



Jerrick Hernandez &lt;jhernandez@guamopa.com&gt;

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**OPA23-PA-002 In the Appeal of Johndel International, Inc. dba. JMI Edison**

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**William B Brennan** <wbrennan@arriolafirm.com>

Tue, Apr 25, 2023 at 4:15 PM

To: Jerrick Hernandez &lt;jhernandez@guamopa.com&gt;

Cc: Brittney Quinata &lt;bquinata@arriolafirm.com&gt;, "Joshua D. Walsh" &lt;jdwalsh@rwtguam.com&gt;, "R. Marsil Johnson" &lt;rmarsjohnson@bsjmlaw.com&gt;

Hafa Adai,

Please see attached documents for efilng in the subject procurement appeal:

1. Agency Report
2. Agency Statement

Please contact me if you have trouble retrieving the attachments.

Best,

*William Bucky Brennan, Esq.***ARRIOLA LAW FIRM**

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**2 attachments****OPA-PA-23-002 Agency Statement.pdf**

167K

**OPA-PA-23-002 Agency Report.pdf**

396K

**WILLIAM B. BRENNAN, ESQ.**  
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Counsel for Appellee  
*Guam International Airport Authority*

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

ARRIOLA LAW FIRM HAGÁTÑA, GUAM 96910

**In the Appeal of**

**Johndel International, Inc. dba. JMI-Edison,**

Appellant.

APPEAL CASE NO.: OPA-PA-23-002  
 GIAA 2021 Emergency Procurement

**AGENCY REPORT**

**COMES NOW**, the A.B. Won Pat Guam International Airport Authority (GIAA) which Pursuant to 2 GAR Div. 4 §12105, and in response to the appeal of Johndel International, Inc. dba JMI-Edison (“JMI”), files this Agency Report.

- a. Copy of the Protest. See Notice of Appeal Ex B (Apr. 10, 2023); PR at pp. 635-651.
- b. Proposals: Procurement Record (“PR”) at pp. 541-603.
- c. GIAA Emergency Procurement Solicitation: RFI – PR at pp. 133-246.
- d. Abstract of Proposals: PR at pp. 0283-0287, 0802-0810.
- e. Other documents relevant to the protest: See Exhibit A attached hereto, correspondence from Razzano, Walsh and Torres (Apr. 14, 2023).
- f. Decision from which the Appeal is taken, if different than the decision submitted by Appellant: No different decision at issue. See Notice of Appeal, Ex C (Apr. 10, 2023).

- g. Statement answering the allegations of Appeal and setting forth findings, actions and recommendations in the matter taken together with any additional evidence or information deemed necessary in determining the validity of the Appeal: See Agency Statement (Apr. 25, 2023).
- h. If the award was made after the receipt of the protest, the report will include the determination required under 2 GAR § 9101(e): not applicable, the protest was post award.
- i. A statement indicating whether the matter is subject to a court proceeding. See Decl. re Court Action (Apr. 18, 2023).

Dated: April 25, 2023.

Respectfully submitted,  
**ARRIOLA LAW FIRM**

By:   
**WILLIAM B. BRENNAN**

**RAZZANO WALSH & TORRES, P.C.**

SUITE 100, 139 MURRAY BLVD.  
HAGÁTÑA, GUAM 96910  
TELEPHONE: (671) 989-3009  
FACSIMILE: (671) 989-8750



APR 14 2023

TIME: 8:15  
RECD BY: R. Torres

**LETTER OF TRANSMITTAL**

DATE: April 14, 2023

TO: John M. Quinata  
Executive Director  
**Guam International Airport Authority**  
355 Chalan Pasaheru B224-A  
Tamuning, Guam 96913

FROM: Joseph C. Razzano  
**Razzano Walsh & Torres, P.C.**  
139 Murray Blvd. Ste. 100  
Hagatna, Guam 96910  
1 (671) 989-3009

RE: **Johndel International, Inc. dba JMI-Edison**

**THE FOLLOWING IS TRANSMITTED HEREWITH:**

DATE	DOCUMENTS
4/4/23	<i>In the Matter of the Guam Contractors License Board for Citation and Cease and Desist Order, Violation, and Penalty Assessed Against: Aircraft Services Group (ASIG) dba: Menzies Aviation, Case No. 2021-09-04</i>

**Remarks:**

Dear Mr. Quinata:

Please find enclosed the Citation issued by the Contractors License Board requiring Aircraft Services Group (“ASIG”) dba Menzies Aviation (“Menzies”) to cease and desist any work requiring a C-13 license. Please confirm that Menzies has ceased operations at the Guam International Airport Authority as of April 4, 2023. Should you have any questions or comments, please feel free to contact our office. Thank you.

