



Jerrick Hernandez <jhernandez@guamopa.com>

In the Appeal of Johndel International, Inc. dba JMI-Edison, Docket No. OPA-PA-23-002

Merlyna W. Smith <mwsmith@bsjmlaw.com>

Fri, Nov 17, 2023 at 4:42 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

Cc: Vince Duenas <vduenas@guamopa.com>, Thyrza Bagana <tbagana@guamopa.com>, "Joshua D. Walsh" <jdwalsh@rwtguam.com>, William Brennan <Wbrennan@arriolafirm.com>, "R. Marsil Johnson" <rmarsjohnson@bsjmlaw.com>

Dear Mr. Hernandez:

Attached herewith for e-filing in the above-referenced matter is the following:

- **Menzies Proposed Findings of Fact and Conclusions of Law**

Kindly acknowledge receipt via return e-mail. Should you have any questions, please let us know.

Thank you.

Regards,

Merlyna Weilbacher Smith

Secretary to R. Marsil Johnson

Merlyna Weilbacher Smith

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Menzies Proposed Findings of Fact and Conclusions of Law, OPA PA-23-002.pdf

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11
12 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
13 **PROCUREMENT APPEAL**
14

15 **In the Appeal of**) **Docket No. OPA-PA-23-002**
16)
17 **Johndel International, Inc. dba.**)
18 **JMI-Edison,**) **MENZIES PROPOSED FINDINGS OF**
19) **FACT AND CONCLUSIONS OF LAW**
20 **Appellant.**)
21)
22)
23)

24 This procurement appeal was heard by the Office of Public Accountability Hearing Officer
25 Joseph McDonald on October 12, 2023. Appellant **JOHNDEL INTERNATIONAL, INC. dba JMI-**
26 **EDISON** (“JMI”) was represented by Joseph C. Razzano and Joshua D. Walsh. Procuring agency
27 **GUAM INTERNATIONAL AIRPORT AUTHORITY** (“GIAA”) was represented by William B.
28 Brennan. Interested Party **AIRCRAFT SERVICE INTERNATIONAL, INC. DBA MENZIES AVIATION**
 (“Menzies”), was represented by R. Marsil Johnson.

Following the hearing, the Hearing Officer ordered the parties to file Proposed Findings of
Fact and Conclusions of Law by November 17, 2023.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. GIAA is Guam’s only civilian airport. It maintains operations 24 hours per day and
7 days per week.

1 11. On September 21, 2021, JMI filed a protest related to the RFP. GIAA denied that
2 protest and JMI appealed GIAA’s decision to the Office of Public Accountability in OPA-PA-21-
3 010. The OPA ultimately dismissed JMI’s appeal with prejudice, finding that a purported CLB
4 “Findings and Decision” document presented by JMI to the OPA, and the circumstances of the
5 document’s creation, constituted a fraud on the OPA. JMI appealed the OPA’s decision to the
6 Superior Court. That matter is captioned CV0095-22 and remains pending.
7

8 12. Because JMI filed a protest during the negotiation phase of RFP-05-FY21, GIAA
9 imposed a stay on the procurement.

10 13. The previous long-term contract for baggage handling services expired on October
11 31, 2021, one month after JMI filed its protest related to the RFP.

12 14. GIAA is currently operating the baggage handling system with the assistance of
13 Menzies under a temporary contract.

14 15. GIAA’s temporary contract with Menzies was procured on an emergency basis and
15 was executed on November 1, 2021.
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17 16. On March 22, 2023, JMI protested the method of source selection and monthly
18 extensions of the temporary contract.
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1 **A. CLOSURE OF GIAA DUE TO A PROCUREMENT PROTEST QUALIFIES AS AN EMERGENCY**
2 **UNDER GUAM LAW**

3 1. An emergency is defined by Guam’s procurement law to mean “a condition posing
4 an imminent threat to public health, welfare, or safety, or the health and safety of the environment,
5 which could not have been foreseen through the use of reasonable and prudent management
6 procedures, and which cannot be addressed by other procurement methods of source selection.” 5
7 GCA § 5030(x).

8 2. The fact that a party may protest a procurement and hold up procurement past the
9 expiration of an existing contract is not foreseeable. The right to file a procurement protest is a
10 matter of individual right and outside the control of the procuring agency. A party who believes
11 they may be aggrieved by the procurement process, whether or not they are correct, may file a
12 procurement protest. *See* 5 GCA § 5425(a) (“Any actual or prospective bidder, offeror, or
13 contractor who may be aggrieved in connection with the method of source selection, solicitation
14 or award of a contract.”).

