response was, in part:

14 I heard that Anna received only one phone call from one of the newspaper
15 company, and she said that there is nothing she can talk about [sic] it now.
16 I promise [sic] you that we have not mentioned about the results of the
RFP, and also will not mention it until the contract is all done.

17 See, 3/09/16 email exchange, attached as **Exhibit H**.

18 Additional evidence of GVB's collusion with HIC, GVB sent two letters to HIC on March 10,
19 2016:

20 (a) The *Notice of Intent to Award*, notifying HIC that it was "selected as the highest rated
21 and most qualified offeror" with a copy of the summary of evaluation and that GVB will be
22 contacting HIC to begin negotiations.²
23

24 (b) The *Notice of Award*, notifying HIC that it had been awarded the contract, enclosing a
25 copy of the contract for HIC's signature. The contract was enclosed with the letter. HIC signed the
26

27 ² On March 10, 2016, Ms. Kono wrote to Mr. Park attaching a copy of the Notice of Intent to
28 Award letter. Ms. Kono notes in a second email sent to Mr. Park the same day attaching a copy of
"GVB's Notice of Intent to Award letter in regards to the GVB RFP 2016-006. I was to send this
letter with our previous negotiation email [contract] I sent yesterday."

1 contract on March 11, 2016. See 3/10/16 Email Giving Notice of Award, attached as **Exhibit I**.⁴

2 Neither TLK nor the other Offerors received notice that HIC was selected as the “highest
3 rated and most qualified offeror” until March 10, 2016, when GVB sent TLK the “Notice of Non-
4 Selection”, notifying HIC that GVB had “selected another company as the best qualified Offeror,”
5 attaching a copy of the evaluation summary.
6

7 Section 3.32 of the RFP required GVB to notify “all Offerors of the results of the award.
8 Written notice of award will be public information and made a part of the contract file.” To this date,
9 GVB has not provided the Notice of Award to TLK or the other Offerors. TLK believes that not
10 complying with §3.32 of the RFP requiring notice of award to other Offerors was an intentional act,
11 in furtherance of GVB goal of avoiding the automatic stay, and to cut of the rights and remedies
12 available to protestors before the contract is awarded.
13

14 **C. GVB Violated §3.10 of the RFP When it Failed to Obtain The Required
15 Board Approvals**

16 The RFP expressly requires approval of the Board after determination of who is the “best-
17 qualified Offeror.” See, **Exhibit A** at 32. Section 3.10 also requires that “[i]f compensation,
18 contract requirements, and contract documents can be agreed upon with the best-qualified Offeror,
19 *and subject to Board approval*, the contract shall be awarded to that Offeror. Written notice of
20 award shall be public information and made a part of GVB’s procurement file.” (emphasis added).

21 *Id.*

22 As discussed in TLK’s April 21 protest, there was no award, because the HIC Contract had
23 not been approved by the Board *after* determination of who is the “best-qualified Offeror” and *after*
24 negotiation and reaching agreement regarding the contract terms and price with the best-qualified
25

26
27 ⁴ On March 10, 2016, Ms. Kono sent a Notice of Award letter to Don Park by email,
28 together with a contract asking him to “review, accept by signing, and then send the contract back
as soon as possible.”

1 Offeror. During the February 25, 2016 GVB Board Meeting, the board “authorize[d] the GVB
2 General Manager as Chief Procurement Officer to enter into negotiation and contract with the highest
3 rated and most qualified Offeror for GVB RFP 2016-006: Tourism Destination Marketing
4 Representation Service in the Republic of Korea.” See, **Exhibit J** (Partial Transcripts).

5
6 The transcript of the February 25th board meeting confirms that the results of the evaluation
7 team had not been tallied, and that Mr. Denight did not present the ranking of the best-qualified
8 offerors or the recommendations or results of the evaluation team to the Board of Directors for
9 consideration and approval. Without the necessary board approvals, there can be no award.

10 Also, Guam Procurement Law requires the Agency to negotiate a contract with the best
11 qualified offeror for the required services at compensation determined in writing to be fair and
12 reasonable. 2 GAR §3114(l)(1). Furthermore, at the conclusion of the negotiations, a “Memorandum
13 of Evaluation and Negotiation” must be prepared setting forth the basis for the award. 2 GAR
14 §3114(m). Specifically, the Memorandum of Evaluation and Negotiation should contain the
15 following information:
16

17 (m) **Memorandum of Evaluation and Negotiation.** At the conclusion of negotiations
18 resulting in the award of the contract, the head of the agency conducting the
19 procurement or a designee of such officer *shall* prepare a memorandum setting forth
the basis of award including:

20 (1) how the evaluation factors stated in the Request for Proposals were applied to
determine the best qualified offerors; and

21 (2) the principal elements of the negotiations including the significant considerations
22 relating to price and the other terms of the contract.

23 All memoranda shall be included in the contract file and be available for public
24 inspection. (emphasis added).

25 *Id.*

26 A review of the Procurement Record confirms that GVB did not prepare a Memorandum of
27 Negotiation after negotiations with HIC were concluded. TLK has filed a Motion for GVB to
28 Supplement the Procurement Record by providing, among other things, the Memorandum of

1 Negotiation. *See, Motion for GVB to Supplement Procurement Record*, May 27, 2016. A
2 Memorandum of Negotiation protects the integrity of the procurement process by requiring the
3 Agency to explain and disclose, in writing, the principal elements of the negotiations with the best
4 qualified offeror, significant considerations relating to how the price and terms were determined, and
5 why the contract is fair and reasonable. Without the Memorandum of Evaluation, there is no record
6 of the negotiations and what, if any, significant considerations were considered, and most
7 importantly, there can no basis for determining whether this is a fair and reasonable contract.

8 The required board approvals needed for the GVB to negotiate with HIC and to award the
9 contract to HIC were not obtained, therefore, the contract is void.

10
11 **D. HIC Failed to Disclose In the Affidavit Disclosing Ownership and Commission
Karl Pangelinan's Involvement in this RFP.**

12 After receiving the Sunshine Act responses from GVB, TLK discovered that not only was
13 Karl Pangelinan a consultant for HIC, but that he presented HIC's proposal to the evaluators and the
14 evaluators made numerous comments and gave significant weight and points to HIC because of Mr.
15 Pangelinan's involvement as a consultant. This information was not available TLK before April 7,
16 2016, when GVB provided responses to the Sunshine Act Requests.

17
18 Nowhere in HIC's Proposal is Mr. Pangelinan's relationship disclosed. He is not a member
19 of the HIC Team; and, the Affidavit Disclosing Ownership and Commission submitted under penalty
20 of perjury, that no one received "commission, gratuity, or other compensation for procuring or
21 assisting in obtaining business related to the bid or proposal."

22
23 Because Mr. Pangelinan was a consultant to HIC and assisted HIC with obtaining the business
24 related to the bid, he should have been disclosed as a consultant. TLK did not know that HIC failed
25 to disclose Mr. Pangelinan's as part of the HIC team, and that because of Mr. Pangelinan's
26 involvement, the evaluation team gave significant weight and points to HIC. When the ranking
27 difference is separated by two (2) points, with TLK receiving a score of 364 and HIC receiving a
28 score of 366, Mr. Pangelinan's involvement affected the outcome of the rankings, placing HIC as the

1 highest ranked over TLK by a narrow margin of two (2) points.

2 Notably, Mr. Pangelinan was General Manager for GVB until his resignation, which was
3 effective on January 31, 2015. The RFP was published in the newspaper and made available on
4 November 24, 2015. The deadline for submission of proposals was February 8, 2016. Mr.
5 Pangelinan was barred from contracting with HIC until one year after leaving GVB, which at earliest
6 would have been February 1, 2016. Any involvement with the RFP prior to February 1, 2016, would
7 be a violation of Guam's procurement code as codified at 5 GCA 5632(b) and 5632(c).
8

9 HIC's failure to disclose Mr. Pangelinan's consultant contract is a violation of the RFP and
10 the Guam Procurement laws and regulations. Mr. Pangelinan involvement with HIC, if it predated
11 February 1, 2016, was a violation of Guam Procurement Code as well.
12

13 **E. HIC Misrepresented Its Experience by Relying on SD Pharm's Experience to Meet
14 the 5 Year Experience Requirement.**

15 HIC failed to disclose in its Proposal that HIC was registered as a company in Korea on
16 August 31, 2011, which means at the time of the submission of the Proposal (February 5, 2016), it
17 had only been established for 4 years and 5 months. GVB response to this allegation is that: (1) the
18 claim was not timely raised because TLK "has been aware of the substance of HIC's proposal for
19 more than the allotted time to protest"; and (2) based on GVB's review of HIC's proposal, HIC does
20 qualify for the award of the contract. See, 5/24/2016 Ltr., attached as **Exhibit F**.

21 First, Page 10 of HIC's Proposal sets forth the Corporate History of HIC:
22
23
24
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26
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28

Corporate History

2006

- Founded "SD Pharm" (In Incheon)
- Signed marketing services contracts with Yuhan Corporation, Jeil Pharmaceutical Co., Ltd and Daehan Pharmaceutical Co., Ltd.

2007

- Signed marketing services agreement with LG Life Sciences

2008

- Signed marketing services agreement with CJ

2012

- Signed marketing services agreement and right of publicity contract with KPBP

2013

- Signed Exchange Agreement of College-Industry Cooperation with the Catholic University of Korea

2015

- Entered into an agreement as GVB's Korea PR Agency

The Corporate History of HIC states 2006 as the year in which HIC's business commenced.

The reference to 2006 as HIC's commencement date is a false statement because the 2006 reference is for the separate unrelated company called "SD Pharm." No information is provided in HIC's proposal regarding SD Pharm. It is undisputed that HIC actually came into existence on August 31, 2011. The reference to "Founded 'SD Pharm'" is misleading. HIC does not disclose what the relationship is between SD Pharm and HIC and why SD Pharm's experience should be considered in determining the qualifications of this Offeror.

TLK did not receive a copy of HIC's proposal until April 7, 2016, with GVB's responses to the Sunshine Act Requests. Thus, it could not have been aware of HIC's reference and use of SD Pharm to meet the five (5) year experience requirement. TLK could not have known before April 7, 2016, that HIC had not been in existence for 5 years at the time the Proposal was submitted, and the misleading statements made in reference to SD Pharm in order to meet the 5 year minimum experience requirement. GVB's timeliness objection, therefore, must be rejected.

1 GVB should be required to explain how HIC is able to meet the five (5) year experience
2 requirements.

3 **E. TLK Will Be Irreparably Harmed if GVB is Allowed to Usurp the OPA's**
4 **Authority and Circumvent the Guam Procurement Laws.**

5 Guam law provides that if Appellant TLK is successful in its protest, TLK “shall be entitled to
6 the reasonable costs incurred in connection with the solicitation and protest, including bid preparation
7 costs, excluding attorney’s fees....” 5 GCA §5425(h). GVB’s pushing forward with the procurement
8 award to HIC hampers any remedy TLK may have to become an awardee of the solicitation, since the
9 Territory may be able to merely ratify and affirm HIC’s contract regardless of the outcome of the
10 instant appeal. 5 GCA § 5425(a)(1)(2). As more Korean tourism marketing and visitor events are
11 organized by HIC, TLK becomes less and less likely of having a meaningful outcome to its appeal.
12

13 Since TLK will only be able to recover the costs of its bid if the stay is not enforced and its
14 protest appeal is sustained by the OPA, TLK will be irreparably injured. Irreparable injury is defined
15 as injury for which there is no adequate remedy at law. *Shin v. Fujita Kanko Guam, Inc.*, CVA 07-
16 002, 2007 WL 4348300 (Guam Dec. 6, 2007); *Reilly's Wholesale Produce v. United States*, 73 Fed.
17 Cl. 705, 716-17 (Fed. Cl. 2006). The Federal Claims court has held that where an aggrieved offeror
18 can only gain the costs of bid preparation in a suit for damages, and not anticipated profits, such a bid
19 protester is irreparably harmed. *See Bannum, Inc. v. United States*, 60 Fed. Cl. 718, 730 (Fed. Cl.
20 2004) *citing Essex Electro Eng'rs, Inc. v. United States*, 3 Cl.Ct. 277, 287 (1983), *aff'd*, 757 F.2d 247
21 (Fed.Cir.1985). This is the exact situation faced by TLK, and the OPA should confirm the application
22 of the stay.
23
24

25 **V. RELIEF REQUESTED BY TLK**

26 Appealing Offeror TLK Requests a ruling from the OPA as follows:

27 1. That agencies of the Government of Guam may not usurp the procurement process and
28 the protections of 5 GCA 5425(g) by negotiating and entering into a contract with a selected offeror

1 prior to informing other offerors that they have not been selected for negotiation and award;

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

4 3. That the ranking of HIC as the highest ranked offeror for GVB RFP No. 2016-006 be
5 set aside;

6 4. A declaration that the Contract negotiated and executed between GVB and HIC be
7 declared void *ab initio* and set aside;

8 5. A determination that as the first ranked responsive offeror, GVB should immediately
9 begin negotiations with TLK and award the contract to TLK;

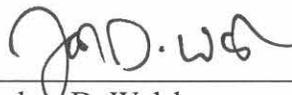
10 6. For an order consolidating TLK's Protest 1 and Protest 2 Appeal before the OPA;

11 7. For a hearing on TLK's Appeal of Protest 2, and for that hearing to be combined with
12 the Appeal of Protest 1;

13 8. For an award of reasonable attorney's fees and costs of this protest and appeal; and

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

15 Dated: June 1, 2016

16 By: 
17 _____
18 Joshua D. Walsh
19 *Attorneys for Appellant*
20 *TLK Marketing*
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VERIFICATION

I, HENRY LEE, am the president of Appellant TLK MARKETING 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 1st day of June, 2016.

