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In the Appeal of JJ Global Services re: Appeal Case No. OPA-PA-25-003

Abi T. Brennan <atbrennan@gdoe.net>

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To: Jerrick Hernandez <jhernandez@guamopa.com>, McDonald Law Office <guam@mcdonald.law>

Cc: Legal Admin <legal-admin@gdoe.net>, "James L.G. Stake" <jlgstake@gdoe.net>

Hafa Adai All,

Please see attached *GDOE Agency Report, Agency Statement, and Declaration of Mark Crisostomo Regarding Emergency Procurement for Grounds Maintenance Services* re: In the Appeal of JJ Global Services; OPA-PA-25-003. Kindly confirm receipt.




Thank you and stay safe.

Respectfully,

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3 attachments

-  **Declaration of M. Crisostomo re Emergency Procurement dtd March 17, 2025 re Appeal Case No. OPA-PA-25-003.pdf**
67K
-  **Agency Report re Appeal Case No. OPA-PA-25-003.pdf**
298K
-  **Agency Statement re Appeal Case No. OPA-PA-25-003.pdf**
338K

1 **GUAM DEPARTMENT OF EDUCATION**

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8 **OFFICE OF THE PUBLIC AUDITOR**
9 **PROCUREMENT APPEALS**

10 In the Appeal of

11 APPEAL CASE NO. OPA-PA-25-003

12 JJ Global Services,

13 **AGENCY STATEMENT**

14 Appellant.

15 COMES NOW, the Guam Department of Education (“GDOE”), by and through its Legal
16 Counsel James L.G. Stake, and files its Agency Statement pursuant to Title 2 of the Guam
17 Administrative Rules and Regulations (“GAR”) Division (“Div.”) 4 section (“§”) 12105(g), in
18 response to the appeal of JJ Global Services (hereafter referred to as “JJ Global”) of GDOE
19 Invitation for Bid (“IFB”) 002-2025, for Grounds Maintenance Services for Various GDOE
20 Public Schools and Support Facilities.

21 **I. RELEVANT BACKGROUND**

22 On December 18, 2024, GDOE published IFB 002-2025 for grounds maintenance
23 services. On January 7, 2025, IFB 002-2025 was set for public bid opening. On January 6 and 7,
24 2025, JJ Global issued protests regarding IFB 002-2025. JJ Global’s protests made numerous
25 allegations regarding the specifications well after the fourteen (14) day allowable period, and
26 included numerous allegations regarding a distinct and separate IFB from IFB 002-2025. JJ
27 Global alleges that the twenty (20) days for bid submission from publication was insufficient and

1 not enough time for JJ Global to provide a bid, despite the legal requirement being fifteen (15)
2 days. 2 GAR Div. 4 § 3109(d). IFB 002-2025 is in an automatic stay from the protest and shall
3 not proceed further prior to final resolution of the protest. Title 5 of the Guam Code Annotated
4 (“GCA”) § 5425(g).

5 Due to the automatic stay, GDOE issued an emergency procurement on January 24, 2025,
6 at approximately 3:30pm. The emergency procurement is for ninety (90) days and includes the
7 same amount of regions as IFB 002-2025, specifically thirty-five (35) schools and two (2) GDOE
8 facilities. *See* Declaration of GDOE Supervisor II, Mark Crisostomo (March 27, 2025). On
9 January 28, 2025, at approximately 9:00am, within less than three (3) business days, JJ Global
10 successfully provided a quote for the emergency procurement for all thirty-five (35) schools and
11 two (2) GDOE facilities and was awarded thirty-three (33) schools and two (2) GDOE facilities.
12 *Id.* JJ Global shall earn approximately \$139,852.29 from the emergency procurement. *Id.* As the
13 appeal is just beginning and the ninety (90) days for the emergency procurement are almost to an
14 end, GDOE with limited options will likely have to seek another emergency procurement in order
15 to have grounds maintenance services. *Id.* GDOE’s agency statement in response to JJ Global’s
16 appeal herein follows.