15 3. It is also possible for procurement protests and appeals to span years. As an
16 example, a protest was filed in response to a GIAA concession procurement protest in 2013 and
17 remains pending, ten years after it was originally filed. That protest has resulted in four separate
18 opinions from the Supreme Court of Guam. *See Antonio B. Won Pat Int’l Airport Auth., Guam v.*
19 *DFS Guam L.P.*, 2023 Guam 7, *DFS Guam L.P. v. A.B. Won Pat Int’l Airport Auth., Guam*, 2020
20 *Guam* 20, and *DFS Guam L.P. v. A.B. Won Pat Int’l Airport Auth.*, 2014 Guam 12. That
21 procurement is still being litigated in the Superior Court of Guam with the most recent Decision
22 and Order in that matter having been issued on October 27, 2023. *See DFS Guam L.P. v. A.B. Won*
23 *Pat Int’l Airport Auth., Guam*, CV0943-14 (Super Ct. Guam Oct. 27, 2023).

1 4. It is not possible, even through the use of reasonable and prudent management
2 procedures, to account and prepare ahead for the possibility that a party may believe they are
3 aggrieved and undertake litigation that can span a decade.

4 5. Furthermore, the term “emergency,” as used in Guam’s procurement law, must be
5 read as encompassing both human induced emergencies and naturally occurring emergencies.

6 6. First, nothing in the language of 5 GCA § 5215 makes any distinction between
7 human-caused or “natural” emergencies.

8 7. Second, Guam’s procurement law is based on the Model Procurement Code
9 (“MPC”). The comments to the MPC section related to emergency procurement anticipated that
10 emergency procurement may be necessary when a threat to public health, welfare, or safety would
11 be caused due to a human-caused failure in the procurement process. Specifically, the comment
12 notes that emergency procurement “may be justified because all bids submitted under the
13 competitive sealed bid method are unreasonable, and there is no time to re-solicit bids without
14 endangering the public health, welfare, or safety.” MPC, § 3-206, cmt. 3. The emergency
15 procurement section of Guam’s procurement law has been modified heavily over the years, but it
16 is still originally based on the MPC and thus this commentary still provides persuasive authority
17 for interpreting 5 GCA § 5215.

18 8. Thankfully, MPC, § 3-206, cmt. 3 is not the only comment to the MPC which
19 considers use of emergency procurement due to human-caused failure in the procurement process
20 that threaten public health, welfare, or safety. Awards based on competitive sealed bidding is
21 governed by 5 GCA § 5211(g). This section is based on MPC § 3-202(7), which provides that
22 “[w]hen all bids are determined to be unreasonable or the lowest bid on a construction project
23 exceeds the amount specified in this Subsection, and the public need does not permit the time
24 required to resolicit bids, then a contract may be awarded pursuant to the emergency authority in
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1 Section 3-206 (Emergency Procurements) in accordance with regulations”. MPC § 3-202(7), cmt.

2 3.

3 9. The OPA recognizes that “[t]he Official Comments to the Model Procurement Code
4 are a part of the Legislative History of [Guam’s Procurement Law]...” The OPA sees no reason
5 to, nor does it think it has the authority to, deviate from the Model Code’s stance on the issue. See
6 5 G.C.A. §§ 5001 et. seq. pmb1.
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8 10. Third, the OPA sees no reason to disturb the Government of Guam’s long-standing
9 practice of using emergency procurement to procure services in the midst of a human induced
10 emergency. In 1984, the Governor of Guam issued an executive order declaring the need for
11 emergency procurement of school buses on the basis that “rejection of all bids submitted for the
12 purchase of up to thirty school buses for FY 1984 and an additional ten school buses for FY 1985
13 has resulted in a serious delay in the procurement of the much needed buses, an emergency
14 situation now exists that threatens the safety of the territory’s school children and the government’s
15 ability to efficiently administer our island-wide school bus transportation system.” See Executive
16 Order No. 84-20.
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18 11. More recently in October 2018, the Guam Department of Education requested that
19 the governor of Guam issue an executive order declaring an emergency because “[t]he current
20 GDOE custodial services contract expires on September 30, 2018” and “a protest was filed and
21 subsequently appealed to the Office of Public Accountability (OPA), resulting in a stay of the
22 procurement process” leaving “the department in jeopardy of not having a custodial services
23 contract in place by October 1, 2018.” See Guam Department of Education Release, September
24 26, 2018. The record shows that from as early as 1984 and as recently as 2018, the Government of
25 Guam has used emergency procurement in response to human induced emergencies. JMI has not
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1 Arriola: So, as the EM mentioned earlier, there was a discussion about
2 potentially having in-house, but we don't have the capacity to perform
3 that function, especially on a long-term basis, which is what prompted
4 us to issue it in the first place. Then we also explored various methods
5 of procurement, Whether it be invitation for bid, sole source,
6 emergency procurement, we just went through that whole list. And in
7 the end we felt that the emergency procurement was the most
8 appropriate to be able to meet the needs of the airport.

