



Jerrick Hernandez <jhernandez@guamopa.com>

In Appeal of JJ Global Services - Appeal Case No. OPA-PA-21-013

Anissa Senior <as@cmlaw.us>

Mon, Dec 6, 2021 at 4:13 PM

To: "jhernandez@guamopa.com" <jhernandez@guamopa.com>

Cc: Vanessa Williams <vlw@vlwilliamsllp.com>, Service LOVW <service@vlwilliamsllp.com>, Rebecca Wrightson <rw@cmlaw.us>

Dear Mr. Hernandez:

Pursuant to the Letter dated October 28, 2021 Re: Notice of Receipt of Appeal – OPA-PA-21-013, please find attached the following document(s) for filing in the above-referenced matter:

1. **Purchasing Agency's Reply in Support of Motion to Dismiss for Lack of Jurisdiction**
2. **Declaration of Joleen M. Evangelista**
3. **Purchasing Agency's Rebuttal to Comments on Statement Answering Allegations of Appeal**

Sincerely,

Anissa-Valene Senior

Legal Secretary

Cabot Mantanona LLP

929 South Marine Corp Drive, Suite 200

[Tamuning Guam 96913](#)

Tel (671)-646-2001

Fax (671)-646-0777

Email: as@cmlaw.us

CONFIDENTIALITY NOTICE: THE FOREGOING MESSAGE, INCLUDING ANY ATTACHMENTS, IS COVERED BY THE ELECTRONIC COMMUNICATIONS PRIVACY ACT, 18 U.S.C. SECTIONS 2510-2521 AND IS SENT BY A LAW FIRM AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM OR WHICH IT IS ADDRESSED AND CONTAINS INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE. ANY SUCH AND ALL SUCH RIGHTS OF PRIVILEGE, CONFIDENTIALITY, AND NON-DISCLOSURE ARE HEREBY CLAIMED AND EXPRESSLY NOT WAIVED. DO NOT READ THE MESSAGE AND ATTACHMENT(S) IF YOU ARE NOT THE INTENDED RECIPIENT. IN ANY EVENT, THE INFORMATION CONTAINED IN THIS E-MAIL TRANSMISSION AND ANY ATTACHMENT IS CONFIDENTIAL AND REMAINS THE PROPERTY OF THE SENDER UNTIL IT IS RECEIVED BY THE INTENDED RECIPIENT. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR PLEASE NOTIFY THE SENDER IMMEDIATELY AND DELETE THE MESSAGE AND ANY ATTACHMENTS WITHOUT RETAINING ANY COPIES. THANK YOU.

3 attachments

 **2021.12-06 - GCC's Reply re Motion to Dismiss for Lack of Jurisdiction OPA-PA-21-013.pdf**
270K

 **2021.12-06 - Decl. J.Evangelista Ex. A re GCC's Reply Rebuttal OPA-PA-21-013.pdf**
219K

 **2021.12-06 - GCC's Rebuttal to JJ Global's Comments OPA-PA-21-013.pdf**
272K

I declare under penalty of perjury of the laws of Guam that the foregoing is true and correct.

Dated this December 3 , 2021.



JOLEEN M. EVANGELISTA

Exhibit A

CONTRACT NO. _____

**CONTRACT
(Custodial Services)**

**JJ Global Services
(Contractor)**

**Guam Community College
(GCC)**

Bid No: GCC-FB-20-007

✓ Amount: \$15,273.76 per month

Place: Guam Community College

FORMAL CONTRACT

THIS AGREEMENT AND FORMAL CONTRACT, made and entered into this 1st day of October 2020, by and between Guam Community College, hereinafter called "GCC", represented by the Contracting officer executing this contract, party of the first part, and JJ Global Services, a corporation of the Territory of Guam, hereinafter called the "Contractor" party of the second part.

WITNESSETH, that whereas the Guam Community College engage services of the Contractor to provide custodial services for the Guam Community College, in accordance with the scope of work set forth in the bid specifications and SOW; and

WHEREAS, Contractor is in the business of providing custodial labor services, as well as other services associated with the upkeep and custodial maintenance of offices, classrooms, and buildings as detailed in the Description of Work; and

WHEREAS, GCC has provided adequate public announcement of the need for such services though an Invitation for Bid No: GCC-FB-20-007 on June 10, 2020 describing the type of services required of the prospective bidder; and

WHEREAS, the "Contractor" is deemed the lowest, responsive, and responsible bidder based on the SOW and amendments set forth in this bid.