By: 
HENRY LEE
President
Appellant TLK Marketing

EXHIBIT A

REQUEST FOR PROPOSAL

**TOURISM DESTINATION MARKETING
REPRESENTATION SERVICES IN
THE REPUBLIC OF KOREA**

GVB RFP NO. 2016-006

GUAM VISITORS BUREAU REQUEST FOR PROPOSAL TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA	
RFP Number: <u>GVB RFP NO. 2016-006</u>	RFP Title: Request for Proposal for Tourism Destination Marketing Representation Services in the Republic of Korea
RFP Due Date and Time: February 8, 2016; 5:00 p.m.	Number of Pages: 46; inclusive of the 7 required affidavits/acknowledgements; also downloadable online at www.guamvisitorsbureau.com
ISSUING AGENCY INFORMATION	
GUAM VISITORS BUREAU	Issue Date: November 25, 2015
Jon Nathan Denight General Manager	401 Pale San Vitores Road Tumon, Guam 96913 Phone: (671) 646-5278 Fax: (671) 646-8861 Website: www.guamvisitorsbureau.com
INSTRUCTIONS TO OFFERORS	
DELIVERY OF PROPOSAL <i>By U.S. Mail or Deliver Only to the attention of:</i> Mr. Jon Nathan Denight General Manager Guam Visitors Bureau 401 Pale San Vitores Road Tumon, Guam 96913	MARK FACE OF ENVELOPE/PACKAGE: Tourism Destination Marketing Representation Services in the Republic of Korea RFP Number: GVB RFP 2016-006 RFP Due Date: February 8, 2016; 5:00 p.m.
	SPECIAL INSTRUCTIONS: Mark " Confidential RFP Document " on envelope and in accordance with Section 1.7 of the RFP
IMPORTANT: SEE TERMS AND CONDITIONS OFFERORS MUST COMPLETE THE FOLLOWING	
OFFEROR NAME/MAILING ADDRESS:	AUTHORIZED OFFEROR SIGNATORY: (Please print name and sign in ink)
OFFEROR TITLE:	OFFEROR EMAIL ADDRESS:
OFFEROR TELEPHONE NUMBER:	OFFEROR FAX NUMBER:
OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE	

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OFFEROR'S RFP CHECKLIST

The 10 Most Critical Things to Keep in Mind When Responding to an RFP for GVB

1. **Read the entire document.** Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; contract requirements.
2. **Note the procurement officer's name, address, phone numbers and e-mail address.** This is the only person you are allowed to communicate with regarding the RFP and is an excellent source of information for any questions you may have.
3. **Attend the pre-proposal conference** if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify GVB of any ambiguities, inconsistencies, or errors in the RFP.
4. **Take advantage of the "question and answer" period.** Submit your **written** questions to the procurement officer by the due date listed in the Schedule of Events and view the answers given. Should an addendum be required, GVB will issue a formal "addendum" for the RFP. All addenda issued for an RFP are posted on GVB's website.
5. **Follow the format required in the RFP** when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. **Provide complete answers/description.** Read and answer **all** questions and requirements. Don't assume GVB or evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with GVB. The proposals are evaluated based solely on the information and materials provided in your response.
7. **Use the forms provided**, i.e., cover page, "ALL" Affidavit forms, etc.
8. **Check the GVB website for RFP addenda.** Before submitting your response, check the GVB website at www.guamvisitorsbureau.com to see whether any addenda were issued for the RFP. If so, you must submit a signed copy of the addendum for each addendum issued along with your RFP response.
9. **Review and read the RFP document again** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluation committee members and will be used to score your response.
10. **Submit your response on time.** Note all the dates and times listed in the Schedule of Events and within the document, and be sure to submit all required items on time. Late proposal responses are **never** accepted.

This checklist is provided for assistance only and should not be submitted with the Offeror's Response.

SCHEDULE OF EVENTS

Tourism Destination Marketing Representation Services
in the Republic of Korea
GVB RFP 2016-006

DATE	EVENT
Wed, November 25, 2015	RFP Issue Date/RFP packets available at GVB website or GVB office at 401 Pale San Vitores Road, Tumon
Wed, December 16, 2015	5:00 p.m. Deadline to submit written questions GVB will post responses to properly submitted questions on the GVB website.
Mon, February 8, 2016	5:00 p.m. Deadline to submit proposal at GVB

TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA

The Guam Visitors Bureau (GVB), a public non-stock, non-profit, Membership Corporation, issues this Request for Proposal ("RFP") **GVB RFP 2016-006 TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA** soliciting proposals from established firms to provide Tourism Destination Marketing Representation Services in the Republic of Korea. Specific duties are outlined in the Scope of Work. The contractual obligation shall be for a one-year period, with two one-year options to renew, total of three (3) years (FY2016, FY2017, and FY2018) and is subject to fiscal year-end performance reviews, availability and certification of funds from fiscal year to fiscal year.

Request for Proposal (RFP) packages may be obtained at the GVB's Main Office, in Tumon, Guam, anytime from Monday through Friday, excluding Guam holidays, between 8:00 a.m. and 5:00 p.m. The RFP may also be downloaded at the Guam Visitors Bureau's website at www.guamvisitorsbureau.com.

A **non-refundable US\$25.00 fee** is required for each USB Packet. Methods of acceptable payment to the Bureau are:

- 1) US\$ Cash
- 2) Bank Wire Transfer
- 3) Major Credit Card -- Visa, MC, Discover, JCB

GVB hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this solicitation, minority business enterprises will be afforded full opportunity to submit a response to this request for proposal and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

The right is reserved to reject any or all proposals or bids, waive any im perfection in the bid proposal or cancel this solicitation all according to law in the interest of GVB.

If you are interested in providing services as the Tourism Destination Marketing Representation Services in the Republic of Korea for GVB, please send your proposal to: Jon Nathan Denight, General Manager, Guam Visitors Bureau, 401 Pale San Vitores Road, Tumon, Guam 96913. Deadline for submission of all proposals is 5:00 p.m. (Guam Time) on Monday, February 8, 2016.

/s/ JON NATHAN DENIGHT
General Manager

SECTION 1 REQUEST FOR PROPOSALS OVERVIEW

1.0 Intent

The Guam Visitors Bureau "GVB", a non-stock, non-profit membership corporation, is soliciting proposals from professional and experienced companies to be GVB's TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA. The contractual obligation of both parties shall be for a one-year period, with two one-year options to renew, total of three (3) years (FY2016, FY2017, and FY2018) and is subject to fiscal year-end performance reviews, availability, and certification of funds from fiscal year to fiscal year.

GVB is tasked with the general responsibility to promote the visitor industry on Guam. The Bureau is guided by policies established and developed by its Board of Directors as authorized by Guam law. The Bureau's Board is comprised of twelve (12) voting directors and one (1) alternate director who collectively establish general guidelines necessary to meet the Bureau's goals and objectives, including the identification of short- and long-term goals. The General Manager oversees daily operations of the Bureau. Personnel from Administration, Community Programs, Research and Marketing provide staff support in overseeing the terms of this work. Department staff administers and support the goals and activities of Board Standing committees, which are chaired by volunteer Board Members and whose membership is comprised of industry, community and governmental representatives. The GVB currently has marketing representative offices in Japan, Korea, China, Republic of Korea, Taiwan, Russia, and the Philippines. GVB's funding source is the Tourist Attraction Fund (TAF). Occupancy taxes, currently at 11%, are collected and deposited into the TAF. Aside from supporting the GVB operations, the TAF also supports the development and promotion of tourism-related projects and the maintenance of public parks, beaches, and recreational facilities.

GVB Objective

- To reach an agreed upon visitor arrival number established by GVB from the Republic of Korea.
- To elevate awareness of Guam as a destination of choice and to establish a positive Guam reputation among the Republic of Korea general consumers as a quality, safe, convenient and must visit destination using social media and other new and traditional forms of advertising and public relations outreach.
- To facilitate the development and continued efforts of the Republic of Korea market and to build and sustain industry relations with key stakeholders, including the Korea-Guam Tourism Council (KGTC), Korea-Guam Marketing Committee (KGMC), Governmental agencies, travel agents, and the air carriers.
- To foster the expansion of existing and the development of additional new air service, gateways, and hotel inventory to Guam.
- To encourage additional demand for travel to Guam during slow-shoulder periods.

- To further increase development of high-yield consumers and MICE travel.
- To encourage the development of Guam packages that showcase Guam's unique Chamorro culture and attractions, to include tourism offerings with scenic, historical and other quality attractions, to include Guam's marine assets.
- Establish a strong Guam presence in the market as influential leaders in the industry.
- Must have strong Social Media skills and services.
 - Increase the social media following by 20% among all of GVB Republic of Korea social media channels.
 - Develop online community engagement strategy to improve Guam's destination reputation.
 - Develop mobile marketing strategy in the Republic of Korea with mobile specific contents and campaigns.
 - Increase Guam's online video presence via creative partnerships with major digital platforms in the Republic of Korea.
- Guam's brand position in the market must present Guam as the closest U.S.A. destination to the Republic of Korea, clean environment, warm tropical island resort weather year-round, tax-free luxury brand merchandise and USA well-known products, no hassle atmosphere, 4 hours away on direct flight, one hour time difference, safe and most importantly friendly and hospitable people.
- Perform public relations, advertising, website and other tourism destination marketing activities that would generate additional demand for travel to Guam, as well as, to generate additional publicity for Guam.

GVB Responsibilities

- GVB will provide to the Agency detailed market share information.

1.1 Scope of Work

GVB seeks to retain a qualified professional tourism destination marketing agency ("Agency") with a minimum of 5 years extensive and consistent experience working with the Republic of Korea travel trade, close relationship with the Korean government and the US Embassy to act as GVB's tourism destination marketing representative in the Republic of Korea for the purpose of assisting GVB in promoting Guam tourism and achieving visitor arrival goals, and to act as GVB's Republic of Korea liaison office in matters relative to the scope of services pertaining to Guam.

Agency will serve as GVB's tourism destination marketing representative in the Republic of Korea to perform, upon authorization by GVB, any or all of the following services to the extent necessary to meet GVB's needs (not all-inclusive).

The services required include, but are not limited to the following:

1. The Agency shall act as the GVB tourism destination marketing representative and shall perform general duties as required including, but not limited to, representation in targeted cities where Guam is being promoted to outbound travelers who fit the demographics Guam is seeking to attract in the Republic of Korea.
2. The Agency shall provide office space for its performance of its obligations while acting as GVB's tourism destination marketing representative and fulfilling the general duties of marketing, travel trade and Korean governmental relations, tourism sales, PR, advertising, social media programs/platforms and website updating, maintenance and reporting. Said office will initially be in the same building as the Agency's office and equipped with all necessary modern communication equipment such as telephone, mobile phone, copier machine, fax and computers for email, online marketing and the like, to be furnished by the Agency. The said office must be located in Seoul with a branch office in Busan. Adequate signage must be visible at the GVB overseas office entrance to identify the location of the marketing representation services for the Guam Visitors Bureau. Bureau signage specifications shall be minimum 29cm/H x 49.5cm/W.
3. The Agency shall dedicate at least one telephone line for use as GVB's telephone. In answering phone calls on this line, the greeting shall be "Hafa Adai, Guam Visitors Bureau" or "Guam Visitors Bureau" or similar appropriate saying in the local language that will identify the GVB office clearly.
4. The Agency shall appoint a GVB Account Director to work actively with GVB's head office management and marketing staff in Guam, and such work shall include but not be limited to handling all communications with and directives from the GVB Marketing Department. The Account Executive appointed to represent GVB must be personally present and act as the main coordinator at any function being implemented by the Agency on behalf of GVB. At no time is the Agency allowed to assign, hire or appoint an inexperienced travel destination promoter to represent GVB in presentations, seminars, trade/consumer travel shows and other related promotional activities without the expressed written approval from the GVB Marketing Department. The Agency will appoint two (2) Sales Managers and two (2) Junior Sales Support Staff broken down into two sales teams consisting of one (1) Sales Manager and one (1) Junior Sales Support Staff assigned in the Seoul and Busan offices. The Agency shall appoint a Republic of Korea Social Media Marketing Specialist to address all and any programs, campaigns, online posting, and maintain the GVB Republic of Korea website and social media platform accounts.

JOB DESCRIPTIONS, BUT NOT LIMITED TO THE FOLLOWING:

GVB Account Director

- Serve as key communication liaison with GVB head office

- Attend all strategic planning meetings and discussions with GVB head office
- Develop overall vision and strategy for the Republic of Korea market
- Develop key government relationships
- Handle overall budget planning and budget control
- Make sure internal sales and marketing teams work in sync with each other to achieve GVB goals
- Oversee all sub-contracting works and make sure vendors fulfill their contractual obligations
- Manage to minimize GVB account personnel turnover and ensure knowledge transfer between new team members
- Serve in GVB crisis management issues as deemed necessary by GVB head office

Sales teams x 2 persons (one sales manager and one junior sales support staff per city)

- Airline liaison & coordination
- Trade relationships development
- Travel expo organization
- PR & media relationships development
- Social media
- Fam tour organization
- Campaign development and implementation
- Manage all vendors or sub-agencies hired related to trade, media and marketing activities

Republic of Korea Social Media Marketing Specialist

- Maintain GVB Korean Website
 - Post Guam content materials on GVB social media platform accounts, as well as, others
 - Assist in the implementation of digital marketing promotions / campaigns / advertising
 - Prepare SM reports to GVB headquarters on a weekly, monthly and quarterly basis
 - Work with GVB's Global Social Media Strategist to align the Bureau's social media overall goals and objectives
5. Regional marketing representation may be provided to all or part of Micronesia, but major emphasis/focus shall always be on Guam as the main destination.
 6. Marketing representation services shall be conducted under the name of the "Guam

Visitors Bureau". Whenever applicable, in terms of promotional literature or signboards for promotional events/shows, "Guam USA" slogan or any other such slogan that may be developed for certain marketing projects as deemed necessary by the GVB Marketing Department from time to time, shall appear.

7. The Agency shall conduct a market survey of the Republic of Korea travel industry biannually to determine the nature of travel services presently offered or desired for Guam in the Republic of Korea. In addition, the Agency shall conduct a Guam brand perception survey at the beginning and the end of each fiscal year to compare perception differences and measure sales and marketing work.
8. The Agency shall initiate contact with tour wholesalers, airlines, hotels, travel agencies, and travel publications periodically and routinely to establish favorable working relationships, in consideration of possible future cooperative efforts for joint promotional programs in sales, PR, advertising and/or website activities and to develop strong and close relationships with both Korean and U.S. government representatives in the market. These promotional programs will include, but will not be limited to, familiarization trips to Guam for journalists and/or specialized travel agents, destination Guam product update seminars/workshops in the various cities, participation in trade and consumer travel shows, represent GVB as identified by GVB's Marketing Department at functions and meetings, interviews and all other representation activities related to Guam promotions.
9. The Agency is required to compile and input all contact data obtained from meetings, seminars/workshops, travel expos, etc. held, at least one week after, to GVB's Customer Relationship Management (CRM) system located within the GVB main website, visitguam.com, as the data is an asset to the Bureau. Failure to do so will result in penalties to include the following:
 - Deduct 10% from the monthly retainer fee
 - Termination of contract if continuous delays and/or non-performance
10. The Agency shall have the talent or resources to create and write a comprehensive tourism destination-marketing plan, to include a media schedule, on an annual basis. The plan shall be dynamic and flexible enough to allow for monthly or quarterly change.
11. The Agency shall have the talent or resources to develop and execute a comprehensive social media and public relations marketing plan, as part of the main tourism destination market plan. This will include identifying the appropriate social media platforms for Republic of Korea, a posting schedule within social media rules and regulations, as well as monitoring and evaluation modules for performance of social media marketing efforts.
12. The Agency shall have the capabilities to perform analytical work to determine current travel trends in the Republic of Korea market that could be beneficial or detrimental to Guam.
13. The Agency shall have a monitoring plan to review GVB's programs and activities for effectiveness, and must be able to change with or adapt to market conditions.
14. The Agency, as GVB's marketing representative in the Republic of Korea, shall provide, as needed by GVB, logistical support, relevant cultural and creative advice to attract

Korean nationals, design, development and/or efficient management of incentive travel programs or promotions, special tour groups, sports tours, and special interest programs to market Guam as a world-class travel destination in the Republic of Korea.

15. The Agency must provide assistance to other Government of Guam agencies, i.e., Guam Economic Development Authority, as advised by GVB head office.
16. The Agency, as GVB's marketing representative, shall develop attainable and measurable goals to support GVB's Republic of Korea destination marketing objectives, which shall serve as the benchmark criteria GVB will use to evaluate effective performance of the duties, as assigned or required by GVB, for each 12-month period the contract is in effect.

