

Suite 401 DNA Building
 238 Archbishop Flores St.
 Hagåtña, Guam 96910



TRANSMITTAL

To:	Ms. Regine Biscoe Lee President & Chief Executive Officer Guam Visitors Bureau 401 Pale San Vitores Road Tumon, Guam 96913 Email: Regine.lee@visitguam.org	From:	Benjamin J.F. Cruz Public Auditor Office of Public Accountability
		Pages:	11 (including cover page)
CC:	Mr. Daniel J. Berman, Esq Attorney for Appellants Glimpses of Guam, Inc. Berman Law Firm Suite 503, Bank of Guam Bldg. 111 Chalan Santo Papa Hagåtña, Guam 96910 Phone: (671) 477-2778 Fax: (671) 477-4366 Email: djberman@pacificlawyers.law	Date:	April 18, 2025
		Phone : Fax:	(671) 475-0390 x. 204 (671) 472-7951

Re: OPA-PA-25-006 Notice of Receipt of Appeal

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Thank you,
 Jerrick Hernandez, Auditor
jhernandez@guamopa.com



OFFICE OF PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910

Phone: (671) 475-0390 / FAX: (671) 472-7951

April 18, 2025

Ms. Regine Biscoe Lee
President & Chief Executive Officer
Guam Visitors Bureau
401 Pale San Vitores Road
Tumon, Guam 96913

VIA EMAIL: Regine.lee@visitguam.org

Re: Notice of Receipt of Appeal – OPA-PA-25-006

Dear Ms. Biscoe Lee,

Please be advised that Glimpses of Guam, Inc. (hereinafter referred to as “Glimpses”) filed an appeal with the Office of Public Accountability (OPA) on April 17, 2025, regarding the Guam Visitors Bureau’s (GVB) denial of its protest decision related to the procurement for Integrated Communications, Advertising and Event Support Service (GVB RFP 2025-002). OPA has assigned this appeal case number OPA-PA-25-006.

Immediate action is required of GVB pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA’s office and on its website at www.opaguam.org. The first eight pages of the notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeal. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Friday, April 25, 2025**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Friday, May 2, 2025**, ten work days following receipt of this notice.

When filing all required documents with our office, please provide one original and one copy to OPA (**electronic filings will be acceptable and highly encouraged, and can be emailed to jhernandez@guamopa.com**), and serve a copy to Glimpses.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at jhernandez@guamopa.com or 475-0390 ext. 204 should you have any questions regarding this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read "Benjamin J.F. Cruz".

Benjamin J.F. Cruz
Public Auditor

Enclosure: First eight pages of the Notice of Appeal – OPA-PA-25-006

Cc: Daniel J. Berman, Esq., Attorney for Glimpses

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PROCUREMENT APPEAL

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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: 4/17/2025
TIME: 1:54 PM ✓ TMB
25-006

Attorneys for Appellant:
GLIMPSES OF GUAM, INC.

BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY

IN THE APPEAL OF
GLIMPSES OF GUAM, INC.,
Appellant.

NOTICE OF SECOND PROCUREMENT APPEAL

Docket No. OPA-PA- 25-006

To: Office of Public Accountability ("OPA")

Appellant Information

Name: Glimpses of Guam, Inc. ("Glimpses")

Mailing Address: 161 US Army Juan C. Fejeran Street
Barrigada Heights, Guam 96913

For purposes of this Appeal, please direct filings and correspondence to Glimpses' legal counsel:

Daniel J. Berman, Esq.
Berman Law Firm
Suite 503, Bank of Guam Building
111 Chalan Santo Papa
Hagatna, Guam 96910

Business Address: 161 US Army Juan C. Fejeran Street
Barrigada Heights, Guam 96913

Email Address: djberman@pacificlawyers.law

Daytime Contact No.: 671-477-2778

Fax No.: 671-477-4366

Appeal Information

A. Purchasing Agency: Guam Visitors Bureau

B. Procurement No.: GVB RFP 2025-002 Integrated Communications, Advertising and Even Support Service

C. Decision being appealed was made on March 21, 2025, by Gerald S.A. Perez, Deputy General Manager, which was received by undersigned counsel on March 24, 2025. A copy of said Decision Denying Protest is attached hereto as Exhibit "7".