Very Truly Yours,

Joseph C. Razzano

**EXHIBIT A**



**CONTRACTORS LICENSE BOARD**  
**GOVERNMENT OF GUAM**  
542 NORTH MARINE CORPS DRIVE - A  
TAMUNING, GUAM 96913  
TEL. NOS. (671) 649-2211/9676 FAX NO. (671) 649-2210



Received by: \_\_\_\_\_  
Signature  
Print Name: MARICON ERU  
Date: 04/04/23

**BEFORE THE GUAM CONTRACTORS LICENSE BOARD**

**IN THE MATTER OF THE GUAM  
CONTRACTORS LICENSE  
BOARD FOR VIOLATION AND  
PENALTY ASSESSED AGAINST:**

**CLB CASE NO. 2021-09-04**

**CITATION**

**AIRCRAFT SERVICES GROUP (ASIG)  
DBA: MENZIES AVIATION,**

**Respondent.**

**c/o Guam Integrated Air Cargo Facility  
Ste 227, 770 East Sunset Boulevard  
Tamuning, Guam 96913**

**TO AIRCRAFT SERVICES GROUP (ASIG) DBA: MENZIES AVIATION:**

1. After an investigation, and pursuant to the 21 GCA § 70109.1, the Guam Contractors License Board (CLB) issues this Citation which serves as your notice of the violation(s) of Guam law found and referenced herein. You are required to pay the penalty assessed and correct the violation referred to in this Citation unless within fifteen (15) days from receipt of this Citation, you notify the CLB in writing that you intend to contest and appeal the Citation and the penalty imposed. *See*, 5 GCA §§ 9205-9210.

2. Pursuant to 21 GCA § 9210 and § 9211, should you desire to make such an appeal, and unless a written request for an administrative hearing signed by or on your behalf is delivered to the CLB without fifteen (15) calendar days after receipt of this Citation, the CLB may proceed to enforce the penalty stated herein without a hearing.

3. The request for hearing may be made by delivering the enclosed form entitled "*Notice of Defense*" or by delivering or mailing a notice of defense as provided in 21 GCA § 9205 to the CLB. Failure to file the Notice of Defense form within fifteen (15) days after receipt of this Citation shall constitute a waiver of right to a hearing.

4. If you file the Notice of Defense form within fifteen (15) days after receipt of this Citation and if you request a hearing, then an administrative hearing will be scheduled within thirty (30) days, at which time you may present any rebuttal evidence to the specified violation(s). Should a hearing be necessary, you will be advised in writing, of the scheduled date, time and place of such hearing. Should you fail to attend the hearing as scheduled, all penalties will stand as assessed. Should you fail to pay the penalties assessed, the CLB may initiate collection proceedings and pursue further legal action with the Office of the Attorney General.

#### **INVESTIGATION DETAILS AND BASIS OF CITATION**

5. Guam law authorizes the CLB to investigate, classify and qualify applicants for contractor's licenses and to investigate for compliance with the rules and regulations of the Board and the provisions of Title 21 GCA Chapter 70. [21 GCA § 70109].

6. Investigation Date: September 22, 2021
7. Investigator Names: Marcus Finona and Nida Bailey
8. Investigation Location: Guam International Airport Authority (GIAA)

9. Investigation Description: On September 21, 2021, a consumer complaint was filed with the CLB by JMI Edison/Ed Ilao (JMI) against Aircraft Services Group (ASIG) dba: Menzies Aviation (Menzies). In its complaint, JMI alleged that Menzies has been performing maintenance and repair work on the GIAA baggage conveyance system without a proper contractor's license since August 2015. JMI further alleged that without a contractor's license, Menzies is not qualified to respond to GIAA Request for Proposals No. GIAA-RFP-005-FY21 for Management and Infrastructure Support Services for the airport baggage conveyance systems. Upon receipt of JMI's complaint, the CLB Investigation Unit initiated their investigation.

10. Investigation Timeline:

- September 21, 2021 JMI files Consumer Complaint against Menzies. Case assigned to Investigator Marcus Finona.
- October 7, 2021 Notice to Appear Investigation Unit on Thursday, October 14, 2021 is issued to Menzies.
- October 13, 2021 Legal counsel for Menzies requests to reschedule the meeting with the CLB Investigation Unit. Meeting is rescheduled to November 16, 2021.
- November 16, 2021 CLB Investigation Unit meets with legal counsel of Menzies.
- November 19, 2021 Menzies files a Written Statement responding to the Notice to Appear and the allegations made by JMI in its Consumer Complaint.
- December 8, 2021 JMI files a written response to Menzies' Written Statement.
- December 22, 2021 The former CLB Executive Director issues a Findings & Decision that Menzies is in violation of 21 GCA § 70108(a) for failing to obtain a specialty contractor license in categories C-13, C-15, C 25, and C-68.

- March 1, 2022                      The CLB Board rescinds the Findings & Decision issued on December 22, 2021.
- September 23, 2022            CLB investigators conduct a field/jobsite inspection at GIAA.
- September 26, 2022            CLB completes its investigation and investigation report.
- March 14, 2023                 Chief Deputy Attorney General Joseph A. Guthrie sends legal opinion to CLB Executive Director Ciriaco C. Sanchez, Jr.