NOW THEREFORE, Guam Community College and Contractor for the considerations hereinafter set forth, agree as follows:

I. THE CONTRACTOR AGREES to provide labor, basic hand tools/equipment (i.e. mops, brooms, vacuum cleaners, floor buffers, carts, etc.) and Personal Protective Equipment (PPE) (i.e. gloves, safety glasses/goggles, dust/face mask, etc.) required to provide custodial services following the Description of Work (SOW, B.2) in strict compliance with the contract documents herein mentioned, which are hereby made a part of the contract. The parties may, from time to time due to an extraordinary interruption by a natural cause to the addition or subtraction of services to be rendered by the Contractor, which shall be described and approved by GCC. The following buildings are currently under construction and are not included in the monthly custodial service until GCC receives the occupancy permit: Building 300 and the Forensic DNA Lab.

(a) CONTRACT TERM: The contractor agrees to commence work under this contract upon written notice to proceed which is established as October 1, 2020. The term of this agreement shall be for one (1) year from the effective date with an option to renew for four (4) additional years (one (1) year increments upon approval by GCC. GCC has the unilateral option to use these optional performance periods.

II. COMPENSATION FOR SERVICES: Guam Community College agrees to pay, the Contractor for its services rendered, subject to availability of funds, the amount of \$183,285.12 per year, payable per month the amount of \$15,273.76 . This amount excludes Building 300 and Forensic DNA Lab since these buildings are under construction and will be added when the projects are completed. Contractor shall invoice the Guam Community College for services rendered on a monthly basis.

III. CONTRACT DOCUMENTS: It is hereby mutually agreed that the following list of specifications and documents which are attached hereto, bound herewith or incorporated herein by reference shall constitute the contract documents, all of which are part hereof, and collectively evidence and constitute the contract between the parties hereto, and they are as fully a part of this Agreement as if they were set out verbatim and in full herein, and are designated as follows:

- (a) Instructions to Bidders
- (b) Bid Form
- (c) Bid Schedule
- (d) Bid Bond
- (e) General Provisions
- (f) General Conditions
- (g) Special Provisions
- (h) SOW
- (i) Amendments

IV. LIQUIDATED DAMAGES: The Contractor further agrees to pay to GCC the sum of one-fourth (1/4) of one percent (1%) of the contract amount per calendar day not as a penalty, but as reasonable liquidated damages for breach of this contract by the Contractor by his failing, neglecting or refusing to complete work within the time herein specified and said sums shall be paid for each consecutive calendar day thereafter that the Contractor shall be in default after the time stipulated in the contract for completing the work ready for use and/or operation. Liquidated damages will start after contract completion deadline.

V. SPECIAL PERMITS AND LICENSES: The Contractor shall, at his own expense, procure all permits, certificates, and licenses and shall give notices and necessary reports required by law for the Scope of Work. Failure to maintain required permits and licenses shall be grounds for immediate termination of contract.

VI. CONTROL: The GCC President or the Assistant Director, Planning & Development/Facilities will meet periodically with the Contractor for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems and ensuring that work is being performed according to the standards set.

- VII. JUSTIFICATION OF DELAY:** The Contractor guarantees that the project will be completed within the agreed upon completion date. However, if the Contractor cannot comply with the completion requirement, it is the Contractor's responsibility to advise GCC in writing explaining the cause and reasons for delay.
- VIII. GENERAL COMPLIANCE WITH LAWS:** In the performance of work provided herein, Contractor agrees that it shall be conducted in full compliance with any and all applicable laws, rules and regulation adopted or promulgated by any governmental agency or regulatory body, both territorial and federal. Contractor assumes full responsibility for the payment of all contributions payroll taxes or assessments, territorial or federal, and further agrees to meet all requirements that may be specified under regulations of administrative officials or bodies charged with enforcement of any territorial or federal laws.
- IX. EQUAL EMPLOYMENT OPPORTUNITY:** Section 3.01 OF THE Executive Order 10935 dated march 7, 1965 requires the Contractor not to discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Contractor will take affirmative action to ensure that employees are treated equally during employment without regards to their race, creed, color or national origin.
- X. CONVENANT AGAINST CONTINGENT FEES.** The Contractor warrants that he has not employed any person to solicit or secure the contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give GCC the right to terminate the contract, or in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage or contingent fee. The warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bonafide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.
- XI. OTHER CONTRACTS.** GCC may award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and carefully fit his own work to that provided under other contracts as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor.
- XII. DISPUTES.** Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the President of Guam Community College whose decision shall be final and conclusive upon the parties thereto. In the meantime, the Contractor shall diligently proceed with the work as directed.