Agency's Responsibilities and Duties include but are not limited to the following:

A. STRATEGIC PLANNING / RESEARCH

- (1) Promote Guam and the Guam brand as a convenient, safe, and upscale tourist destination to the Republic of Korea media and travel industry.
- (2) Support the planning and execution of sales, marketing, PR, advertising, online social media and website plans for GVB.
- (3) Support GVB's Republic of Korea (main focus will be Seoul, Busan and Daegu) PR, advertising, sales, marketing, online social media and website strategy, where applicable, in all agreed upon and potential target markets.
- (4) Support GVB's Republic of Korea (main focus will be Seoul, Busan and Daegu) marketing strategy by focusing on affluent experienced Korean travelers, expatriates, corporate/business for group leisure and MICE (Meetings, Incentives, Conventions, and Exhibitions), weddings/honeymoon, divers, golfers, educational, and other key niche markets.
- (5) Monitor activities of Guam's competition and advice GVB Head Office Marketing Department on strategies to counter competitive initiatives with positive PR, sales and/or advertising.
- (6) Analyze market trends and identify potential opportunities.
- (7) Make timely payments to all persons or firms supplying goods and/or services as part of GVB's sales, marketing, PR, advertising and website activities in the Republic of Korea.
- (8) Advise and bill GVB in a timely manner all applicable sales, marketing, PR, advertising and website remittances made by the Agency for GVB's account and maintain complete and accurate books and records in this regard.
- (9) Prepare an annual fiscal year (FY) Republic of Korea sales, marketing, PR, advertising and website plan and budget.
- (10) Stay updated on changes, upgrades, and new developments on Guam and communicates

this information to the necessary audiences in the market.

- (11) Prepare and submit to GVB Head Office a Fiscal Year End Report with an Executive Summary that encapsulates all activities performed in the entire year of contract term. The Year End Report shall be in the format and specifications of a report template provided by GVB and due no later than October 15th of each year.

B. DESTINATION BRANDING

- (1) Consult in the production of sales, PR, and advertising tools in coordination with GVB's Republic of Korea Marketing strategy as authorized by GVB Head Office. All advertising creative, social media assets and trade promotion materials need to be developed according to GVB's Guam brand guideline, which will be provided to the Agency.
- (2) Where and when necessary, work with GVB Head Office to identify, strategize and establish a foothold and reach using the GVB Republic of Korea website as a powerful marketing communication tool.

The Agency's responsibility to maintain the GVB website is as following:

- Must assign a dedicated personnel to manage GVB Republic of Korea website
 - Must learn how to use GVB web content management system (CRM)
 - Must regularly maintain and update GVB Republic of Korea website contents based on the latest information, news, program developments and campaigns in the Republic of Korea and in Guam and maintain an accurate database of contacts in the CRM system
 - Must provide one new content post on the GVB social media platform accounts and website per week
 - Must regularly maintain and update the GVB membership directory on the website to make sure the most appropriate Korean customer service personnel are listed
 - Must perform weekly and monthly web analytics to identify methods to increase website traffic and optimize for website conversions and to record action in reports to GVB
- (3) Develop Point-of-Sale (POS) collaterals such as posters, manuals, Guam general information brochures, maps, flyers and pamphlets, displays, and other marketing tools and print materials in support of sales, marketing, PR, advertising and website activities.
 - (4) Work to ensure all activities by the Agency are in line with GVB's Republic of Korea marketing strategy with the use of the Guam brand and GVB Republic of Korea website.
 - (5) Maintain a library of reference information about Guam.
 - (6) Utilize to a maximum the GVB Republic of Korea website and ad creative to build and grow recognition and a positive understanding of Guam in the Republic of Korea.

- (7) Maintain a library of Guam photo images, videos, and collateral sales and marketing materials as well as props for well-branded promotional use amongst the travel trade and media sectors.

C. PR / MEDIA / SOCIAL MEDIA

- (1) Develop industry sales, PR, advertising, online social media and website programs and activities designed to meet GVB's needs and budgetary limitations.

- (2) Analyze the effect of sales, PR, advertising, online social media and website programs and activities implemented and work to improve them.

Regularly provide post campaign and post media familiarization tour evaluations to analyze the promotion programs return of investment and recommendations for improvements.

- (3) Work collaboratively and cooperatively with GVB Head Office on select programs, events, and activities in support of GVB's Republic of Korea strategy.

- (4) Prepare media kits to use as sales tools to share with tour agents, airlines, etc. while prospecting for potential visitors to Guam.

- (5) Where applicable, work collaboratively with GVB Head Office Marketing Department on the planning and execution of Special Promotions, Fam Tours, Travel Trade and Consumer Travel Shows, Seminars, events and any other activities as requested and/or agreed upon with the GVB Head Office.

- (6) Promote Guam as a tourist destination by distributing promotional materials supplied by GVB which contains tourist related information such as inbound operators, hotels, restaurants, option tours, shopping and government regulations to the general public and representatives of the Republic of Korea travel industry.

- (7) Develop and implement proactive sales, PR, advertising, online social media, website and marketing programs and activities.

- (8) Conduct crisis communication consulting.

- (9) Work cooperatively with GVB Head Office to counter negative publicity, which may arise.

- (10) Maintain regular contacts with travel writers, editors, publishers, and other related media.

- (11) Develop and create a positive image of Guam in the Republic of Korea via PR and selected means of communication.

- (12) Stimulate the desire for affluent leisure, business, and EXPAT travel to Guam.

- (13) Develop awareness of Guam's attractions and facilities for leisure travel, meetings and incentive travel.

- (14) Seek opportunities for special feature supplements, television documentaries, and location filming for exposure of Guam through print and electronic media.
- (15) Plan press interviews and conferences to generate favorable publicity for Guam.
- (16) Produce and distribute a minimum of three (3) press releases a month about Guam and activities related to Guam with prior review and approval by the GVB Head Office Marketing Department.
- (17) Execute weekly or monthly social media posts, including post sharing) about travel destination Guam promoting upcoming events, campaigns, and tourism destination offerings using GVB's official accounts and/or profiles.
- (18) Work closely with GVB's Social Media Strategist to take action on monthly Social Media Monitoring reports, both positive and negative.
- (19) Provide a comprehensive media value calculation method for the Republic of Korea market to determine how the agency plans to measure success of media campaigns for Guam.
- (20) Actively evaluate travel related mobile applications in the Republic of Korea and develop potential mobile marketing tie-in campaigns.
- (21) Expand relationships with social media influencers, especially on emerging mobile social networks (e.g. Naver, Kakao Story, Facebook, Instagram, Twitter and Cyworld), for potential Guam promotion activities and campaigns.
- (22) Develop online video strategies for promoting Guam with short form storytelling techniques that are relevant to the interests of the mobile centric video content consumers.

D. SALES / TRADE

- (1) Conduct sales calls, meetings and presentations to key individuals, organizations and companies in line with GVB's overall Republic of Korea (main focus will be Seoul, Busan, and Daegu) sales, PR, advertising, online social media and website strategy.
- (2) Conduct regular monthly or more frequent sales calls to tour operators, travel agents, and airlines already packaging Guam as well as to those who may be interested in adding Guam to their tour programs.
- (3) Must organize and input travel trade, media, and etc. contact information into GVB's Customer Relationship Management (CRM) system and be responsible to keep contacts and listing updated.
- (4) Develop a MICE business plan to promote Guam as an ideal destination for MICE groups.
 - Must target potential corporate companies and organizations

- Must develop a sales product presentation and pitch proposals to potential MICE groups
 - Must generate sales development implementation plans
 - Must establish and maintain a database of MICE planners relevant to target cities in Mainland China
 - Must communicate updated Guam MICE products to potential MICE groups and planners
- (5) Where applicable, work with tour agent offices, organizations, corporations, airlines, and regional offices of said entities in Republic of Korea's major cities and others to ensure good understanding and recognition of Guam.
- (6) Must develop a quarterly sales plan that will encompass formal monthly travel agents seminars in different major cities of the Republic of Korea. Representative will invite travel agents, media, and other special interest groups in key cities to attend. These meetings should be regularly scheduled for product education and updates.
- Must create Quarterly Sales Call calendar to visit travel agents' offices to deliver the latest Guam product development, campaign information, and collateral sales materials.
- (7) Work with the US Embassy/Consulates, US Commercial Services, the American Chamber of Commerce (AMCHAM), Pacific Asia Travel Association (PATA), Visit USA Committee, and other such organizations, especially those of the EXPATS living in the Republic of Korea to develop and push Guam packages.

E. ACCOUNT MANAGEMENT

- (1) Respond to all consumer or trade inquiries, oral or written, within four (4) business days of receiving the inquiry. Translated copies of the Agency responses are to be forwarded to GVB Head Office Marketing Department and made a part of the Monthly Activity Report.
- (2) Prepare and submit to GVB Head Office Marketing Department a Weekly Status Report (WSR) along with complete information on the contact report form, in addition to the Monthly Activity Report (MAR) outlining measures taken by the Agency in promoting Guam as a tourist destination. Each MAR shall be based on the activities performed from the beginning to the end of each calendar month during the term of the contract. Each report must also include all invoices detailing relevant monthly expenses incurred by the Agency along with photocopies of original receipts translated in English in fulfilling its obligations under the contract. The MAR shall be in the format and specifications of a report template provided by GVB Marketing Department and due on the 15th of each following month.
- (3) Prepare and submit to GVB detailed Trip Reports outlining measures taken by the Agency in promoting Guam as a tourist destination during the approved travel. Each report will be based on the activities performed for each trip conducted on behalf of GVB during the term of the contract. Trip reports are to be submitted within ten (10) working days following the conclusion of approved travel.

- (4) Inform GVB of any fact or occurrence that affects GVB's interests, and disclose to GVB any personal, business, or financial interest (including but not limited to any ownership interest in, representation of, or employment by any person or firm providing any product or service that competes with any product or service provided by GVB) that may impair or otherwise affect the Agency's ability to represent GVB's interests to the maximum extent contemplated by its contract, or that may actually or potentially result in the disclosure by the Agency of any confidential information with respect to GVB or the representation of GVB by the Agency.
- (5) Not enter into contracts on GVB's behalf with artists or other independent contractors who employ the Agency as their agent, with entities owned or controlled by the Agency or entities in which the Agency has an interest, without prior disclosure to and specific written approval by GVB.
- (6) Not perform work itself that it is obligated under the contract out to other parties without prior disclosure to and specific written approval by GVB.
- (7) Cooperate with GVB in providing its services required under the contract.
- (8) Protect and preserve any confidential information and trade secrets generated for and by GVB and disclosed by GVB to the Agency throughout the course of its contractual relationship term plus an additional two (2) years after the contract expires.
- (9) Provide translated copies of pertinent news and industry information of interest to the GVB and Guam.
- (10) Maintain constant and frequent communication with the GVB Head Office.
- (11) Perform work and other assignments as provided by the GVB Head Office Marketing Department.

Compensation will be for services rendered and based on negotiated rates. A set budget will be allocated for GVB's public relations and marketing representation services on a monthly basis. The budget will take effect on the commencement date of the contract awarded to the Agency, through September 30, 2016, the end of the 2016 fiscal year. The budget amount may vary and is subject to change. The contractual obligation of both parties in each fiscal period succeeding the first is subject to a satisfactory performance review, the appropriation and availability of funds therefore.

GVB has a budget allocation for the implementation and execution of various activities such as advertising, public relations programs and special promotions or events as specified in the "Scope of Services". Such activities will be budgeted after due discussions and recommendations from the Agency.

1.2 Submittal and Evaluation of Proposals

The Offeror is required to read each and every page of the Proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein except as noted

elsewhere. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening. Proposals shall be filled out in ink or typewritten and signed in ink. Erasures or other changes in a proposal must be explained or noted over the signature of the Offeror. Proposals containing any conditions, omissions, unexplained erasures or alterations or items not called for in the RFP, or irregularities of any kind may be rejected by the GVB as being non-complying.

Proposals will be reviewed and evaluated based on the qualifications of the Offeror and the plan submitted to perform the services in the RFP, which include but are not limited to:

1. Background statement regarding capabilities and understanding of the work to be done;
2. A detailed outline of the firm's approach, strategy, and tactical objectives including a description of successful outcomes and quantifiable measurements by which milestones and deliverables are to be recognized;
3. A statement of commitment to perform the work within the project time period;
4. Identification of the person or persons who will be responsible for the Project, including a list of their recent work done in this area and related experience;
5. Resumes or background information on each team member's education, professional experience while employed by firm and/or subcontractor;
6. A minimum of four (4) references from other public agencies, private sector clients, and/or local government where the firm has performed similar services (includes names, e-mail addresses and phone numbers of persons to contact);
7. Note the availability of any previously completed documentation for similar work;
8. Provide the location of the office from which the work will be done;
9. Proof of the license to do business on Guam and no pending legal issues with the government or other private companies.
10. Affidavits attached to this RFP notarized in the state or territory of the offeror's principal place of establishment.

The evaluation of proposals submitted will be done by a Selection Committee nominated by the GVB General Manager. Prospective Offerors are hereby cautioned not to contact any member of GVB in regards to this invitation until such time as an award has been made, except as provided here.

All inquiries pertaining to this RFP are to be addressed to the General Manager, acting in the capacity of the Chief Procurement Officer, Guam Visitors Bureau, 401 Pale San Vitores Road, Tumon, Guam 96913.

The General Manager or his designee(s) will coordinate all questions through GVB and will respond in writing. The General Manager may also be contacted at (671) 646-5278/9, or via email

at procurement@visitguam.org. If an addendum is required it will be issued by GVB, and posted on the GVB website at www.guamvisitorsbureau.com.

1.3 Restrictions on Contact with GVB, GVB's Board of Directors or Employees and Selection Committee

Prospective Offerors are advised that, from the date of issuance of this RFP until the award of any contract, they are not permitted to contact GVB, GVB's Board of Directors, GVB employees, and/or the Selection Committee related to this solicitation, except for GVB's designated point of contact as set forth above, unless they have received the written permission of GVB's General Manager. Offerors who violate this requirement will be disqualified.

1.4 Requests for Clarification

- A. It is incumbent upon each Offeror to carefully examine all specifications, terms, and conditions contained in the RFP. Any inquiry regarding this solicitation must be made in writing and in accordance with the requirements of this RFP. To be considered, inquiries must be addressed to GVB's point of contact set forth above.
- B. GVB will issue responses to inquiries in writing prior to the date on which proposals are due. GVB will email, airmail, and post on the GVB website said responses to each person recorded as having been furnished with a copy of this RFP, and prospective Offerors are responsible for ensuring that they receive all such responses. To ascertain whether GVB issued such responses with respect to this RFP, prospective Offerors may contact GVB's point of contact as set forth above.
- C. Prospective offers and Offerors should not rely on any representations, statements, or clarifications not made in this RFP or in a formal GVB response. GVB will not be responsible for any oral representation(s) given by any employee, representative, or other individual. The issuance of a written addendum is the only official method by which interpretation, clarification, or additional information can be given.

1.5 Schedule of Events

Offerors must abide by the Schedule of Events as indicated on page 6 of this RFP.

1.6 RFP Closing Date

Proposals shall be submitted to GVB no later than **5:00 p.m. Chamorro (Guam) Standard time, Monday, February 8, 2016**, at 401 Pale San Vitores Road, Tumon, Guam, 96913. Proposals received after this date and time will not be considered.