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18 **II. JJ GLOBAL FAILS TO PROVIDE ANY LEGAL AUTHORITY FOR THE**
19 **VAGUE CONCLUSORY CLAIMS THAT ARE UNTIMELY AND NOT PROPERLY**
20 **BEFORE THE OFFICE OF THE PUBLIC AUDITOR (“OPA”).**

21 JJ Global’s appeal fails to refute, address, or even acknowledge any of GDOE’s responses
22 to its original protest. *See* Procurement Appeal, In the Appeal of JJ Global Services, OPA-PA-
23 025-003 (Mar. 17, 2025). Rather, the appeal is a near photocopy of the vague conclusory protest
24 devoid of any procurement law violations or even references, and demonstrates JJ Global’s
25 predetermined decision to draw out this legal battle to its benefit. JJ Global’s appeal should be
26 denied and dismissed because its allegations are: (1) untimely; (2) vague, without any
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1 information, and thus fail to state a claim upon which a relief may be granted; and (3) fail to
2 exhaust the necessary administrative remedies, are irrelevant, and not properly before the OPA.
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4 **A. JJ GLOBAL’S ALLEGATIONS ARE UNTIMELY.**

5 Regarding the right to protest, Title 5 GCA § 5425(a) states in relevant part that the
6 protest shall be in writing within fourteen (14) days after such aggrieved person knows or should
7 know of the facts giving rise thereto. *See* 5 GCA § 5425(a).
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9 In this case, IFB 002-2025, its specifications, and bid receiving deadlines were published
10 and distributed on December 18, 2024. Fourteen (14) days after December 18, 2024, is January
11 2, 2025, because of the New Year Government of Guam holiday.
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13 On January 6 and 7, 2025 (or 19 and 20 calendar days after Dec. 18, 2024), JJ Global
14 protested the specifications and published information. Pursuant to Guam law, JJ Global’s
15 arguments regarding specifications, the inclusion of regions within specifications, and the
16 deadline for bid submission are statutorily barred because they are untimely. *Id.*

17 Notwithstanding JJ Global’s protest regarding the published specifications and deadline
18 for bid submissions for IFB 002-2025 being untimely, JJ Global failed to provide any legal
19 authority for a vendor to dictate specifications or deadlines for a procurement. That is because it
20 is the purchasing agencies that shall prepare and issue specifications for supplies and services
21 required by Guam, not a vendor. *See* 5 GCA § 5262(a). For these reasons, JJ Global’s untimely
22 arguments are meritless and should be dismissed.
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1 **B. JJ GLOBAL’S ALLEGATIONS ARE UNREASONABLY VAGUE, FAIL TO**
2 **PROVIDE ANY INFORMATION AT ALL, AND THUS FAIL TO STATE A**
3 **CLAIM UPON WHICH ANY RELIEF MAY BE GRANTED.**

4 Under Rule 12(b)(6) of the Guam Rules of Civil Procedure (“GRCP”), a dismissal is not
5 proper unless “it appears beyond doubt that the plaintiff can prove no set of facts in support of his
6 claim which would entitle him to relief.” *See First Hawaii Bank v. Manley*, 2007 Guam 2 ¶ 9.

7 JJ Global alleges that GDOE failed to follow its own established procurement procedures,
8 resulting in an arbitrary and capricious decision making process, and that the lack of transparency
9 and adherence to procedural norms undermines the integrity of the procurement process and
10 violates the principles of fair competition. *See Procurement Appeal, In the Appeal of JJ Global*
11 *Services, OPA-PA-025-003*, p. 6 (Mar. 17, 2025).

12 Here, there are zero facts in support of this claim, there are no cited procurement
13 procedures, and nothing to support this conclusory statement. Rather, it is beyond doubt that the
14 Plaintiff can prove no set of facts in this claim because Plaintiff JJ Global has provided nothing,
15 and thus JJ Global fails to state a claim upon which a relief may be granted and this claim should
16 be dismissed. *See First Hawaii Bank v. Manley*, 2007 Guam 2 ¶ 9; *see also* GRCP Rule 12(b)(6).

17 JJ Global also alleges ambiguity and misrepresentation because the “amendments issued
18 by GDOE during the procurement process were misleading and ambiguous, causing confusion
19 among bidders.” *See Procurement Appeal, In the Appeal of JJ Global Services, OPA-PA-025-*
20 *003*, p. 7 (Mar. 17, 2025).

21 JJ Global provides no facts in this allegation to support its own conclusory statement.
22 Essentially the allegation is that GDOE is ambiguous and misrepresenting because GDOE is
23 ambiguous and misrepresenting. GDOE submits it is beyond doubt that JJ Global can prove no
24 set of facts in this claim because there are no facts or citations to any violation of rules or law and
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1 for that reason this claim should be dismissed. *See First Hawaii Bank v. Manley*, 2007 Guam 2 ¶
2 9; *see also* GRCP Rule 12(b)(6).

3 Similarly, JJ Global alleges GDOE made misleading amendments because GDOE did not
4 adequately clarify material changes through the amendments, resulting in a lack of understanding
5 and misinterpretation of the procurement requirements. *See Procurement Appeal, In the Appeal*
6 *of JJ Global Services*, OPA-PA-025-003, p. 8 (Mar. 17, 2025).