9 *See* Audio of Formal Hearing Part 1 – October 12, 2023, Testimony of Marcus Finona (1:23:02 to
10 2:04:50).

11 15. Self-service was deemed unreasonable because GIAA would have to pull staff from
12 other functions to operate the system and could only continue in that fashion for a matter of days
13 before GIAA would need to shut the system off.

14 16. Sole source procurement was deemed inappropriate because, due to JMI's protest
15 of the RFP, GIAA was aware that more than one offeror could provide baggage handling services.

16 17. An invitation for bid was not used because GIAA needed to judge which service
17 provider was most qualified to provide the services.

18 18. An RFP could not be used because the RFP that had been attempted had been
19 protested and that protest was pending with an automatic stay in place.

20 19. At no point during the October 12, 2023 hearing did JMI or any witness for JMI
21 testify as to what other method for sourcing procurement should have been used instead of
22 emergency procurement.

23 20. On October 27, 2021, GIAA determined an emergency existed because the lack of
24 a functioning baggage handling system would force the shutdown of GIAA, which would create a
25 threat to public health and safety. As a result, there was a need for emergency procurement. Thus,
26 GIAA determined the existence of a threat to public health or safety in writing as required by 5 GCA
27 § 5215(a).

1 21. That determination was communicated to *I Maga Hagan Guahan*.

2 22. *I Maga Hagan Guahan* reviewed GIAA's determination and approved a certificate of
3 emergency, authorizing the emergency procurement. Thus, the requirements of 5 GCA § 5215(b)(2)
4 were met.

5 23. GIAA then solicited proposals on an emergency basis, seeking a provider to provide
6 services on a monthly basis due to the inability to move forward with RFP 005-FY21 and the imminent
7 expiration of the contract, and to continue while the stay remained in place. Two offerors submitted
8 proposals. Thus, a provider was competitively selected on an emergency basis. 5 GCA § 5215(d).

9 24. Menzies was ultimately awarded a contract to provide the services on November 1,
10 2021. The contract was for an initial term of 30 days, subject to extension as allowed by law.

11 25. In December 2021, GIAA gave notice of a public hearing on its intent to extend the
12 emergency contract with Menzies beyond the initial 90-day term. This action complies with 5
13 GCA § 5215(e).

14 26. Because the procurement stay on RFP 005-FY21 remains in place to this date,
15 GIAA has complied with Guam law and has extended the contract for 30 days at a time. This
16 action complies with 5 GCA § 5215(e).

17 27. GIAA has also held public hearings to extend the contract for periods in excess of
18 90 days at a time. This action complies with 5 GCA § 5215(e).

19 28. On March 15, 2023, GIAA gave notice of a public hearing on its intent to extend
20 the emergency procurement for an additional ninety (90) day period. This action complied with 5
21 GCA § 5215(e).

22 29. Based on the above findings of fact, it is clear that GIAA has complied with all
23 relevant portions Guam law related to emergency procurement in procuring the emergency
24 contract, issuing it to Menzies, and extending said contract.

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1 **C. NO FINAL DECISION HAS BEEN REACHED BY THE CONTRACTOR'S LICENSE BOARD**
2 **WITH RESPECT TO WHETHER A CONTRACTOR'S LICENSE IS REQUIRED TO DO THE**
3 **WORK DESCRIBED IN THE IFB**

4 30. JMI repeatedly alluded to a citation issued to Menzies by the CLB during the
5 hearing. JMI claimed that the citation showed that the CLB had issued a decision that a C-13
6 license is required to perform work under the RFP. However, JMI's claims ignore the fact that the
7 citation was appealed by Menzies and that appeal is still pending, meaning no final decision has
8 been reached on the issue by the CLB.