1.7 Delivery of Proposals

In response to this RFP, both a SEALED TECHNICAL PROPOSAL and a SEALED PRICE/FEE PROPOSAL, CONTAINING THE OFFEROR'S COST AND PRICING DATA, **MUST BE SUBMITTED CONCURRENTLY**. Each

technical proposal must be in writing with one (1) Original and five (5) copies. The **TECHNICAL PROPOSAL** must be submitted in a separate sealed envelope from the **PRICE PROPOSAL**. The sealed envelope shall be marked plainly:

All proposals shall be sealed and delivered or mailed to:

ATTN: MR. JON NATHAN DENIGHT
General Manager
Guam Visitors Bureau
401 Pale San Vitores Road
Tumon, Guam 96913

Please label the TECHNICAL PROPOSAL PACKAGE as follows:

YOUR COMPANY NAME
RFP No. 2016-006
Tourism Destination Marketing Representation Services in the Republic of Korea
TECHNICAL PROPOSAL
CONFIDENTIAL DOCUMENT ENCLOSED

In a second separate sealed envelope, the offeror shall also submit one (1) original and five (5) copies of the **PROPOSED PRICE/FEE** for the type of services and a total all-inclusive maximum price per month and for each fiscal year (March 1, 2016~September 30, 2016 for Fiscal Year 2016), and (October 1~September 30) for Fiscal Years 2017 and 2018.

Please label the PRICE PROPOSAL package as follows:

YOUR COMPANY NAME
RFP No. 2016-006
Tourism Destination Marketing Representation Services in the Republic of Korea
PRICE PROPOSAL
CONFIDENTIAL DOCUMENT ENCLOSED

(FACSIMILE AND E-MAIL OF PROPOSALS WILL NOT BE ACCEPTED)

Note: Please ensure that if a third party carrier (Federal Express, Airborne, UPS, USPS, etc.) is used, that it is properly instructed to deliver your proposal only to GVB at the address noted above. To be considered, a proposal must be received and accepted by GVB before the RFP closing date and time.

1.8 Proposal Form

- A. As stated in 1.7, Offeror shall submit six (6) complete sets of each proposal [Technical and Price], one (1) marked "ORIGINAL" and five (5) marked "COPY."
- B. An official authorized to legally bind the Offeror to all RFP provisions contained herein shall sign the proposal.

- C. Terms and conditions differing from those set forth in this RFP may be cause for disqualification of the proposal.
- D. Offeror must designate those portions of their proposal, if any, they believe contain trade secrets or proprietary data which Offeror wants to keep confidential.
- E. Offeror must organize proposal into sections that follow the format of this RFP, with tabs separating each section. A point-by-point response to all numbered sections, subsections and appendices is required. If no explanation or clarification is required in the Offeror's response to a specific subsection, the Offeror shall indicate so in the point-by-point response or utilize a blanket response for the entire section with the following statement: "**(Offeror's Name) understands and will comply.**"

1.9 Offeror's Responsibilities

An Offeror, by submitting a proposal, represents that:

- A. The Offeror has read and understands the RFP in its entirety and that the proposal is made in accordance therewith, and;
- B. The Offeror possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to GVB, and;
- C. Before submitting a proposal, each Offeror shall make all investigations and examinations necessary to ensure that they can comply with the requirements affecting the full performance of the contract and to verify any representations made by GVB upon which the Offeror will rely. If the Offeror receives an award because of its proposal submission, failure to have made such investigations and examinations will in no way relieve the Offeror from its obligations to comply in every detail with all provisions and requirements of the contract, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim by the Offeror for additional compensation or relief.
- D. Failure to comply with instructions on proposal assembly may be subject to point deductions. GVB may also choose not to evaluate, may deem non-responsible, and/or may disqualify from further consideration any proposals that do not follow this RFP format, are difficult to understand, are difficult to read, or are missing any requested information.

1.10 Conflict of Interest

All Offerors shall complete and have notarized the attached disclosure form of any potential conflict of interest that an Offeror may have due to ownership, other clients, contracts, or interests associated with this RFP. Other required Affidavits are also included in this solicitation packet.

1.11 Certificates

GVB reserves the right to require proof that the Offeror is an established business and is abiding by the regulations and laws of Guam, such as but not limited to occupational licenses and business licenses.

Offeror shall attach a copy of its Guam business license. Offeror shall include all current licenses, certifications, and any additional documentation that illustrates the Offeror's qualifications to perform the services specified in this RFP.

1.12 Presentations by Offerors

GVB at its sole discretion may ask individual Offerors to make oral presentations and/or demonstrations without charge to GVB.

GVB reserves the right to require any Offeror to demonstrate to the satisfaction of GVB that the Offeror has the requisite ability to properly furnish the services and requirements of this RFP. The demonstration must satisfy GVB and GVB shall be the sole judge of compliance.

Offerors are cautioned not to assume that presentations will be required and should include all pertinent and required information in their original proposal package.

1.13 Award

GVB reserves the right to award the contract to the Offeror that GVB deems to be the best qualified. GVB shall also have the right to award a contract for services in part to multiple qualified firms or in whole to one qualified firm.

In addition, GVB at its sole discretion, reserves the right to cancel this RFP, to reject any and all proposals, to waive any and all informalities and/or irregularities, or to re-advertise with either the identical or revised specifications, if it is deemed to be in the territory of Guam's best interest to do so.

This RFP does not commit GVB to award a contract. GVB shall not be responsible for any cost or expense, which may be incurred by the Offeror in preparing and submitting the proposal called for in this RFP, or any cost or expense incurred by the Offeror prior to the execution of a contract.

1.14 Records and Right to Audit

The Offeror shall maintain such financial records and other records as may be prescribed by GVB or by applicable federal and local laws, rules, and regulations.

1.15 Offeror's Personnel

- A. The Offeror shall comply with all:

1. Local laws, regulations, and labor union agreements governing work hours; and
 2. Labor regulations including collective bargaining agreements, workers' compensation, working conditions, fringe benefits, and labor standards or labor contract matters.
- B. The Offeror shall indemnify and hold GVB harmless from all claims arising out of the requirements of this provision. This indemnity includes the Offeror's obligation to defend and/or resolve, without cost to GVB, any claims or litigation concerning allegations that the Offeror or GVB, or both, have not fully complied with local labor laws or regulations relating to the performance of work required by the contract.

1.16 Termination / Cancellation of Contract

GVB reserves the right to cancel the contract without cause with a minimum thirty (30) days written notice. Termination or cancellation of the contract will not relieve the Offeror of any obligations for any deliverables entered into prior to the termination of the contract (i.e. reports, statements of accounts, etc., required and not received).

Termination or cancellation of the contract will not relieve the Offeror of any obligations or liabilities resulting from any acts committed by the Offeror prior to the termination of the contract.

Termination for Default. GVB shall notify the Offeror in writing of deficiencies or default in the performance of its duties under the contract and the Offeror shall have ten (10) days to correct same or to request, in writing, a hearing. GVB shall hear and act upon same within twenty (20) days from receipt of said request and shall notify the Offeror of said action. The action by GVB shall be either to confirm, in whole or in part, the specified deficiencies or default, or to relieve the Offeror of responsibilities for said deficiencies or default, or find that there are no deficiencies or default, or such action as deemed necessary in the judgment of GVB. Failure of the Offeror to remedy said specified items of deficiency or default in the notice by GVB within ten (10) days of receipt of such notice of such decision, shall result in the termination of the contract, and GVB shall be relieved of any and all responsibilities and liabilities under the terms and provisions of the contract.

1.17 Independent Contractor Relationship

Offeror shall provide the services required herein strictly under a contractual relationship with GVB and is not, nor shall be, construed to be an agent or employee of GVB. As an independent contractor, the Offeror shall pay any and all applicable taxes required by law and shall comply with all pertinent federal and local statutes. Benefits for Offeror, its employees and subcontractors shall be the sole responsibility of the Offeror including, but not limited to, health and life insurance, mandatory social security, retirement, liability/risk coverage, and workers and unemployment compensation.

The Offeror shall hire, compensate, supervise, and terminate members of its work force, and shall direct and control the manner in which work is performed including conditions under which

individuals will be assigned duties, how individuals will report, and the hours individuals will perform.

The Offeror shall not be provided special space, facilities, or equipment by GVB to perform any of the duties required by the contract nor shall GVB pay for any business, travel, or training expenses or any other contract performance expenses not specifically set forth in the specifications.

Prior to commencing work, the successful Offeror will be required to sign a written contract incorporating the specifications and terms of the RFP and the response thereto. The initial contract term is for a one-year period, with two one-year options to renew. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds therefore.

Upon expiration of the third contract term, the General Manager may have the option to extend contract for a period not to exceed [90 days] from the ending term date, or until such time GVB is able to secure a new contract.

1.18 Assignment/Subcontract

The Offeror shall not assign, transfer, convey, sublet, or otherwise dispose of any award or of any of its rights, title, or interests therein, without the prior written consent of GVB. Subcontractors shall be subject to all provisions of the resulting contract. GVB shall approve any requests for assignments and/or subcontracting prior to execution.

1.19 Governing Laws

Except to the extent federal law is applicable, the laws and regulations of Guam shall govern the interpretation, effect, and validity of the RFP and any contract resulting from this RFP. Venue of any court action shall be in Guam. In the event that a suit is brought for the enforcement of any term of the contract, or any right arising there from, the parties expressly waive their respective rights to have such action tried by jury trial and hereby consent to the use of non-jury trial for the adjudication of such suit.

Any dispute arising under or out of this RFP and/or contract is subject to the provisions of Title 2 Guam Administrative Rules and Regulations, Division 4 (Procurement Regulations), Chapter 9 (Legal and Contractual Remedies); Title 5 Guam Code Annotated, Chapter 5 (Guam Procurement Law), Article 9 (Legal and Contractual Remedies); and any other applicable laws, statutes, or regulations.

1.20 Indemnification of GVB

The Offeror shall indemnify, hold harmless, and defend GVB, its officers, agents, and employees from or on account of any claims losses, expenses, injuries, damages, actions, lawsuits, judgments, or liability resulting or arising from Offeror's performance or nonperformance of

services pursuant to the contract, excluding any claims, losses, expenses, injuries, damage, or liability resulting or arising from the actions of GVB, its officers, agents, or employees. The indemnification shall obligate the Offeror to defend at its own expense or to provide for such defense, at GVB's option, any and all claims and suits brought against GVB, which may result from Offeror's performance or nonperformance of services pursuant to the contract.

1.21 Modifications Due to Public Welfare or Change in Law

GVB shall have the power to make changes in the contract as the result of changes in law and to impose new rules and regulations on the Offeror under the contract relative to the scope and methods of providing services as shall, from time-to-time, be necessary and desirable for the public welfare. GVB shall give the Offeror notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing services as referenced herein shall also be liberally construed to include, but is not limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Offeror. In the event of any future change in federal or Guam laws, GVB materially alters the obligations of the Offeror, or the benefits to GVB, then the contract shall be amended consistent therewith. Should these amendments materially alter the obligations of the Offeror, then the Offeror or GVB shall be entitled to an adjustment in the rates and charges established under the contract. Nothing contained in the contract shall require any party to perform any act or function contrary to law. GVB and the Offeror agree to enter into good faith negotiations regarding modifications to the contract, which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to the contract, GVB and the Offeror shall negotiate in good faith, a reasonable and appropriate adjustment for any changes in services or other obligations required of the Offeror directly and demonstrably due to any modification in the contract under this clause.

1.22 Force Majeure

GVB and the Offeror will exercise every reasonable effort to meet their respective obligations as outlined in the RFP and the ensuing contract, but shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including but not limited to, compliance with any government law or regulation, acts of God, acts or omissions of the other party, government acts or omissions, fires, strikes, national disasters, wars, riots, transportation problems, and/or any other cause whatsoever beyond the reasonable control of the parties. Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred.

1.23 Confidential or Proprietary Information

Proposals of Offerors who are not awarded the contract shall not be opened to public inspection, but will be part of the official procurement record. After award, the proposal of the Offeror receiving a contract will become available for public inspection. If the Offeror selected for award has requested in writing upon submission of Proposal the non-disclosure of trade secrets or other proprietary data so identified, GVB shall examine the designated information to determine whether such information shall be considered proprietary. If GVB and Offeror are unable to agree as to the disclosure of certain portions of Offeror's proposal, GVB shall inform the Offeror in writing

what portion of the proposal will be disclosed and that, unless the Offeror withdraws the proposal, or protests under 5 GCA Article 9 (Legal and Contractual Remedies) of the Guam Procurement Law, the information may be so disclosed. (See also Title 2, Guam Administrative Regulations, Division 4, Section 3114(h)(1)).

1.24 Submission of Fee(s)

The Offeror determined to be best qualified will be notified to submit to GVB, at a time specified by GVB and prior to commencement of negotiations, their fee to perform the required services.

SECTION II EVALUATION PROCEDURE AND CRITERIA

2.0 Evaluation Process

Selection of the best qualified Offeror will be based on the qualifications, experience, and commitment of the Offeror's lead and support individuals proposed for this RFP, and the Offeror's plan of action. GVB plans to negotiate a contract with the best-qualified Offeror for the required services at a compensation rate determined in writing to be fair and reasonable.

2.1 Evaluation Criteria

The Evaluation Committee will review and evaluate the offers according to the following criteria based on a maximum possible value of 100 points. In the evaluation, rating and selecting proposals, the factors and their relative importance will be as follows:

- A. Executive Summary and Commitment.....(35 Points)
- B. Staff Qualifications and Past Performance(35 Points)
- C. Organizational Structure and Chart(15 Points)
- D. References.....(10 Points)
- E. Primary Point of Contact(5 Points)

TOTAL MAXIMUM POINTS.....(100 Points)

2.2 Background of the Offeror

All proposals submitted in response to this RFP shall contain a Statement of Qualifications. The Statement of Qualifications shall describe the qualifications and ability of the Offeror to perform the Scope of Services set forth in this RFP and shall identify the team members and any other key staff personnel to be involved in this project. Offerors must provide sufficient detail to support their degrees or levels of expertise, job performance, and ability to perform the work contemplated. The Statement of Qualifications shall include:

A. Executive Summary and Commitment (35 points)

1. The Offeror shall submit an Executive Summary with a description of how your firm qualifies under the requirements of this RFP [as indicated in Section 1.1 GVB

Objective].

2. Include a statement regarding your firm's commitment and availability to perform the details in this RFP in the required timeframe.
3. The Offeror should provide a description of the work plan and the methods to be used that will convincingly demonstrate to GVB what the Offeror intends to do, the timeframes necessary to accomplish the work, and how the work will be accomplished.

B. Staff Qualifications and Past Performance (35 points)

1. The Offeror shall provide resumes or a summary of qualifications, work experience, education, skills, etc., which emphasize previous experience in this area.
2. The Offeror shall provide the name and resume of the person or persons who will perform services pursuant to this RFP, and resumes of the principals, key staff, and any other employees who will be directly involved in performing the work.
3. The Offeror must have available to it (as needed) individuals employed by the Offeror with the capabilities and background experience listed in paragraph 2.2 A.

C. Organizational Structure and Chart (15 points)

1. The Offeror shall provide an organizational chart and describe key personnel's proposed roles and responsibilities on this project.
2. Submittals must identify the proposed manager responsible for the day-to-day management of project tasks and primary point of contact.
3. Describe your organizational structure by describing your firm's structure, including whether it is a Corporation, LLC, Partnership or other organization.
4. Include length of time in business, number of employees, full and part-time, and other information that would help characterize the firm.
5. Provide a list of satellite offices and affiliates.
6. You may include brochures or other material that may be helpful in evaluating your firm.

D. References (10 points)

1. The Offeror shall provide a minimum of four (4) references that are using services of the type proposed in this RFP. The references may include local government or universities where the Offeror, preferably within the last four (4) years, has successfully completed work similar to that included in this RFP.