7
8 JJ Global does not specify any facts that were misleading or that needed clarification, any
9 information regarding the alleged lack of understanding, and anything at all regarding an alleged
10 misinterpretation of the unnamed procurement requirements. It is beyond a doubt that JJ Global
11 can prove no set of facts for this allegation, because the allegation itself provides nothing. For
12 these reasons, GDOE moves that these allegations be dismissed for failure to state a claim upon
13 which relief may be granted. *See First Hawaii Bank v. Manley*, 2007 Guam 2 ¶ 9; *see also* GRCP
14 Rule 12(b)(6).
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17 **C. JJ GLOBAL FAILED TO EXHAUST ITS ADMINISTRATIVE REMEDIES**
18 **REGARDING ITS UNFOUNDED ALLEGATIONS OF CONTRACT AND**
19 **BREACH OF CONTRACT CONTROVERSIES OF A SEPARATE AND**
20 **DISTINCT IFB FROM IFB 002-2025.**

21 The issue before the OPA is that this is an appeal of a protest for IFB 002-2025, and yet JJ
22 Global has shoved a litany of allegations against GDOE for a separate and distinct IFB regarding
23 contract and breach of contract controversies. JJ Global fails to provide any legal authority that
24 allows for the freezing of one (1) IFB (or IFB 002-2025) by and through a protest when the
25 complaint is about a separate and distinct IFB (or IFB 007-2023). Guam law provides an entirely
26 separate mechanism for contract and breach of contract controversies. 5 GCA § 5427.
27 Procurement rules and regulations further provide the procedure for allegations regarding claims
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1 of contract and breach of contract controversies. *See generally* Title 2 GAR Div. 4 Chapter 9.
2 The Supreme Court of Guam has held to exhaust administrative remedies, a person must follow
3 the rules governing filing and prosecution of a claim. *See DFS Guam L.P. v. A.B. Won Pat*
4 *International Airport Authority...*, 2020 Guam 20 ¶ 66. Administrative exhaustion is required
5 with respect to each and every claim under the Procurement Code that a plaintiff seeks to raise in
6 the Superior Court under section 5480, and that failure to properly protest and exhaust such
7 remedies deprives the Superior Court of jurisdiction over individual claims that were not
8 administratively exhausted. *Id.* at ¶ 60.

9
10 In this case, JJ Global improperly inserted numerous allegations¹ regarding an IFB 007-
11 2023 within a protest and appeal of IFB 002-2025, effectively holding IFB 002-2025 hostage.
12 Guam law does not allow this. *Id.* JJ Global is required to exhaust its administrative remedies
13 regarding a contract and breach of contract controversy. *Id.* JJ Global did not exhaust its
14 administrative remedies regarding the alleged contract and breach of contract controversies, and
15 for these reasons, these allegations regarding a separate and distinct issue and IFB are not
16 properly before the OPA and should be dismissed². *Id.*

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20 ¹ GDOE objects to and denies all allegations regarding the separate and distinct IFB 007-2023 and all
related contract controversies.

21 ² JJ Global's protest and appeal of IFB 002-2025 are clearly to monopolize the ground maintenance
22 services for GDOE and manipulate the duration of the procurement stay. The facts show JJ Global greatly
23 benefits by prolonging, for as long as possible, a protest and appeal of the recently opened IFB 002-2025.
24 First, IFB 002-2025 is only in its infancy. Bids have not been opened, JJ Global's bid status is unknown,
25 or if JJ Global is actually the majority winner of IFB 002-2025. It is certain that the protest and appeal act
26 as a placeholder for JJ Global. Second, JJ Global alleges that 20 days were inadequate to provide a bid for
IFB 002-2025 and yet JJ Global provided a quote and was awarded for the exact same amount of regions
within three (3) business days. *See* Declaration of GDOE Supervisor II, Mark Crisostomo (March 27,
2025). JJ Global's arguments and actions clearly contradict each other. Third and finally, JJ Global will
earn \$139,852.29 for the 90 emergency procurement. These critical facts are offered for additional
consideration for the timing and content of the appeal for IFB 002-2025.

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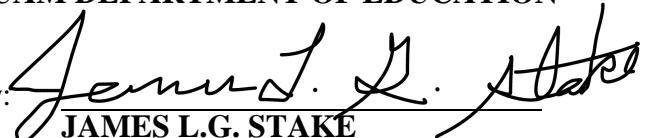
III. CONCLUSION.

In conclusion and based on the above, GDOE respectfully requests the appeal be denied and dismissed in its entirety.

Dated: April 1, 2025.

Respectfully submitted,

GUAM DEPARTMENT OF EDUCATION

By: 
JAMES L.G. STAKE
Legal Counsel