9 31. CLB investigator Marcus Finona testified and confirmed that an appeal was
10 pending, that no hearing has yet been scheduled, that no hearing officer has been assigned to hear
11 the appeal, and that no final decision has been issued by the CLB following a hearing:

12 Johnson: I think when Mr. Walsh asked you, I think you confirmed that you're
13 involved in the appeal that's pending over at the CLB with respect to
14 the citation, is that correct?

15 Finona: That's correct.

16 Johnson: Okay. Again, has a hearing been scheduled for that?

17 Finona: Not that I'm aware of.

18 Johnson: Do you know if a hearing officer has been assigned to it?

19 Finona: Not that I'm aware of.

20 Johnson: Ok. So, is there still a pending appeal at the CLB?

21 Finona: Yes.

22 Johnson: So has there been a final decision issued by the CLB following a
23 hearing?

24 Finona: Not yet.

25 *See Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Marcus Finona (1:23:02 to*
26 *1:22:39).*

27 32. Additionally, CLB investigator supervisor Nida Bailey testified and confirmed that
28 no hearing has yet been held on the issue of whether a CLB license is required to perform work on
the RFP, that no hearing office has been assigned, that no decision has been made by the CLB
following a hearing, that the case was not considered closed, and that no final decision has been
made by the CLB:

1 Johnson: So, in this case, can you walk us through what happened in this case?
2 This case, referring to the complaint that was filed against Menzies by
3 JMI.
4 Bailey: We followed the SOP.
5 Johnson: Has a hearing been held yet?
6 Bailey: The hearing has not been held yet because we are awaiting, it was
7 forwarded to legal then we were informed that once AG could assign a
8 hearing officer then a hearing will be conducted.
9 Johnson: Has a hearing officer been assigned to this case yet?
10 Johnson: Okay, so has a hearing been held yet?
11 Bailey: No Okay.
12 Johnson: Has the board then made a decision after a hearing yet?
13 Bailey: Has not made decision.
14 Johnson: Okay. So, the case is not closed yet, that is
15 Bailey: It's not closed yet.
16 Johnson: Okay, so there's just a citation that's been issued?
17 Bailey: Yes, sir.
18 Johnson: And that's not a final decision in this case, is it?
19 Bailey: No, sir.
20 Johnson: Okay. Is that a final decision in this case? The citation?
21 Bailey: No, sir.
22 Johnson: Okay, so no final decision has happened yet?
23 Bailey: Not yet.

24 See Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Marcus Finona (1:22:11 to
25 1:22:39).

26 33. As Mr. Finona and Ms. Bailey confirm, the citation issued by the CLB has been
27 appealed, no hearing has been held, and no final decision has been issued by the CLB on the
28 question of whether a CLB license is required to perform work under the RFP. Therefore, the CLB
has not issued a final decision on whether a CLB license is required to perform work under the
RFP.

**D. NO CONTRACTOR'S LICENSE IS REQUIRED TO PERFORM THE WORK DESCRIBED IN
THE RFP**

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1 a. **THE WORK PERFORMED BY MENZIES PURSUANT TO THE RFP IS EXEMPT FROM**
2 **THE REQUIREMENTS OF GUAM’S CONTRACTOR’S LAW BECAUSE IT INVOLVED**
3 **THE INSTALLATION OF FINISHED PRODUCTS THAT DID NOT BECOME A**
4 **PERMANENT FIXED PART OF THE AIRPORT.**

34. Pursuant to 21 G.C.A. § 70101(c), the Guam contractors law, including its licensing requirements, shall not apply to persons who install finished products which are not actually fabricated into and do not become a permanent fixed part of the structure:

(c) A person who sells *or* installs any finished products, materials *or* articles *or* merchandise which are *not* actually fabricated into and *do not* become a permanent fixed part of the structure, *or* to the construction, alteration, improvement *or* repair of personal property;

21 G.C.A. § 70101(c) (emphasis in original).

35. During his testimony, Mr. Ilao confirmed that motors and drive systems the baggage handling contractor would be tasked with replacing under the RFP are not fabricated by the baggage handling contract, but are instead finished products. He also testified that, rather than becoming a fixed part of the structure of the airport, that they would be bought off the shelf and replaced as they wear out:

Johnson: The motors and the drive systems, are these things that would need to be constructed or built by the company that’s operating the system, or would they buy these in the market?