2. At a minimum, the Offeror shall provide the company name, location where services were provided, contact person(s), customer's telephone number, a complete description of the service type, and dates the services were provided. These references may be contacted to verify Offeror's ability to perform the contract.
3. GVB reserves the right to use any information or additional references deemed necessary to establish the ability of the Offeror to perform the conditions of the contract. Negative references may be grounds for proposal disqualification.

E. Primary Point of Contact (5 points)

1. The Offeror shall provide the name of the key contact and street address of the office that would manage the GVB TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA. Include a mailing address, telephone number, e-mail address and website address of the firm.
2. Offeror shall specify how long the individual/company submitting the proposal has been in the business of providing services similar to those requested in this RFP and under what company name.

2.3 Plan of Action

1. The Offeror shall include information about any proposed subcontractors it would engage to comply with project requirements.
2. The Offeror shall describe its conception of the best working relationship with GVB and other governmental agencies that would ensure the success of this project.
3. At a minimum the Offeror shall provide:
 - Name and address of Offeror
 - Age of Offeror's business
 - List of all other contracts performed similar in scope and size
 - List of all subcontractor's for this project.
4. Abilities of key personnel assigned to perform the service.

2.4 Selection Committee

GVB General Manager will nominate an Evaluation Committee. Evaluation may be conducted as a group or individually, however, the same evaluation form shall be used by each Evaluator and the results compiled to present a cumulative score with recommendation(s) to the General Manager. The General Manager shall then request the Board of Directors approval to enter into negotiations with the best qualified Offeror.

2.5 Investigation and Rejection

GVB reserves the right to conduct any investigation deemed necessary as to the background, qualifications, experience, and record of performance of any Offeror, and to reject any or all proposals if deemed necessary in the public interest. GVB shall review and determine whether an Offeror has the necessary qualifications, staffing, management, and experience required to properly conduct the work in accordance with all applicable laws, statutes, and regulations.

SECTION III INSTRUCTIONS TO OFFERORS

3.0 Defined Terms

The terms used in these Instructions to Offerors are defined in Guam's procurement laws and regulations have the same meanings assigned to them in this RFP. The term "Offeror" means one who submits a proposal directly to GVB, as distinct from a sub-Offeror who submits a proposal to the Offeror. The term "successful Offeror" means the best-qualified Offeror for the required services to whom GVB (on the basis of GVB's evaluation as hereinafter provided) makes an award. The term "request for proposals documents" includes the invitation to submit a proposal, instructions to Offerors, and all addenda. The term "GVB" means the Guam Visitors Bureau and vice versa. The term "price data" are factual information concerning prices, including profit, for supplies, services, or construction substantially similar to those being procured. In this definition, "prices" refer to offered or proposed selling prices, historical selling prices, and current selling prices of such items. This definition of "prices" refers to data relevant to both prime and subcontract prices. The term "cost data" are information concerning the actual or estimated cost of labor, material, overhead, and other cost elements which have been actually incurred or which are expected to be incurred by the contractor in performing the contract.

3.1 Type of Procurement

This Request for Proposals (RFP) calls for the procurement of professional services under the Competitive Selection Procedures for Services.

3.2 Language of Proposal

The proposal prepared by the Offeror and all correspondence and documents relating to the proposal exchanged by the Offeror and GVB shall be written in the English language. Supporting documents and printed literature furnished by the Offeror with the proposal may be in another language provided they are accompanied by an appropriate translation of relevant passages in the English language. For the purpose of interpretation of the proposal, the English language translation shall prevail.

3.3 Familiarity with Laws

The Offeror is assumed to be familiar with all U.S. federal and Guam laws that in any manner affect the work to be performed under this RFP. Ignorance on the part of the Offeror will in no

way relieve them from responsibility.

3.4 Signature on Proposal

The Offerors must sign their proposals correctly. If the proposal is made by an individual, said individual's name and mailing address must be shown. If made by a firm or partnership, the name and mailing address of each member of the firm or partnership must be shown. If made by a corporation, the person signing the proposal shall show the name of the country, state, or territory under the laws of which the corporation was chartered, and the names and business address of its president, secretary, and treasurer. A proposal submitted by a joint venture must be accompanied by the document of formation of the joint venture, duly registered and authenticated by a notary public, in which is defined precisely the conditions under which it will function, its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, the principal member of the joint venture, and address for correspondence for the joint venture. The Offeror is advised that the joint venture agreement must include a clause stating that the members of the joint venture are severally and jointly bound by the terms of the contract.

3.5 Currencies of Proposal and Payment

All rates and prices in the proposal and all payments to the Offeror shall be in the currency of the United States of America.

3.6 Modification or Withdrawal of Proposals

Proposals may be modified or withdrawn at any time prior to the submission date.

3.7 Receipt, Opening and Recording of Proposals

Upon receipt, each proposal and/or modification will be time-stamped, held in a secure place, and not be opened until the proposal closing date. The only acceptable evidence to establish the date and time of receipt at GVB is the date and time stamp of the GVB Office on the wrapper or other documentary evidence of receipt maintained by GVB. Proposals and modifications shall not be opened publicly, but shall be opened in the presence of two or more GVB procurement officials. After the date established for receipt of proposals, a registrar of proposals will be prepared which shall include all proposals, the name of each Offeror, the number of modifications received, if any, and a description sufficient to identify the service item offered. The registrar of proposals shall be opened to public inspection only after award of the contract. Proposals and modifications shall be shown only to GVB procurement personnel having an interest in them.

3.8 Evaluations and Discussions

A. Evaluation: GVB will evaluate all proposals submitted and may conduct discussions with any Offeror. The purpose of such discussions shall be to:

1. Determine in greater detail such Offeror's qualifications; and

2. Explore with the Offeror the scope and nature of the required services, the Offeror's proposed method of performance, and the relative utility of alternative methods of approach.
- B. Non-Disclosure of Information: Discussions shall not disclose any information derived from proposals submitted by other Offerors, and GVB shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the Offeror awarded the contract shall be opened to public inspection except as otherwise provided for in the contract. The proposals of the Offerors who are not awarded the contract shall not be opened to public inspection.
 - C. Selection of the Best Qualified Offeror: Upon completion of the validation of qualifications, evaluations, and discussions, GVB shall select, in the order of their respective qualification ranking, no fewer than three (3) acceptable Offerors, or such lesser number if less than three (3) acceptable proposals were received, deemed to be the best qualified to provide the required services.
 - D. Submission of Cost or Pricing Data: The Offeror determined to be the best qualified shall be required to submit cost or pricing data to GVB at a time specified by GVB prior to the commencement of negotiations.

3.9 Negotiation and Award of Contract

- A. General: GVB shall negotiate a contract with the best-qualified Offeror for the required services at a compensation determined in writing to be fair and reasonable.
- B. Elements of Negotiation: Contract negotiations shall be directed toward:
 1. Making certain that the Offeror has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services.
 2. Determining that the Offeror will make available the necessary personnel and facilities to perform the services within the required time.
 3. Agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

3.10 Successful Negotiation of Contract With Best-Qualified Offeror

If compensation, contract requirements, and contract documents can be agreed upon with the best-qualified Offeror, and subject to Board approval, the contract shall be awarded to that Offeror. Written notice of award shall be public information and made a part of GVB's procurement file.

3.11 Failure to Negotiate Contract With Best-Qualified Offeror

- A. If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified Offeror, a written record stating the reasons therefore shall be placed in the procurement file and GVB shall advise such Offeror of the termination of negotiations which shall be confirmed by GVB's written notice to such Offeror.
- B. Upon failure to negotiate a contract with the best-qualified Offeror, GVB may enter into negotiations with the next most qualified Offeror. If compensation, contract requirements, and contract documents can be agreed upon, then the contract shall be awarded to that Offeror. If negotiations again fail, negotiations shall be terminated as set forth in paragraph 3.11(A) above and new negotiations shall commence with the next qualified Offeror.
- C. Should GVB be unable to negotiate a contract with any of the Offerors initially selected as the best qualified Offerors, offers may be resolicited, or additional Offerors may be selected based on original, acceptable submissions in the order of their respective qualification ranking and negotiations may continue until an agreement is reached and the contract is awarded.

3.12 Cancellation of Solicitation; Delays

GVB reserves the right to cancel or to withdraw this RFP as provided in law and regulation, to delay any GVB determination required by the RFP, or to reject all proposals, or any individual Proposal in whole or in part at any time prior to the final award in the best interest of GVB as provided in law and regulation. The reasons for the cancellation, delay, or rejection shall be made a part of the procurement file and shall be available for public inspection.

- A. After opening of the proposals, but prior to award, all proposals or any individual proposal in whole or in part, may be rejected when GVB determines in writing that such action is in the territory of Guam's best interest for reasons including but not limited to:
 - 1. The supplies or services being procured by this solicitation are no longer needed.
 - 2. Ambiguous or otherwise inadequate specifications were part of the solicitation.
 - 3. The solicitation did not provide consideration of all factors of significance to the territory.
 - 4. The proposals only offer prices which exceed available funds and it would not be appropriate to adjust quantities to come within available funds.
 - 5. All otherwise acceptable proposals received contain unreasonable prices.
 - 6. There is reason to believe that the proposals may not have been arrived at in open competition, and/or that there was collusion between Offerors and/or the

proposals were not submitted in good faith.

If this RFP is cancelled or all the proposals have been rejected prior to final award, notice of cancellation or rejection shall be sent to all Offerors. The reasons for the cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

- B. GVB may reject any individual proposal in whole or in part when such rejection is in the best interest of the territory. Reasons for rejecting a proposal in whole or in part include but are not limited to:
1. GVB has determined that the Offeror is not a responsible Offeror pursuant to 2 GAR, Div. 4, Chap. 3, §3116.
 2. The proposal is non-responsive, that is, it does not conform in all material respects to the RFP.
 3. The offered supply or service in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternatives or other acceptable criteria set forth in the RFP.

3.13 Disqualification of Proponent

More than one proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. Reasonable grounds for believing that an Offeror has an interest in more than one (1) proposal for the same work will cause the rejection of all proposals in which such Offeror is believed to have an interest. Any or all proposals will be rejected if there is reason to believe that collusion exists among the Offerors and no participants of such collusion will be considered in future request for proposals for the same work. Proposals in which the prices obviously are unbalanced will be rejected. Proposals submitted by Offerors who do not meet the evaluation criteria will not be considered for review by GVB.

3.14 Right to Reject Proposal

GVB reserves the right to reject any or all Proposals in accordance with law and regulation, and to waive technical errors, or minor informalities, or to accept any proposals in part.

3.15 Award of Contract

The award of contract, if it is awarded, will be awarded to the best qualified Offeror for the required services at a compensation determined in writing to be fair and reasonable, and subject to the approval of the Board. In no case will the award be made until GVB has completed all necessary investigations into the responsibility of the proposed Offeror, and GVB is satisfied that the proposed Offeror is qualified to do the work and has the necessary organization, capital, and equipment to carry out the provisions of the contract to GVB's satisfaction within the time specified.

3.16 Execution of Contract

The Offeror which is determined to be the best qualified, or the next best qualified Offeror should GVB cease contract negotiations with better qualified Offerors, shall sign the necessary agreement entering into a contract with GVB, and return a fully executed contract, containing the terms mutually agreed upon by the parties, to GVB within **seven (7) calendar days** after GVB determines in writing that the Offeror's requested compensation, for the required services, is fair and reasonable.

3.17 Addenda

Any amendment, modification, or addenda issued by GVB, prior to the established due date of the proposals, for the purpose of changing the intent of the plans and specifications clarifying the meaning, or changing any of the provisions of this RFP, shall be binding to the same extent as if originally required by this RFP. Any addenda issued by GVB will be sent to all Offerors in duplicate. Notice may also be obtained by accessing GVB's web site. The Offerors shall acknowledge receipt of the same by their signatures on one copy, which is to be returned to GVB, and said copy shall accompany the Offerors respective proposals. Acknowledgment may also be made in writing or by email.

3.18 Monthly Activity Reports

As a vehicle for monitoring and measuring the services procured by this solicitation, the Agency shall record its representation performance on required report formats prescribed by GVB on a scheduled basis as detailed in the Scope of Services in this RFP. Failure to submit such reports may result in the delay or forfeiture of payment due to the Agency.

3.19 Invoicing And Payment Terms And Conditions

All applicable invoices from the Offeror who is awarded the contract arising from this RFP shall include supporting documents (i.e., timesheets, shipping invoices, consumable listings, receipts, etc.). All supporting documents must be reviewed and approved by GVB prior to invoice submittal for charges. All applicable GVB approved invoices will be paid net thirty (30) days from the date the invoices are received by GVB. Payment shall be made using a method mutually agreed upon by GVB and the successful Offeror. Applicable invoices must be submitted no later than three (3) months after completion of any given task or project. Failure to do so may result in forfeiture of payment.

3.20 Taxes

The successful Offeror shall be liable for all applicable taxes and duties. GVB shall have no tax liability under this contract arising from this RFP. Specific information on taxes may be obtained from the Department of Revenue and Taxation, Government of Guam.

3.21 Licensing

GVB will not consider for award any proposal submitted by an Offeror who has not complied with Guam's business and/or other licensing laws. Specific information on licenses may be obtained from the Department of Revenue and Taxation, Government of Guam.

3.22 Disclosure of Major Shareholders

As a condition of submitting a proposal in response to this RFP, all Offerors, whether they are partnerships, sole proprietorships, or corporations, shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten (10) percent of the outstanding interest or shares in said partnership, sole proprietorship, or corporation, at any time during the twelve (12) month period immediately preceding submission of the proposal made in response to this RFP. The affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity, or other compensation for procuring or assisting in obtaining business related to this RFP for the Offeror and shall also contain the amounts of any such commission, gratuity, or other compensation. The affidavit shall be open and available to the public for inspection and copying. Each affidavit shall be prepared and notarized for the current fiscal year, and any such affidavits made and/or notarized prior to, or after that date shall be deemed unacceptable resulting in the proposal to be deemed non-responsive to this RFP.

3.23 Local Procurement Preference/ Service Disabled Veteran Owned Business Preference

Offerors who seek local procurement preference may request it as part of their proposals, for GVB's consideration. Only Offerors who qualify for local procurement preference pursuant to 5 GCA §5008 may receive said preference by GVB. The GVB will employ where applicable a service disabled veteran owned business preference in accordance with 5 GCA §5011.

3.24 Non-Collusion Affidavit and Conflict of Interest Disclosures

Offerors must submit a non-collusion affidavit and conflict of interest disclosures in the form provided with this RFP. Failure to submit said affidavit and disclosures shall result in the Offeror's proposal to be deemed non-responsive to this RFP, and such proposal shall not be considered for award. Offerors, by submitting a price proposal, certify that any price was independently arrived at without collusion.

3.25 Restrictions Against Contractors Employing Sex Offenders from Working at Government of Guam Venues

The Offeror must submit with their proposal an affidavit acknowledging their responsibilities pursuant to 5 GCA § 5253, Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues. Per this statute, the Offeror must affirm that:

1. No person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a

minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and;

2. That if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

3.26 Compliance with Wage Laws

The Offer who is awarded a contract shall pay employees, at a minimum, in accordance with the Wage Determination for Guam issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to GVB. In the event of a renewal of the contract, the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date of the contract shall apply to that renewal contract. In addition to the applicable Wage Determination, the contract shall contain provisions mandating health and similar benefits for employees, such benefits having a minimum value as detailed in the Wage Determination promulgated by the U.S. Department of Labor, and shall contain provision guaranteeing a minimum of ten (10) paid holidays per annum for each employee.