### **DESCRIPTION OF VIOLATION**

11.     **Violation No. 1 of 1:** Menzies is required to hold a valid Specialty Contractor's License in the C-13 Electrical Contractor subclassification from the Guam Contractors License Board in order to do the work that it currently performs at GIAA on the airport baggage conveyance systems. Further, the scope of work and services described in GIAA RFP No. 005-FY21 is of the type that requires offerors responding to the RFP to hold a Specialty Contractor license from the CLB in the C-13 Electrical Contractor sub-classification.

12.     Menzies's failure to have a valid Specialty Contractor's License in the C-13 Electrical Contractor subclassification from the Guam Contractors License Board is a violation of the following Guam laws and CLB Regulations:

#### **21 GCA §70106. Classification.**

(a) For the purpose of classification, the contracting business includes any or all of the following branches: (1) General Engineering Contracting; (2) General Building Contracting; (3) Specialty Contracting; and (4) Responsible Management Employee (R.M.E.).

\*\*\*\*\*

(d) A *Specialty Contractor* is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

**21 GCA §70108.**

(a) No person within the purview of this Chapter shall act, or assume to act, or advertise, as a general engineering contractor, a general building contractor or specialty contractor without a license previously obtained under and in compliance with this Chapter and the rules and regulations of the Contractors License Board (CLB).

**25 GARR §12106..**

(a) All Contractors Classified. All persons heretofore or hereinafter licensed under these rules and regulations will be classified by the Board into one or more classifications and/or sub-classifications as follows:

GENERAL ENGINEERING CONTRACTOR "A"  
GENERAL BUILDING CONTRACTOR "B"  
*SPECIALTY CONTRACTOR "C"*

\*\*\*\*

(3) **SPECIALTY CONTRACTOR:** This classification shall not prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work is less than thirty five percent (35%) and supplemental to the performance of work in the craft for which the specialty contractor is licensed. . .

(4) Definitions of Sub-Classifications: \*\*\*\*

(C-13) **Electrical Contractor:** An Electrical Contractor is a specialty contractor whose contracting business is the execution of contracts requiring the ability to place, install, erect or connect any electrical wires, fixtures, appliances, apparatus, raceways or conduits and lines which transmit, transform or utilize electrical energy. This classification also includes the work of the C19 Fire and Burglar Alarm Contractor.

**PENALTY ASSESSMENT AND ORDER FOR VIOLATION**

13. In addition to any other remedy available, the investigator of the CLB may issue citations to acting contractors, licensed or unlicensed, in violation of the provisions of Title 21 Chapter 70 and the CLB Rules & Regulations. [21 GCA § 70109.1(a)].

14. The citation “*shall* also contain an order to cease and desist from the violation, and an assessment of civil penalties of no less than Two Hundred Dollars (\$200.00), but *not to exceed* fifty percent (50%) of the value of the project.” [21 GCA § 70109.1(b); *also*, § 70109.2 (investigator may issue cease work order; § 70109.3 (executive director may issue cease work order))].

15. Citations for *unlicensed* contractors “*shall* each contain an order to cease and desist from the violation, and an assessment of civil penalties of fifty percent (50%) of the value of the project – of which *no less than* fifty percent (50%) *shall* be used to compensate affected consumers.” [21 GCA § 70109.1(c)].

16. Any person who violates or omits to comply with any of the provisions of Title 21 GCA Chapter 70 “*shall* be fined an amount of *no less than* Two Hundred Dollars (\$200) but *not to exceed* fifty percent (50%) of the value of the project.” [21 GCA § 70121].

17. Pursuant to authorities cited herein and the findings of the Board of Directors at a public meeting duly noticed and held on March 28, 2023, the Contractors License Board now hereby issues the instant citation to ASIG dba: MENZIES and **ORDERS** as follows:

18. ASIG dba: Menzies is **ORDERED TO CEASE & DESIST** from performing any work in the C-13 Electrical Contractor subclassification until a valid and appropriate Specialty Contractor’s license is obtained from the CLB.

19. ASIG dba: Menzies is **FURTHERED ORDERED TO PAY** a penalty of Three Hundred Thousand Dollars (\$300,000.00) to the CLB within fifteen (15) days of receipt of this

Citation, plus an additional penalty of One Thousand Dollars \$1,000.00 per day until a valid Specialty Contractor's license in the C-13 Electrical Contractor subclassification is obtained from the CLB.

20. Should you, ASIG dba: Menzies, fail to fully comply with this citation, this case shall be forwarded to the Office of the Attorney General's Office for further legal action.

*SO ORDERED* this 4th day of April, 2023.

**BERNARD S. BENAVENTE**

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

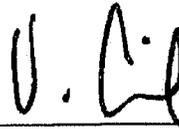
CHAIRPERSON

**RENA BORJA**



VICE-CHAIRPERSON

**VINCENT ARRIOLA**



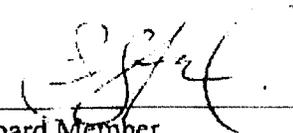
Department of Public Works  
*Ex-officio*

**MICHELE SANTOS**



Department of Revenue & Taxation  
*Ex-officio*

**SELINA ASHLAND**



Board Member

**MATTHEW CRUZ**

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Board Member