D. Appeal is made from the Decision Denying Protest and Award.

E. Names of competing Bidders, Offerors, or Contractors known to Appellant: "The Manhita Team"; Galaide; and, Greenlight. No bidder exists named RIMS or Ruders Integrated Marketing Strategies.

F. Only on March 21, 2025, "The Manhita Team" bid was first disclosed. This is despite the Glimpses Sunshine Law and Freedom of Information Act Request served on GVB on January 27, 2025. Exhibit "4".

G. On March 24, 2025, Decision Denying Protest was served on Glimpses. Exhibit "7".

Statement Supporting the Appeal

1. Background

Between January 1, 2024 and December 26, 2024, Glimpses was issued and held a Contract for the GVB marketing services.

On December 27, 2024, GVB issued RFP 2025-002.

On January 17, 2025, "The Manhita Team" submitted its bid. See Exhibit "1", a true and accurate excerpt copy of The Manhita Team bid, Bates No. GVB0697 through GVB074, attached. Likewise, on January 17, 2025, Glimpses also timely submitted its bid.

1 On January 17, 2025, GVB evaluated four (4) bidders was completed and The
2 Manhita Team was ranked number 1 with 271 points. *See Exhibit "2"*, GVB Evaluations
3 of four (4) bidders, attached.

4 On January 21, 2025, GVB sent Notice of Intent to Award to Glimpses and
5 advised that Ruders Integrated Marketing Strategies ("RIMS") shall be awarded the
6 new contract. *See Exhibit "3"*, GVB Notice of Intent to Award, attached.

7 On January 27, 2025, Glimpses served its Sunshine Law and FOIA Request for all
8 documents that included "1. The bid submissions of RIMS ... correspondence and
9 documents of all kind and nature related to bid submissions for GVB RFP No. 2025-
10 002". *See Exhibit "4"*, attached.

11 Yet on February 1, 2025, GVB refused to produce and concealed "The Manhita
12 Team" bid, but produced that part of the procurement record that they elected and
13 preferred to show to Glimpses.

14 On February 24, 2025, GVB Notice was issued that the Award was necessary
15 without delay to protect the substantial interests of Guam. *See Exhibit "5"*, attached.
16 However, the GVB Notice failed to comply with 5 GCA § 5425(c) Decision (2) "inform
17 the protestant of its right to administrative and judicial review".

18 On March 11, 2025, Glimpses filed its Notice of Procurement Appeal to the Office
19 of Public Accountability ("OPA"). Therein, at p. 3, Glimpses invoked the automatic
20 stay of 5 GCA § 5425(g).

21 On March 21, 2025, GVB signed its Procurement Record. *See GVB Procurement*
22 *Record cover sheet, Exhibit "6"*, attached. Glimpses received for the first time
23 disclosure of "The Manhita Team" bid. *See Exhibit "1"*. In contrast, no bid was
24 submitted individually by RIMS. Therein, Glimpses learned for the first time that on
25 March 4, 2025, GVB acted, without notice to Glimpses or the public, to allegedly execute
26 a contract with RIMS. *See Decision Denying Protest, Exhibit "7"* at ¶14, p. 3. However,
27 no such RIMS and GVB contract has been disclosed or produced to Glimpses thus far.
28

1 On March 24, 2025, service was made on Glimpses of the GVB Decision Denying
2 Protest. See Exhibit "7", Decision Denying Protest dated March 21, 2025, attached.
3 Therein, GVB made first disclosure that an actual contract was executed by GVB with
4 RIMS, although no copy of such contract has been produced or disclosed to Glimpses.