The Offer is required to execute Form No. 1: Declaration Re Compliance with U.S. DOL Wage Determination, and submit the executed declaration with the Offeror's proposal.

3.27 Representation Regarding Gratuities and Kickbacks

The Offeror represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in §11206 (Gratuities and Kickbacks) of the Guam Procurement Regulations.

3.28 Prohibition in re Contingent Fees

The Offeror represents that it has not retained a person to solicit or secure a territorial contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

3.29 Representation Regarding Ethical Standards

The bidder, offeror, or contractor represents that it has not knowingly influenced and promises that it will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.

3.30 Condition of Contract

As a condition of contract, contractor will agree to indemnify, defend and hold harmless the GVB and the Government of Guam in all actions and from all liability in tort or contract arising from contractor performance of a contract.

3.31 Contact for Contract Negotiation

If your firm is selected as the best qualified to perform the services as described herein, please designate a person whom we may contact for prompt negotiation by filling out Form 2, attached herein.

3.32 Notice of Award

GVB will notify all Offerors of the results of the award. Written notice of award will be public information and made a part of the contract file.

<<<Intentionally Left Blank>>>

APPENDIX A
GVB RFP 2016-006

AFFIDAVITS
1 ~ 7

- A-1:** Affidavit re Disclosing Ownerships and Commissions
- A-2:** Affidavit re Non-Collusion
- A-3:** Affidavit re No Gratuities or Kickbacks
- A-4:** Affidavit re Ethical Standards
- A-5:** Affidavit re Contingent Fees
- A-6:** Affidavits re Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues
- A-7:** Conflict of Interest Disclosure and Statement of Understanding

AFFIDAVIT No. 1
(1 of 1)

AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSIONS

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the offeror and that [please check only one]:

[] The offeror is an individual or sole proprietor and owns the entire (100%) interest in the offering business.

[] The offeror is a corporation, partnership, joint venture, or association known as _____ [please state name of offeror company], and the persons, companies, partners, or joint venturers who have held more than 10% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows [if none, please state]:

<u>NAME</u>	<u>ADDRESS</u>	<u>% of Interest</u>
_____	_____	_____
_____	_____	_____
TOTAL NUMBER OF SHARES		_____

B. Further, I say that the persons who have received or are entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or proposal for which this affidavit is submitted are as follows [if none, please so state]:

<u>NAME</u>	<u>ADDRESS</u>	<u>Compensation</u>
_____	_____	_____

C. If the ownership of the offering business should change between the time this affidavit is made and the time an award is made or a contract is entered into, then I promise personally to update the discloser required by 5 GCA §5233 by delivering another affidavit to the government.

Date: _____

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

AFFIDAVIT No. 2
(1 of 1)

AFFIDAVIT re NON-COLLUSION

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

_____ [state name of affiant signing below], being first duly sworn,
deposes and says that:

1. The name of the offering company or individual is [state name of company]
_____.

2. The proposal for the solicitation identified above is genuine and not collusive or a sham. The offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other offeror or person, to put in a sham proposal or to refrain from making an offer. The offeror has not in any manner, directly or indirectly, sought by an agreement or collusion, or communication or conference, with any person to fix the proposal price of offeror or of any other offeror, or to fix any overhead, profit or cost element of said proposal price, or of any other offeror, or to secure any advantage against the government of Guam or any other offeror, or to secure any advantage against the government of Guam or any person interested in the proposed contract. All statements in this affidavit and in the proposal are true to the best of the knowledge of the undersigned. This statement is made pursuant to 2 GAR Division 4 § 312(b).

3. I make this statement on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

Date: _____

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

AFFIDAVIT No. 3
(1 of 1)

AFFIDAVIT re NO GRATUITIES or KICKBACKS

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

_____ [state name of affiant signing below], being first duly sworn, deposes and says that:

1. The name of the offering firm or individual is [state name of Offeror/company] _____. Affiant is (state one of the following: the Offeror, a partner of the Offeror, an officer of the Offeror) making the foregoing identified bid or proposal.

2. To the best of affiant's knowledge, neither affiant, nor any of the offeror's officers, representatives, agents, subcontractors, or employees have violated, or are violating, the prohibition against gratuities and kickbacks set forth in 2 GAR Division 4 §11107(e). Further, affiant promises, on behalf of Offeror, not to violate the prohibition against gratuities and kickbacks as set forth in 2 GAR Division 4 §11107(e).

3. To the best of affiant's knowledge, neither affiant, not any of the Offeror's officers, representatives, agents, subcontractors, or employees have offered, given or agreed to give, any government of Guam employee or former government employee, any payment, gift, kickback, gratuity or offer of employment in connection with the Offeror's proposal.

4. I make these statements on behalf of myself as a representative of the Offeror, and on behalf of the Offeror's officers, representative, agents, subcontractors, and employees.

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

AFFIDAVIT No. 4
(1 of 1)

AFFIDAVIT re ETHICAL STANDARDS

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

_____ [state name of affiant signing below], being first duly sworn,
deposes and says that:

The affiant is _____ [state one of the following: the Offeror, a partner of the Offeror, an officer of the Offeror] making the foregoing identified bid or proposal. To the best of affiant's knowledge, neither affiant nor any officers, representatives, agents, subcontractors or employees or offeror have knowingly influenced any government of Guam employee to breach any of the ethical standards set forth in 5 GCA Chapter 5, Article 11. Further, affiant promises that neither he or she, nor any officer, representative, agents, subcontractor, or employee of offeror will knowingly influence any government of Guam employee to breach any ethical standards set forth in 5 GCA Chapter 5, Article 11. These statements are made pursuant to 2 GAR Division 4 § 11103(b).

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

AFFIDAVIT No. 5
(1 of 1)

AFFIDAVIT re CONTINGENT FEES

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

_____ [state name of affiant signing below], being first duly sworn,
deposes and says that:

1. The name of the offering company or individual is [state name of company]
_____.

2. As a part of the offering company's bid or proposal, to the best of my knowledge,
the offering company has not retained any person or agency on a percentage,
commission, or other contingent arrangement to secure this contract. This statement is
made pursuant to 2 GAR Division 4 11108(f).

3. As a part of the offering company's bid or proposal, to the best of my knowledge,
the offering company has not retained a person to solicit or secure a contract with the
government of Guam upon an agreement or understanding for a commission,
percentage, brokerage, or contingent fee, except for retention of bona fide employees or
bona fide established commercial selling agencies for the purpose of securing business.
This statement is made pursuant to 2 GAR Division 4 11108(h).

4. I make these statements on behalf of myself as a representative of the Offeror,
and on behalf of the Offeror's officers, representatives, agents, subcontractors, and
employees.

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

AFFIDAVIT No. 6
(1 of 1)

**RESTRICTION AGAINST CONTRACTORS EMPLOYING CONVICTED SEX OFFENDERS
FROM WORKING AT GOVERNMENT OF GUAM VENUES**

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

_____, being first duly sworn, is _____
(NAME OF PERSON) (PLEASE STATE "INDIVIDUAL" IF SOLE PROPRIETOR; "PARTNER" IF A PARTNERSHIP; OR "OFFICER" IF A CORPORATION)

of _____ TEL: _____
(OFFEROR AND MAILING ADDRESS) (TELEPHONE NUMBER)

and a duly authorized representative of said Offeror on whose behalf this affidavit is being submitted. Said Offeror has affirmed that he/she has read and understands the provisions of **5 GCA, §5253 RESTRICTION AGAINST CONTRACTORS EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES.**

The offeror understands that:

- (1) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway.

Further, the offeror represents:

- (1) that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and;
- (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

AFFIDAVIT No. 7
(1 of 2)

CONFLICT OF INTEREST DISCLOSURE AND STATEMENT OF UNDERSTANDING

TERRITORY/STATE/COUNTRY OF _____)
CITY OF _____) ss

_____, being first duly sworn, is _____
(NAME OF PERSON) (PLEASE STATE "INDIVIDUAL" IF SOLE PROPRIETOR; "PARTNER" IF A PARTNERSHIP; OR "OFFICER" IF A CORPORATION)

of _____, and a duly authorized
(NAME OF OFFEROR; MAILING ADDRESS, TELEPHONE NO.)

representative of said offeror on whose behalf this affidavit is being submitted. Said Offeror submitted a proposal in response to the Guam Visitors Bureau ("GVB") Request for Proposals for the Tourism Destination Marketing Representation Services in the Republic of Korea (RFP). Said GVB RFP request for proposals from established sales and marketing companies qualified with knowledge and capabilities to provide Tourism Destination Marketing Representation Services in the Republic of Korea, as described in the Scope of Services.

The Offeror understands that:

- A. It is GVB's policy to insure the integrity of its procurement process and that any conflict of interest by anyone involved in the procurement process must be disclosed.
- B. Any effort to influence the procurement process may be a breach of a public trust and a breach of the standards of ethical conduct, and that violations of the standards of ethical conduct may lead to criminal and civil sanctions.
- C. It is a breach of a public trust and/or the standards of ethical conduct and an anticompetitive practice if an Offeror reduces or eliminates competition or restrains trade as a result of an agreement or understanding among competitors or as a result from illicit business actions which have the effect of restraining trade.
- D. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of the Offeror as an inducement for the procurement award.
- E. It is a breach of ethical standards for a person to be retained by the Offeror to solicit or secure a territorial contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee for the purpose of securing a procurement award.
- F. All proceedings and information derived from any part of the procurement process are confidential. It is a breach of ethical standards for an Offeror to use confidential information for actual or anticipated gain of the Offeror, or for the actual or anticipated gain of any other person.

AFFIDAVIT No. 7
(2 of 2)

- G. Upon discovery of an actual or potential conflict of interest as stated herein, Offeror shall promptly file a written statement of disqualification and shall withdraw from further participation in the procurement process and/or the transaction involved.

I have read this Conflict of Interest Disclosure and Statement of Understanding and agree, on behalf of the Offeror, to comply with the ethical standards set forth above.

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a Partnership;
Officer, if the bidder is a Corporation.

Subscribed and sworn to before me this ___ day of _____, 201__.

Notary Public

My Commission Expires _____

FORM 1

DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION

RFP No: GVB RFP 2016-006

Name of Offeror Company: _____

I, _____ hereby certify under penalty of perjury:

- (1) That I am _____ [please select one: the offeror, a partner of the offeror, an officer of the offeror] making the bid proposal in the foregoing identified procurement;
- (2) That I have read and understand the provisions of 5 GCA § 5801 and § 5802 which read:

§ 5801. Wage Determination Established.

In such cases where the government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation ('contractor') for the provision of a service to the government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the Government of Guam.

The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

§ 5802. Benefits.

In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.

- (3) That the Offeror is in full compliance with 5 GCA § 5801 and § 5802, as may be applicable to the procurement referenced herein;
- (4) That I have attached the most recent wage determination applicable to Guam issued by the U.S. Department of Labor.

Signature

Date

FORM 2

CONTACT FOR CONTRACT NEGOTIATION

RFP NUMBER: GVB RFP 2016-006

NAME	
TITLE	
COMPANY	
MAILING ADDRESS	
TELEPHONE NUMBER	
FACSIMILE NUMBER	
EMAIL	



PRINT AD

Scheduled Run Date: WEDNESDAY, November 25, 2015
Newspaper: Guam Daily Post

REQUEST FOR PROPOSALS

**TOURISM DESTINATION MARKETING REPRESENTATION
SERVICES IN THE REPUBLIC OF KOREA**

GVB RFP #2016-006

The Guam Visitors Bureau (GVB), a public non-stock, non-profit, membership corporation, issues this Request for Proposal ("RFP") GVB RFP 2016-006 TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA soliciting proposals from established firms to provide Tourism Destination Marketing Representation Services in the Republic of Korea. Specific duties are outlined in the Scope of Work. The contractual obligation shall be for a one-year period, with two one-year options to renew, total of three (3) years (FY2016, FY2017, and FY2018) and is subject to fiscal year-end performance reviews, availability and certification of funds from fiscal year to fiscal year.

The Request for Proposal (USB format) may be obtained at the GVB Office, 401 Pale San Vitores Road, Tumon, Guam, beginning Wednesday, November 25, 2015, 8:00 AM - 5:00 PM, Monday - Friday. A non-refundable \$25.00 fee is required for each packet picked up at the GVB office. Methods of payment are:

- (1) US\$ Cash
- (2) Bank Wire Transfer
- (3) Major Credit Card (Visa, MasterCard, Discover, JCB)

The packet can also be downloaded at no cost from GVB's website at www.guamvisitorsbureau.com.

Submission deadline is 5:00 p.m. Chamorro Standard Time on Monday, February 8, 2016. Proposals shall be submitted to the attention of the General Manager. Questions, if any, should be made in writing to the General Manager, which can be dropped off at the GVB office; emailed to procurement@visitguam.org; or sent by fax to 646-8861 according to the timeline provided in the RFP.

GVB reserves the right to reject any or all bids, solicit new bids, waive minor informalities or irregularities or award GVB RFP 2016-006 TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA, in whole or in part. Except to the above person named, direct or indirect contact with the GVB Management or Staff, Board Member, or any person participating in the selection process is prohibited.


JON NATHAN DENIGHT
General Manager

This advertisement was paid for by the Tourist Attr:



REQUEST FOR PROPOSALS

TOURISM DESTINATION MARKETING REPRESENTATION SERVICES IN THE REPUBLIC OF KOREA

GVB RFP #2016-006

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/s/ JONNATHAN DENIGHT
General Manager

This advertisement was paid for by the Tourist Attraction Fund.

GUAM VISITORS BUREAU | SETBIJION BISITAN GUAHAN
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278 | www.visitguam.com





1

November 24, 2015

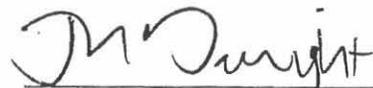
MEMORANDUM

To: File

From: General Manager/Chief Procurement Officer

RE: Certain Determinations Made Pursuant to 2 Guam Administrative Rules and Regulations §3114(c)(1)(2)(3)&(4)

1. In my capacity as Chief Procurement Officer for the Guam Visitors Bureau, I have made the following determinations;
 - A. That the services to be solicited are among those services specified in 2 Guam Admin. R. & Reg. §3114§3114(a);
 - B. That a reasonable inquiry has been conducted, and I have concluded, that the territory does not have the personnel nor resources to perform the services required under the proposed contract;
 - C. That the nature of this proposed contract resulting from the solicitation of RFP 2016-006 Tourism Destination Marketing Representation Services in the Republic of Korea is to seek a professional liaison service to promote the goals and objectives of GVB in the Republic of Korea;
 - D. That to ensure the continuity of services in the Republic of Korea and to ensure that GVB goals and objectives are met through the revision of the marketing strategy in the revised scope of services for this RFP, I have concluded that it is in the best interest of the territory for this contract to be re-solicited at this time.
2. The Guam Visitors Bureau has developed, and fully intends to implement, a written plan for utilizing the services solicited in this Request for Proposals which will be included in the contractual statement of work.



JON NATHAN DENIGHT
General Manager



EXHIBIT B



March 10, 2016

Mr. Henry Hun Soo Lee
President
TLK Marketing Co., Ltd.
Kory Bldg., Room 616
24 Sinmunro 1-Ga, Jongro-gu,
Seoul, Korea 110-796

Re: GVB RFP 2016-006 Tourism Destination Marketing Representation Services in
the Republic of Korea; Notice of Non-Selection

Håfa Adai Mr. Lee:

Thank you for your response to GVB RFP 2016-006 Tourism Destination Marketing Representation Services in the Republic of Korea. After careful review and evaluation, GVB has selected another company as the best qualified Offeror. Please see attached summary of evaluations.