Ilao: They would buy these as an assembly and they would just replace the motor as it gets broken.

Johnson: Because they wear out?

Ilao: Yeah, or burnt or whatever due to power fluctuation.

Johnson: So, these are basically finished products that are bought off the shelf and just replaced?

Ilao: Yes. You just install a new motor to replace the old motor.

See Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Ed Ilao (1:05:00 to 1:05:29).

36. During his testimony, Contractor’s License Board investigator Marcus Finona testified that repair work was being done by Menzies on motors and things of that nature and confirmed that these motors could be replaced:

1 Johnson: Did you consider this exception when you were conducting your
investigation into Menzies activity at the airport?

2 Finona: I mean we always consider the exemptions just the thing is uh I didn't
3 see that as an exemption when we did our investigation, it looked like
repair work to me.

4 Johnson: And repair work, did it involve replacing motors and things like that?

5 Finona: Uh, yes.

6 Johnson: Did those look like they were becoming a permanent and fixed part of
the airport?

7 Finona: I mean, it's connected.

8 Johnson: But they could be replaced, right?

9 Finona: That's true.

10 *See* Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Marcus Finona (1:22:11 to
11 1:22:39). Because these motors could be replaced, they were not permanent, fixed parts of the
airport.

12 37. When considering whether the exemption found in 21 G.C.A. § 70101(c) applies,
13 courts generally look to whether the products, materials, articles, or merchandise can be removed
14 without damaging the structure or preventing the structure's reuse. *See Finley-Gordon Carpet Co.*
15 *v. Bay Shore Homes, Inc.*, 55 Cal. Rptr. 378, 379 (Ct. App. 1966) ("The trial court properly held
16 the exemption applies here. The evidence that the carpets can easily be removed without damaging
17 the apartments sufficiently supports the trial court's finding the carpets did not become a fixed part
18 of the structure.") and *State ex rel. Vivian v. Heritage Shutters, Inc.*, 534 P.2d 758, 760 (Ariz. App.
19 1975) ("The appellees, on the other hand, suggest that the test to be utilized in determining whether
20 the exemption provision of A.R.S. s 32—1121.5 is met is whether damage incidental to removal
21 of the item in question would prevent its reuse or cause substantial damage to the structure. This
22 is the test adopted in both California and Washington. We, likewise, adopt this test for the State
23 of Arizona." (citations omitted)). This standard has also been applied in the Superior Court of
24 Guam in *VSSST Co. Ltd. v. UFB Guam Hotel Corp.*, CV0552-09 at 5 (Super. Ct. Guam Jul. 7,
25 2011), where the Court held that:
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1 Plaintiff argues that because the installations can be removed without causing
2 damage to the property, they are not a “permanent fixed part of the structure” as
3 defined in Exemption § 70101(c). Defendant does not disagree, but rather argues
4 that because the air conditioning system is not a permanent fixed part of the
5 structure, Plaintiff does not have a right to a Mechanic’s lien as a matter of law.
See *infra*. Therefore the Court finds that Plaintiff is indeed exempt from the
Contractors license requirement under 21 G.C.A. § 70101(c) and entitled to
maintain the lawsuit. As such, dismissal is inappropriate on summary judgment.

6 *Id.*

7 38. Mr. Ilao testified during the hearing that work done under the RFP would not
8 involve making any permanent changes to the structure of the airport, tearing down any walls,
9 building any walls, or engaging in any construction work at all:

10 Johnson: With respect to the RFP, the maintenance, the baggage handling system
11 operations work...

12 Ilao: Yes.

13 Johnson: Would that require you to make permanent changes to the structure of
airport?

14 Ilao: No.

15 Johnson: So you wouldn’t have to tear down any walls?

16 Ilao: No.

17 Johnson: Wouldn’t have to build up any walls in the airport?

18 Ilao: No.

19 Johnson: Would it involve any construction work at all?

20 Ilao: No.

21 *See* Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Ed Ilao (1:02:55 to 1:03:15).

22 39. Because the work described in the RFP involves the replacement of finished
23 products that do not become a permanent fixed part of the structure of the airport, the exception
24 found in 21 G.C.A. § 70101(c) applies to this work, meaning that the baggage handling contractor
25 need not have a contractor’s license to perform work under the RFP.