5 In the evaluation, Glimpses was ranked third with 220 points and "The Manhita
6 Team" was ranked first with 271 points. However, only RIMS received a contract from
7 GVB, not "The Manhita Team". See Exhibit "1" ("The Manhita Team" bid excerpt first 7
8 pages).

9 On April 2, 2025, Glimpses filed and served its Notice of Second Protest of this
10 procurement. GVB failed and refused to respond in any manner to Glimpses Second
11 Protest. This second appeal follows.

12 **2. No Individual RIMS Bid Was Ever Submitted in Response to the RFP**

13 Based on the surprise and belated required disclosure of the GVB Procurement
14 Record, the OPA and Glimpses may now review and see that "The Manhita Team"
15 submitted a comprehensive bid for the award of the contract. See Exhibit "1". Fourteen
16 (14) times "The Manhita Team" is named in their bid submission. Exhibit "1".
17 However, GVB has no intention and, according to its documents, will not award or
18 execute any contract with "The Manhita Team". The latest reports and documents from
19 DRT show that no such "Team" was incorporated, is not a filed partnership and nor a
20 dba of any actual companies associated with the "Team"; that are, Big Fish Creative,
21 Inc., Ruder Integrated Management Services, Inc. and SKIFT.

22 Instead, the DRT documents available reveal that corporation papers do exist for
23 a separate "Manhita Corporation" (1998) and "Manhita Guam LLC" (2012) which are
24 duly authorized and established corporations. None of the available recorded papers
25 from DRT relate to "The Manhita Team". "Manhita Guam LLC" was organized on
26 August 8, 2012 for the purpose of "coin-operated ..." laundry facilities; and, "Manhita
27 Corporation" was formed on March 27, 1997 to engage in operation of a "bar and
28

1 restaurant". See Exhibit "8", DRT filed Manhita Articles of Organization and
2 Incorporation, respectively. Review of DRT filings supports only the thesis that The
3 Manhita Team is not only an illusion, but misrepresents other duly registered and
4 existing Guam corporations with no legal connection to this "Team".

5 GVB has zero factual basis in the procurement record to assume or conclude, as it
6 did, that: "Big Fish and RIMS partnered" and "... a formal partnership, formed to
7 respond to the ICAESS RFP ..." existed. See Decision Denying Protest at pg. 2, ln. 18,
8 Exhibit "7". Moreover, GVB called the prevailing bidder as "RIMS' submission ...".
9 *Id.* at pg. 3, ln. 18-19; also, p. 4, ln. 3 ("RIMS/Manhita submission" and "Skift"). GVB
10 cannot make a case that any partnership entity of "The Manhita Team" exists; and even
11 if it did, the award could only be to "The Manhita Team" - an informal collaboration of
12 three (3) separate entities.

13 The bid documents that Manhita filed, and what GVB recognized, and was
14 received was only "The Manhita Team" bid. This is confirmed in the Evaluation sheets.
15 Specifically, the actual evaluations of GVB were made only on the understanding and
16 express finding that "Manhita" or "The Manhita Group" was a bidder on the RFP. See
17 Exhibit "2", Evaluations at GVB0243, GVB0255, GVB0256, GVB0265, GVB0266,
18 GVB0275 and GVB0276. At no time was RIMS evaluated as a sole bidder. In a final
19 analysis, it appears this group represented themselves as either a partnership or a joint
20 venture entity.

21 No stretch can be made that "The Manhita Team" may call itself a dba of RIMS.
22 It is clear that Big Fish Creative Inc. and SKIFT are significant and perhaps major parts
23 or partners in this bid. Because this "Team" is not a dba, a partnership (or a joint
24 venture) that requires identification and a government filing or approval to create such
25 fictitious entity, the bid is a misrepresentation of another individual party or company
26 who was awarded the contract; i.e. RIMS. The non-bidder RIMS has been individually
27 awarded the sole contract for the marketing services required by the RFP. GVB is not
28

1 allowed to accept, select and award a public contract to a individual party who was not
2 evaluated and had no individual bid timely submitted in response to the RFP of GVB.