GVB is truly grateful for your support over many years of service and we appreciate the time and effort you put in to your proposal for this project. We hope that as other opportunities arise, you continue to engage in the process and submit a proposal.

If you have any questions of concerns, please feel free to contact our office at (671) 646-5278.

Senseramente',

JON NATHAN DENIGHT
General Manager

GVB RFP 2016-006 Tourism Destination Marketing Representation Services in the Republic of Korea
 Proposal Evaluation - held TUE 2/16/16; 9am
 Oral Presentations - held THU 2/25/16; 8:30-11:45

SUMMARY OF EVALUATIONS

Criteria (#) x (4) number of evaluators

Executive Summary and Commitment (35)
 Staff Qualifications and Past Performance (35)
 Organizational Structure and Chart (15)
 References (10)
 Primary Point of Contact (5)
 TOTAL

Max. # of Points	PROMACC	TLK	EDELMANN	HIC
140	98	129	89	130
140	134	128	108	127
60	53	47	41	52
40	40	40	1	37
20	18	20	11.5	20
400	343	364	250.5	366

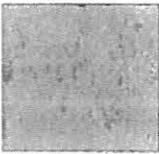
WRITTEN PROPOSAL MAX # OF POINTS (100x4)

400 343/400 364/400 250.5/400 366/400

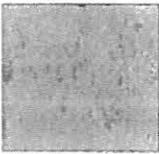
WRITTEN PROPOSAL AVERAGE:

100.00% 86.00% 91.00% 63.00% 91.50%

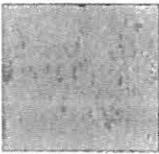
ORAL PRESENTATION MAX # OF POINTS (80 x 4)

320 240/320 256.50/320  282.50/320

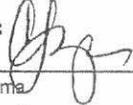
ORAL PRESENTATION AVERAGE:

100.00% 75.00% 80.16%  88.28%

COMBINED AVERAGE PERCENTAGE:

100.00% 80.50% 85.58%  89.89%

Compiled by:


 Christine Lizama
 Management Analyst

Certified by:

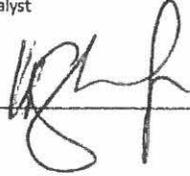

 Lisa Linek
 Accountant III

EXHIBIT C

CIVILLE & TANG, PLLC

www.civilletang.com

Sender's Direct E-Mail:
jtang@civilletang.com

March 24, 2016

VIA HAND DELIVERY

Mr. Jon Nathan Denight
General Manager
GUAM VISITOR'S BUREAU
401 Pale San Vitores Road
Tumon, Guam 96913

**Re: SUNSHINE ACT REQUEST RE: OF RFP FOR PROPOSAL –
TOURISM DESTINATION MARKETING REPRESENTATION
SERVICES IN THE REPUBLIC OF KOREA (GVB RFP NO. 2016-
006)**

Dear Mr. Denight:

Our office represents TLK Marketing ("TLK"). TLK requests, pursuant to the Guam Sunshine Act, PL 25-06 and 5 G.C.A. §10101, *et seq* copies of the following documents:

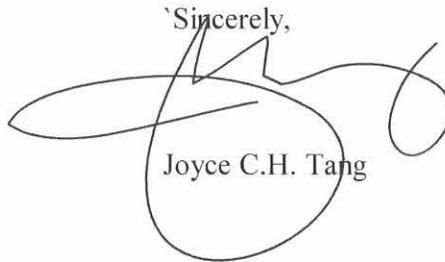
1. The Procurement Record kept in GVB RFP No. 2016-006 related to the Tourism Destination Marketing Representation Services in the Republic of Korea (GVB RFP No. 2016-006) (the "RFP");
2. A copy of HIC's proposal submitted in response to the RFP ("HIC Proposal").
3. Any and all correspondence, e-mails and documents relating to the selection, negotiation and award of the contract to HIC.
4. Any and all correspondence, e-mails and documents (including each evaluator's score sheet, reviewer's notes, internal memorandum, minutes of meeting and transcripts) relating to the evaluation of HIC's Proposal.
5. Any and all correspondence, e-mails and documents (including minutes of meetings and transcripts) regarding GVB's request that TLK accept HIC as a subcontractor under TLK FY2015 contract with GVB; and
6. Any and all correspondence, e-mails and documents relating to licenses and certifications of HIC relied upon by the GVB to determine that offeror HIC is a qualified professional tourism destination marketing agency with a minimum of 5 years extensive and consistent experience

Mr. Jon Nathan Denight
March 24, 2016
Page 2

working with the Republic of Korea travel trade, close relationship with the Korean government and the US Embassy.

If you are refusing to produce documents responding to any of these requests, please cite each specific exemption justifying the refusal to release the information. We look forward to your prompt and expeditious response.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above the printed name.

Joyce C.H. Tang

EXHIBIT D

FISHER & ASSOCIATES
ATTORNEYS AT LAW

LETTER OF TRANSMITTAL

TO: Civile & Tang
FROM: Thomas J. Fisher
DATE: 07 April 2016
RE: Response to your Sunshine Act Request.
GVB RFP No. 2016-006
VIA: Hand Delivery

FOR YOUR FILE FOR YOUR SIGNATURE FOR YOUR REVIEW PER YOUR REQUEST URGENT

THE FOLLOWING ARE ENCLOSED:

Response to your Sunshine Act Request; Tourism Destination Marketing Representation Services in the Republic of Korea. GVB RFP No. 2016-006

RECEIVED
CIVILLE & TANG
A Professional Limited Liability Company

DATE: 4/7/16
TIME: 2:07 AM PM BY: RML

EXHIBIT E

CIVILLE & TANG, PLLC

www.civilletang.com

Sender's Direct E-Mail:
jtang@civilletang.com

April 21, 2016

VIA HAND DELIVERY

Mr. Jon Nathan Denight
General Manager
GUAM VISITOR'S BUREAU
401 Pale San Vitores Road
Tumon, Guam 96913

Re: **TLK MARKETING'S SECOND PROTEST OF RFP FOR PROPOSAL –
TOURISM DESTINATION MARKETING REPRESENTATION
SERVICES IN THE REPUBLIC OF KOREA (GVB RFP No. 2016-006)**

Dear Mr. Denight:

TLK Marketing ("TLK") previously filed a protest on March 24, 2016. TLK hereby files its second protest of the Request for Proposal process for the Tourism Destination Marketing Representation Services in the Republic of Korea (GVB RFP No. 2016-006) issued on November 25, 2015 (the "RFP"). This protest is made pursuant to 2 GAR Div. 4 §9101.

The Guam Visitors' Bureau ("GVB") issued the RFP on November 25, 2015 seeking proposals from "professional and experienced companies" to be GVB's marketing representative in Korea.

Four proposals were submitted. On February 16, 2016, the proposals were evaluated by the Evaluation Team comprising of four members: Norman Analista, Gina Kono, Samuel Shinohara, and Telo Taitague.

GVB was required to comply with the procurement requirements of the RFP and Guam Procurement Law. GVB did not comply with the procurement requirements, and because of these violations and failure to comply, the award of the putative contract to HIC, Inc. was unlawful and void. The four violations are discussed below.

GVB VIOLATIONS OF THE RFP AND PROCUREMENT LAW

1. GVB Colluded with HIC, Inc. to Violate the RFP and Guam Procurement Law by Withholding Information Regarding the Ranking and Award of the Contract to Deprive the Offerors of Their Rights Under the Guam Procurement Law.

On March 4, 2016, Gina Kono, a Marketing Officer II with GVB notified Mr. Don Park (HIC, Inc.) by e-mail that HIC was selected as the most qualified offeror. The email communication stated the following:

THIS COMMUNICATION IS BEING SENT TO YOU AT THE INSTRUCTIONS OF GVB GENERAL MANAGER, MR. JON NATHAN DENIGHT.

Hafa Adai,
Don,
Congratulations,

Happy Idea Company (HIC) was selected as the highest rated and most qualified offeror for the Tourism Destination Marketing Representative Services in the Republic of Korean.

* * * *

Should you have questions or want to counter-offer the fee, please reply to this email at your earliest convenience.

Attached is our negotiation document indicating an offer on the contract monthly retainer fee along with the scope of work. . . .

GVB did not notify TLK or the two other offerors of the ranking and selection of HIC, Inc. as the “highest rated and most qualified offeror.” TLK, along with the three other Offerors, received a “Notice of Non-Selection” from GVB six (6) days later, on March 10, 2016. The evaluation Memorandum dated February 16, 2016, confirms that “[a] notice of non-selection will be sent to the lowest rated Offeror.” In this instance, GVB treated HIC preferentially by giving HIC information regarding the ranking, and delayed and improperly withheld this information from the other Offerors for at least six (6) days to cut off the rights of parties to file protest.

On March 9, 2016, Ms. Kono contacted HIC urging Mr. Park to “urgently respond to...GVB RFP2016-006 Retainer Fee Negotiation communication....” Ms. Kono reiterated that: “GVB General Manager would like to finalize the RFP and finalize all the necessary paperwork and communications to the other offerors.” In closing, she said:

BTW, I was contacted by someone mentioning that HIC is communicating with the Korea media announcing that they have successfully been awarded the GVB Marketing Representative contract. **Please refrain from publicly mentioning this until we have finalized the negotiations and signed a contract. We do not want any protest from the other offerors....**”

Mr. Park’s response was: “I heard that Anna received only one phone call from one of the newspaper company, and she said that there is nothing she can talk about [sic] it now. **I promise [sic] you that we have not mentioned about the results of the RFP, and also will not mention it until the contract is all done (emphasis added).**”

As further evidence of its collusion with HIC, GVB sent two letters to HIC both of which are dated March 9, 2016:

(a) The *Notice of Intent to Award* notifying HIC that it was “selected as the highest rated and most qualified offeror” with a copy of the summary of evaluation, and that GVB will be contacting HIC to begin negotiations.¹

(b) The *Notice of Award* notifying HIC that it had been awarded the contract, enclosing a copy of the contract for HIC’s signature.² The contract was enclosed with the letter. HIC signed the contract on March 11, 2016.

Neither TLK nor the other Offerors, received notice that HIC was selected as the “highest rated and most qualified offeror” until March 10, 2016, when GVB sent TLK the “*Notice of Non-Selection*”, notifying HIC that GVB had “selected another company as the best qualified Offeror, attaching a copy of the evaluation summary. To this date, GVB has not provided the Notice of Award to TLK or the other Offerors.

Section 3.32 of the RFP required GVB to notify “all Offerors of the results of the award. Written notice of award will be public information and made a part of the contract file.” In colluding with HIC, GVB failed to comply with the requirements of Section 3.32.

¹ On March 10, 2016, Ms. Kono wrote to Mr. Park attaching a copy of the Notice of Intent to Award letter. Ms. Kono notes in a second email sent to Mr. Park the same day attaching a copy of “GVB’s Notice of Intent to Award letter in regards to the GVB RFP 2016-006. I was to send this letter with our previous negotiation email [contract] I sent yesterday.”

² On March 10, 2016, Ms. Kono sent a Notice of Award letter to Don Park by email, together with a contract asking him to “review, accept by signing, and then send the contract back as soon as possible.”

2. GVB Failed to Obtain Board Approval After the Procurement Officer Negotiated the “Compensation, Contract Requirements and Contract Documents” as Required In Section 3.10 of the RFP.

The RFP states at 3.10 that “[i]f compensation, contract requirements, and contract documents can be agreed upon with the best-qualified Offeror, and subject to Board approval, the contract shall be awarded to that Offeror. Written notice of award shall be public information and made a part of GVB’s procurement file.” Based on the information provided by GVB, negotiation of the “compensation, contract requirements, and contract document” were completed on March 9, 2016, when a copy of the contract was sent to HIC.

The HIC Contract was signed on March 14, 2016 without prior Board approval. As of the date of this letter, GVB has yet to produce copies of Minutes of GVB Board Meetings relating to the RFP in response to TLK’s March 24, 2016 Sunshine Act Requests. The most recent GVB Minutes of Board Meeting posted on the GVB website are the Board Minutes from the December 10, 2016 Board meeting. In spite of GBV’s refusal to provide copies of the Board Minutes to TLK, TLK obtained a copy of the February 25, 2016 GVB Board Meeting, a motion was made to “authorize the GVB General Manager as Chief Procurement Officer to enter into negotiation and contract with the highest rated and most qualified offeror for GVB RFP 2016-006 Tourism Destination Marketing Representation Services in The Republic of Korea.”

The RFP specifically requires that the Board approve the contract “[i]f compensation, contract requirements, and contract documents can be agreed upon with the best-qualified Offeror...” This can only occur *after* negotiations are completed and the terms are presented to the Board for discussion and approval. This did not happen. The Board has the duty to execute direct oversight over the General Manager, Mr. Denight, and the management of GVB. The Board members cannot delegate their fiduciary duties and duty of care to Mr. Denight or management. Because the HIC contract was not approved by the Board, GVB improperly awarded the contract.

3. HIC Failed to Disclose In the Affidavit Disclosing Ownership and Commission Karl Pangelinan’s Involvement in this RFP.

Karl Pangelinan is a consultant for HIC, and presented HIC’s proposal to the evaluators. Nowhere in HIC’s Proposal is Mr. Pangelinan’s relationship disclosed. The Affidavit Disclosing Ownership and Commission submitted under penalty of perjury, that no one received “commission, gratuity, or other compensation for procuring or assisting in obtaining business related to the bid or proposal.”

B. Further, I say that the persons who have received or are entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or proposal for which this affidavit is submitted are as follows [if none, please so state]:

<u>NAME</u>	<u>ADDRESS</u>	<u>Compensation</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>

Also, Mr. Pangelinan was not listed as a member of the HIC Team. Thus, this was a false statement because Mr. Pangelinan is a consultant to HIC and assisted HIC with obtaining the business related to the bid. Mr. Pangelinan was General Manager for GVB until his resignation, which was effective on January 31, 2015.³ The RFP was published in the newspaper and made available on November 24, 2015. The deadline for submission of proposals was February 8, 2016. Mr. Pangelinan was barred from contracting with HIC until one year after leaving GVB, which at earliest would have been February 1, 2016. Any involvement with the RFP prior to February 1, 2016, would be a violation of Guam's procurement code as codified at 5 GCA 5632(b) and 5632(c).

HIC's failure to disclose Mr. Pangelinan's consultant contract is a violation of the the RFP and the Guam Procurement laws and regulations,

4. HIC Misrepresented Its Experience by Relying on SD Pharm's Experience to Meet the 5 Year Experience Requirement.

HIC failed to disclose in its Proposal that HIC was registered as a company in Korea on August 31, 2011, which means at the time of the submission of the Proposal (February 5, 2016), it had only been established for 4 years and 5 months.

Page 10 of HIC's Proposal sets forth the Corporate History of HIC:

Corporate History

2006

- Founded "SD Pharm" (In Incheon)
- Signed marketing services contracts with Yuhan Corporation, Jeil Pharmaceutical Co., Ltd and Dachan Pharmaceutical Co., Ltd.