- XIII. CONTRACT BINDING.** It is agreed that this contract and all the Covenants hereof shall inure to the benefit of and be binding upon GCC and the Contractor respectively and his partners, successors, assignees and legal representatives. Neither GCC nor the Contractor shall have the right to assign, transfer or sublet his interest or obligations hereunder without written consent of the other party. It is hereby mutually agreed by and between the parties hereto that no mechanic, contractor, subcontractor, material man or other person can or will contract for or in any other manner have or acquire any lien upon the binding or works covered by this contract, or the land upon which the same is situated.
- XIV. INDEMNITY.** Contractor agrees to save and hold harmless GCC, its officers, agents, representatives, successors and assigns and other governmental agencies from any and all suits or actions of every nature and kind, which may be brought for or on account of any injury, death, or damage arising or growing out of the acts or omissions of the Contractor, Contractor's officers, agents, servants or employees under this contract.
- XV. MODIFICATION OR AMENDMENTS:** No modification, amendment, alteration or change of the terms and conditions of this Agreement shall be valid or enforceable unless made in writing and executed by both parties hereto and approved by appropriate action by GCC.
- XVI. ATTORNEY FEES:** If either GCC or Contractor institute legal action to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and cost of suit.
- XVII. INSURANCE:** During the term of this agreement, Contractor must maintain insurance as required on the Notice of Intent to Award. Contractor is responsible for obtaining all applicable insurance. GCC assumes no liability for any accident or injury that may occur to the Contractor, his agents, dependents, or personal property while on GCC premises performing said scope of service.
- XVIII. ASSIGNMENT OF AGREEMENT:** Assignment will not be accepted without approval from GCC. Request for approval of assignment must be made with submission of proposal. No assignment will be accepted if request is not made in writing with the proposal.
- XIX. RESTRICTIONS AGAINST CONTRACTORS EMPLOYING CONVICTED SEX OFFENDERS:** The contractor warrants that no person in its employments who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry shall provide services on behalf of the contractor while on government property,

with the exception of public highways. If any employee of contractor is providing services on government property and is convicted subsequent to an award of a contract, then the contractor warrants that it will notify GCC of the conviction within twenty-four hours of the conviction, and will remove immediately such convicted person from providing services on government property. If the contractor is found to be in violation of any of the provisions of this paragraph, then GCC will give notice to the contractor to take corrective action. The contractor shall take corrective action within twenty-four hours of notice from GCC, and the contractor shall notify GCC when action has been taken. If the contractor fails to take corrective steps within twenty-four hours of notice from GCC, then GCC in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

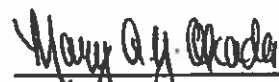
XX. NOTICES: All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be made in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally, or shall be deemed to be received as of the date of mailing if sent by registered or certified mail, return receipt requested, postage prepaid as follows:

GCC: Guam Community College
P.O. Box 23069
GMF, Guam 96921

The Contractor: JJ Global Services
P.O. Box 217881
Barrigada, Guam 96921

IN THIS WHEREOF parties hereto have executed this contract as of the day and year first written.


Luis Bustamante
JJ Global Services

 09.25.2020
Mary Y. Okada, Ed.D.
President
Guam Community College

CERTIFIED FUNDS AVAILABLE

Contract No.: _____

FOAP: 01.1065.7230.66

Contract Amount: \$15,273.76 per month or \$183,285.12 per year
(excludes Forensic DNA Lab and Building 300)