26 **b. THE WORK PERFORMED BY MENZIES PURSUANT TO THE RFP DOES NOT
27 REQUIRE A SPECIALTY CONTRACTOR’S LICENSE BECAUSE IT IS NOT
28 CONSTRUCTION WORK**

39. Guam law defines a specialty contractor as “**a contractor whose operations as
such are the performance of construction work** requiring special skill and whose principal

1 contracting business involves the use of specialized building trades or crafts.” 21 GCA § 70106(d)
2 (emphasis added).

3 41. Mr. Finona confirmed that he did not believe the work he witnessed Menzies
4 performing during his investigation was construction work:

5 Johnson: Under 21 GCA § 70106, a specialty contractor is a contractor whose
6 operations as such are the performance of construction work requiring
7 special skill and whose principal contracting business involves the use
8 of specialized building trades or crafts. So the work that was being done
at the airport by Menzies, was that construction work?

9 Finona: No, I wouldn’t call it construction work, no.

10 See Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Marcus Finona (1:20:42 to
11 1:21:13).

12 42. As noted above, Mr. Ilao also testified that with respect to the RFP, the baggage
13 handling system operations work would not involve any construction work at all:

14 Johnson: Would it involve any construction work at all?

15 Ilao: No.

16 See Audio of Formal Hearing Part 2 – October 12, 2023, Testimony of Ed Ilao (1:02:55 to 1:03:15).

17 43. Because a specialty contractor is defined under Guam law to be a contractor who is
18 engaged in construction work and because the RFP does not involve construction work, a specialty
19 contractor license is not required to perform work under the RFP.

20 **c. EVEN IF A C-13 ELECTRICAL CONTRACTOR SPECIALTY LICENSE WERE**
21 **REQUIRED TO PERFORM WORK UNDER THE RFP, MENZIES HOLDS A VALID C-13**
22 **CONTRACTORS LICENSE**

23 44. Menzies does hold a C-13 Contractors License.

24 45. Copies of the C-13 license issued to Menzies and the C-13 license issued to
25 Menzies RME, Ignacio C. Urlanda, were submitted as exhibits by Menzies and admitted by
26 stipulation by the parties.

27 46. The C-13 licenses present unequivocal evidence that Menzies has a C-13 license.

1 **CONCLUSION**

2 Based on the foregoing, the duly appointed Hearing Officer makes the following
3 determinations:

4 1. A contractor’s license is not required to perform work under the RFP. The work is
5 exempt from the requirements of Guam’s contractors law pursuant to 21 G.C.A. § 70101(c)
6 because it at most involves the installation of finished products and materials that are not fabricated
7 into and do not become a fixed permanent part of the structure of GIAA. Further, a specialty license
8 is not required to perform for under the RFP because 21 GCA § 70106(d) provides that specialty
9 licenses are only required for contractors whose operations are the performance of construction
10 work and no construction work is required by the RFP.

12 2. The CLB has made no final determination as to whether a contractor’s license is
13 required to perform work on the RFP. A citation was issued, but an appeal was filed by Menzies
14 and no hearing has yet been held on that appeal.

16 3. Even if a contractor’s license were required to perform services under the RFP,
17 Menzies has a valid contractor’s license and would be qualified to perform said services.

18 4. A human-caused emergency may qualify as an emergency pursuant to 5 GCA §
19 5030(x).

20 5. The potential closure of GIAA because the existing contract for baggage handling
21 services has expired and a stay of procurement has been issued due to a protest being filed on
22 procurement to put a new baggage handling services contract in place qualifies as an emergency
23 pursuant to 5 GCA § 5030(x).

25 6. GIAA properly solicited the emergency procurement for emergency baggage
26 handling services and awarded a contract for said services in accordance with 5 GCA § 5030(x)
27 and 5 GCA § 5215.

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7. JMI's appeal is hereby DENIED in its entirety.

This is a Final Administrative Decision. The Parties are hereby informed of their right to appeal from a Decision by the OPA to the Superior Court of Guam, in accordance with Part D of Article 9, of 5 G.C.A. § 5702, and shall be made available for review on the OPA Website www.opaguam.org.

SO ORDERED this ____ day of _____, 2023.

Joseph B. McDonald
Hearing Officer

SUBMITTED BY:

BLAIR STERLING JOHNSON & MARTINEZ
A PROFESSIONAL CORPORATION

BY: 

R. MARSIL JOHNSON
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Aircraft Service International, Inc.
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FACT AND CONCLUSIONS OF LAW, OPA PA-23-002.DOCX