2007

- Signed marketing services agreement with LG Life Sciences

2008

- Signed marketing services agreement with CJ

2012

- Signed marketing services agreement and right of publicity contract with KPBPA

2013

- Signed Exchange Agreement of College-Industry Cooperation with the Catholic University of Korea

2015

- Entered into an agreement as GVB's Korea PR Agency

³ See, <https://www.guamvisitorsbureau.com/news/news-releases/pangelinan-resigns-as-general-manager-of-the-guam-visitors-bureau>

Mr. Jon Nathan Denight
April 21, 2016
Page 6

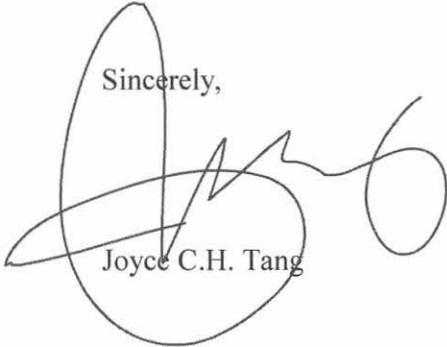
The Corporate History of HIC states 2006 as the year in which HIC's business commenced. The reference to 2006 as HIC's commencement date is a false statement because the 2006 reference is for the separate corporate entity of SD Pharm. HIC actually came into existence on August 31, 2011. The reference to "Founded 'SD Pharm'" is misleading. HIC does not disclose what the relationship is between SD Pharm and HIC and why SD Pharm's experience should be considered in determining the qualifications of this Offeror. There is simply no information provided.

The failure to disclose the fact that HIC had not been in existence for 5 years at the time the Proposal was submitted, and the misleading statements made in reference to SD Pharm in order to meet the 5 year minimum experience requirement, are separate and independent grounds for disqualifying the Offeror and finding the Offeror was not qualified. *See*, §1.1, RFP (an Offeror must have "a minimum of 5 years extensive and consistent experience working with the Republic of Korea travel trade, close relationship with the Korean government and the US Embassy....").

Each of the violations discussed in this Protest is a separate and independent ground for a determination that HIC is not qualified and that the award of the putative contract was based on collusion and wrongful acts.

TLK was the first ranked *responsive* offeror. GVB should have negotiated with TLK and awarded the contract to TLK. The ranking of HIC as the highest offeror, and the putative contract dated March 14, 2016 should be set aside. We look forward to your prompt and expeditious resolution of this protest. Please do not hesitate to contact me if you have further questions or comments.

Sincerely,



Joyce C.H. Tang

EXHIBIT F



RECEIVED
CIVILLE & TANG
A Professional Limited Liability Company

DATE: 5/25/16
TIME: 9:15 AM BY: RML

May 24, 2016

Ms. Joyce C.H. Tang
Civille & Tang, PLLC
Ste. 200, 330 Hernan Cortez Ave.
Hagåtña, GU 96910

In re a Protest, GVB RFP No. 2016-006

Dear Ms. Tang,

On 21 April 2016 you delivered a letter to the Guam Visitors Bureau (GVB) in regard to our Request for Proposals, 2016-006 Tourism Destination Marketing Representation in the Republic of Korea (RFP). By that letter you, on behalf of your client TLK Marketing, made a second protest of the solicitation based upon 2 Guam Admin. R. Reg. §9101. *See your Letter of 21 April 2016.*

In that letter, you cite four reasons for protest; that the Guam Visitors Bureau colluded with successful offeror to deprive others of rights under Guam's procurement laws, that GVB failed to obtain Board approval of the contract with successful offeror, that successful offeror did not disclose a former General Manager's association with it, and that successful offeror misrepresented its experience. Because none of these allegations has merit or are otherwise untimely, your protest is denied.

Without any evidence, you state that the GVB "colluded" with successful offeror to "cut off the rights of parties to file protest(s)". *See your letter at p.2.* The GVB notes that you have in fact filed a protest; it is difficult to see therefore how such a right has been "cut off" nor how TLK is aggrieved. You also state that the GVB violated section 3.32 of the RFP when it failed to notify you of the results of the award. *Id at p. 3.* In this same letter though you admit you did receive notice and state "[n]either TLK nor the other Offerors received notice that HIC was selected as the 'highest rated and most qualified offeror' until March 10, 2016, when GVB sent TLK the 'Notice of Non-Selection' notifying HIC(sic) that GVB had "(sic) selected another company as the best qualified Offeror, attaching a copy of the evaluation summary." *Id.*

Next you state that the GVB failed to obtain Board approval of a negotiated contract. *Id at p.4.* Assuming the truth of this, it avails TLK nothing. A failure to obtain Board approval does not indicate the parties were unable to agree upon terms, and assuming that we had not, the GVB is not obliged to negotiate with TLK for a contract. In any case, as you state, the Board authorized the GVB to enter into negotiation and contract with the highest rated and most qualified offeror for GVB RFP 2016-006. *Id.* This happened and the contract was properly awarded.

You also state that the successful offeror failed to disclose that Mr. Karl Pangelinan was involved (as you say) in the RFP. It is your belief, we think, that Mr. Pangelinan received a "commission, gratuity, or other compensation for procuring or assisting in obtaining business related to the bid or proposal" *Id.* You also say that Mr. Pangelinan "was not listed as a member of the HIC Team

Page 1 of 2



(sic). Thus , this was a false statement because Mr. Pangelinan is a consultant to HIC and assisted HIC with obtaining the business related to the bid (sic)." *Id at 5*. We have examined your protest and see that you provide no evidence that Mr. Pangelinan improperly received anything for procuring or assisting in obtaining business related to the proposal or if he did, that this was required to be disclosed in an affidavit submitted with the proposal. Additionally, assuming an ethical breach by a former employee, you have failed to provide any evidence that this injured TLK. Finally, this protest is untimely since you have been aware of Mr. Pangelinan's involvement for more than the time allotted to protest.

Finally, you again raise the issue of the length of existence of HIC. This protest is not timely raised since you have been aware of the substance of HIC's proposal for more that the allotted time to protest. In any case, and your ipse dixit relating to SD Pharm notwithstanding, the GVB has concluded based upon a review of the entire proposal that HIC does qualify for award of the contract and was the first ranked responsive and responsible offeror.

Please be aware that TLK Marketing has a right to judicial and administrative review of this decision. See 5 Guam Code Ann. §5425(c)(2).

Senseramente',



JON NATHAN DENIGHT
President & CEO
Guam Visitors Bureau

EXHIBIT G



Gina Kono <gina.kono@visitguam.org>

RE: GVB RFP 2016-006

1 message

박세동 <psduj@hanmail.net>

Fri, Mar 4, 2016 at 8:53 PM

To: gina.kono@visitguam.org

Cc: 윤호석 <jacob_yoon@hicompany.co.kr>, Anna Kim <anna_kim@hicompany.co.kr>, Colleen Cabedo <colleen.cabedo@visitguam.org>, Pilar Laguana <pilar.laguana@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>, Christine Lizama <chris.lizama@visitguam.org>

Hafa Adai Gina,

Thank you for your kind email.

It is our great honor to be selected as the most qualified offeror. We look forward to continue working with GVB on this exciting journey, and will make our utmost effort to establish a positive Guam reputation among the Korean consumers.

I will review the document and respond to you as soon as possible.

Sincerely,

Don

----- 원본 메일 -----

보낸사람: Gina Kono <gina.kono@visitguam.org>

받는사람 : Don Park <psduj@daum.net>

참조 : 윤호석 <jacob_yoon@hicompany.co.kr>, Anna Kim <anna_kim@hicompany.co.kr>, Colleen Cabedo <colleen.cabedo@visitguam.org>, Pilar Laguana <pilar.laguana@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>, Christine Lizama <chris.lizama@visitguam.org>

날짜: 2016년 3월 04일 금요일, 16시 52분 49초 +0900

제목: GVB RFP 2016-006

**THIS COMMUNICATION IS BEING SENT TO YOU AT THE
INSTRUCTIONS OF GVB GENERAL MANAGER, MR. JON NATHAN**

DENIGHT.

Hafa Adai

Don ,

Congratulations,

Happy Idea Company (HIC) was selected as the highest rated and most qualified offeror for the Tourism Destination Marketing Representation Services in the Republic of Korea.

Attached is our negotiation document indicating an offer on the contract

monthly retainer fee along with the scope of work. We would like you to review this document and as noted, should you accept our offer, please initial on the space provided for the contract offered price and the itemized expected requirements and services. Once you have completed the document, please send it back to us so that we can draw up the contract.

Should you have any questions or want to counter-offer the fee, please reply to this email at your earliest convenience. Thank you for your attention.

PS - I understand that you will be coming to Guam with the actresses and film crew for the documentary program "Person is Good". However, I hope you can review and respond to our offer at your earliest convenience. Appreciate your cooperation.

Senseramente' (Sincerely),

Gina Kono

Marketing Officer II, Marketing Department

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

gina.kono@visitguam.org | www.visitguam.org



Like us on Facebook

Don Park 박세동
 Director 대표이사
 Medicastle #901,9f,464-1 Samsan-dong, Bupyeong-gu,
 Incheon, 403-090 Korea
 Tel. 032-507-4162 / Fax. 032-507-4164
 Email: psduj@daum.co.kr



EXHIBIT H



Gina Kono <gina.kono@visitguam.org>

RE: GVB Korea Marketing Representative RFP

1 message

박세동 <psduj@hanmail.net>

Wed, Mar 9, 2016 at 3:06 PM

To: gina.kono@visitguam.org

Cc: Anna Kim <anna_kim@hicompany.co.kr>, 윤호석 <jacob_yoon@hicompany.co.kr>, Colleen Cabedo <colleen.cabedo@visitguam.org>

Hafa Adai Gina,

Thank you for your email.

I just got to the office and signed the document. I will send it to you as soon as I finish scanning the document right after this email.

I would like to let you know we have not contacted any Korean media regarding the announcement. As you know, I arrived in Korea this morning.

I also checked with Anna and Gemma if they contacted any medias, but they didn't as well. I heard that Anna received only one phone call from one of the newspaper company, and she just said that there is nothing she can talk about it now. I promise you that we have not mentioned about the result of RFP, and also will not mention it until the contract is all done.

Sincerely,

Don

----- 원본 메일 -----

보낸사람: Gina Kono <gina.kono@visitguam.org>

받는사람 : Don Park <psduj@daum.net>

참조 : Anna Kim <anna_kim@hicompany.co.kr>, 윤호석 <jacob_yoon@hicompany.co.kr>, Colleen Cabedo

<colleen.cabedo@visitguam.org>

날짜: 2016년 3월 09일 수요일, 11시 25분 05초 +0900

제목: GVB Korea Marketing Representative RFP

Hafa Adai Don,

Hope your visit to Guam was successful and your flight back to Korea was pleasant and comfortable.

Don, I am emailing you to request if you can urgently respond to our GVB RFP2016-006 Retainer Fee Negotiation communication? GVB General Manager would like to finalize the RFP and finalize all the necessary paperwork and communications to the other offerors.

BTW, I was contacted by someone mentioning that HIC is communicating with the Korea media announcing that they have successfully been awarded the GVB Marketing Representative contract. Please refrain from publicly mentioning this until we have finalized the negotiations and signed a contract. We do not want any protest from the other offerors. Thank you for your understanding.

Please urgently get back to us today.

Senseramente' (Sincerely),

Gina Kono

Marketing Officer II, Marketing Department

GUAM VISITORS BUREAU

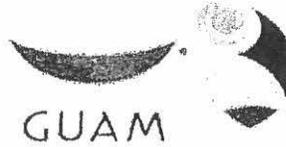
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

gina.kono@visitguam.org | www.visitguam.org



Like us on Facebook

Don Park 박세동
Director 대표이사
Medicastle #901,9f,464-1 Samsan-dong, Bupyeong-gu,
Incheon, 403-090 Korea
Tel. 032-507-4162 / Fax. 032-507-4164
Email: psduj@daum.co.kr



D psduj@hooonmail.net

EXHIBIT I



Gina Kono <gina.kono@visitguam.org>

GVB Tourism Destination Marketing Representation Services in the Republic of Korea FY2016

1 message

Gina Kono <gina.kono@visitguam.org>

Thu, Mar 10, 2016 at 12:32 PM

Reply-To: gina.kono@visitguam.org

To: Don Park <psduj@daum.net>

Cc: 윤호석 <jacob_yoon@hicompany.co.kr>, Anna Kim <anna_kim@hicompany.co.kr>, Jon Nathan Denight <nathan.denight@visitguam.org>, Pilar Laguana <pilar.laguana@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>, Christine Lizama <chris.lizama@visitguam.org>, Rose Cunliffe <rose.cunliffe@visitguam.org>

Hafa Adai Don,

Thank you for accepting our negotiated representation retainer fee and monthly out of pocket cost estimate. I look forward to continue working together to promote Guam and bring greater awareness to the Korean general public.

Attached is GVB's Notice of Award letter and the contract that we would like you to review, accept by signing, and then send the contract back as soon as possible.

We are also sending an original version of our Notice to Award and the contract today. Upon receipt of the courier delivery, please once again, sign the original contract and send it back via courier for GVB General Manager and GVB Controller signatures. Once all signatures are affixed we will make a copy for your files and send it to you.

Thank you and should you have any questions, please let us know. Hope to hear back from you at your earliest convenience.

Senseramente' (Sincerely),

Gina Kono

Marketing Officer II, Marketing Department

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

gina.kono@visitguam.org | www.visitguam.org



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 **NTA and contract 031016.pdf**
2436K



Gina Kono <gina.kono@visitguam.org>

GVB RFP 2016-006 Notice of Intent to Award

1 message

Gina Kono <gina.kono@visitguam.org>

Thu, Mar 10, 2016 at 7:11 PM

Reply-To: gina.kono@visitguam.org

To: Don Park <psduj@daum.net>

Cc: 윤호석 <jacob_yoon@hicompany.co.kr>, Anna Kim <anna_kim@hicompany.co.kr>, Jon Nathan Denight <nathan.denight@visitguam.org>, Christine Lizama <chris.lizama@visitguam.org>, Pilar Laguana <pilar.laguana@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>

Hafa Adai Don,

Please find attached GVB's Notice of Intent to Award letter in regards to the GVB RFP 2016-006. I was to send this letter with our previous negotiation email I sent yesterday.

This is for your file and information.

Senseramente' (Sincerely),

Gina Kono

Marketing Officer II, Marketing Department

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EXHIBIT J

Partial Transcription of February 25, 2016 GVB Board of Directors Meeting

[Discussion of RFP begins at 1:09:50]

Im: I have ah, one motion. Uh, I think right now we have ah, a RFP for Korea market going on this morning. So Motion to Recommend Board Approval to Authorize the GVB General Manager as Chief Procurement Officer to Enter Into Negotiation and Contract with the Highest Rate and Most Qualified Offeror for GVB RFP 2016-006: Tourism Destination Marketing Representation Service in the Republic of Korea.

Baldyga: May I have a second please?

Shinohara: Second.

Baldyga: Thank you. Nate, any update?

Denight: Uh, yeah so the committee did the um, uh the ---

Baldyga: Evaluation--

Denight: --The first evaluation and they did the uh, in person interviews with the companies this morning--

Baldyga: Oh, good.—

Denight: And, and so uh—

Baldyga: So four hours... Wow—

Denight: --So four hours, yeah. So we're still, we're still in the process of tallying the, the results but at that point we would want to start ah, negotiations with the highest rated proposer as our standard operating procedures.

Baldyga: Alright, makes sense. Any comments or questions? Okay all in favor of approving the motion as stated please say aye.

[Multiple voices]: Aye.

Baldyga: Any opposed, please say nay. The ayes have it and the motion carries. There is no old business, there is no new business, there is no executive session, there is an announcement...

[Meeting turns to other matters at 11:11:18]