3
4 **3. GVB's Purported Notice of a Public State of Emergency and Necessity to**
5 **Protect Substantial Interests of Guam Dated February 24, 2025 Is Void**

6 GVB alleges that a February 24, 2025 Notice of Determination of Award Without
7 Delay has sheltered GVB from compliance with 5 GCA § 5425(g) (Automatic Stay). See
8 Exhibit "5". However, GVB has failed to comply with the Guam Procurement Code in
9 several respects and no shelter can be recognized from the automatic stay.

10 First, GVB must comply with 5 GCA § 5425(c) Decision (2) and "inform the
11 protestant of its right to administrative and judicial review". Here, the Decision
12 Denying Protest served on March 24, 2025 (Exhibit "7") is utterly devoid and omits any
13 statutorily required language that informs Glimpses of its rights to protest and appeal.
14 Likewise, GVB's notice dated February 24, 2025 omits the critical and statutorily
15 required notice of appeal rights. See Exhibit "5".

16 Second, GVB failed to issue its Decision Denying Protest first - in the statutory
17 order - required by the code. At Section 5425(c), the Decision is required prior to use
18 and invoke Section 5425(g)(2) and (3). The reason is clear. A protestant must be
19 informed of their right to administrative and judicial review within the extremely short
20 period of two (2) days after receipt of Notice of Determination of Award Without
21 Delay.¹

22 ¹ The protestant can of course always appeal an agency decision "to the Public Auditor within fifteen (15)
23 days after receipt by the protestant of the notice of decision." See *Pac. Data Sys., Inc. v. Guam Dep't of*
24 *Educ.*, 2024 Guam 4, ¶21, citing 5 GCA § 5425(e). A protestant can challenge a procurement on "any
25 phase of solicitation or award including, but not limited to, specifications preparation, bid solicitation,
26 award, or disclosure of information marked confidential in the bid or offer." See *DFS Guam L.P. v. A.B.*
27 *Won Pat Int'l Airport Auth., Guam*, 2020 Guam 20, ¶ 84, citing 2 GAR Div. 4 § 9101(c)(2). It is possible that
28 many different events that spring from the same solicitation can trigger a protest. *Id.* citing *Guam*
Imaging, 2004 Guam 15 ¶ 28 (citing 26 GAR § 16901(c)(2)). Sometimes, the announcement of an award can
reveal new facts that form a basis for a protest. See *DFS Guam L.P. v. A.B. Won Pat Int'l Airport Auth.,*
Guam, 2020 Guam 20, ¶ 88. A challenge to the failure to legally implement the automatic stay survives the
signing of a contract because the agency acts at its peril by going forward into a contract improperly, and
will be subject on appeal to the reviewer's power to restore the status quo. *Id.* at 149.

1 Third, § 5425(g)(3) is dependent on § 5425(c)(2). Without the Decision and
2 statutorily required information given to a protestant of the right to administrative
3 review, the protestant cannot know that he has merely two (2) days to challenge a
4 finding of an alleged state of emergency or substantial interests of Guam.² In this case,
5 the override of the automatic stay was arbitrary, capricious and an abuse of agency
6 discretion. See Exhibit "5". This is because the only thing attached to justify the Notice
7 was a consultant's findings of what was advisable to procure. *Id.* GVB made no serious
8 attempt to consider the effect on the procurement system integrity when it overrode the
9 automatic stay. See *URS Fed. Servs., Inc. v. United States*, 102 Fed. Cl. 664, 673-74 (2011).

10 Fourth, to the present, GVB has not disclosed any contract executed by either
11 "The Manhita Team", or RIMS, despite the duty to do so under the procurement law
12 requiring the full record of the procurement to be filed and produced with the whole
13 GVB procurement record on appeal.

14 **4. Glimpses' Incorporation by Reference of Notice of Procurement Protest Served**
15 **February 4, 2025, Notice of Procurement Appeal filed on March 11, 2025 and**
16 **Notice of Second Protest Served April 2, 2025.**

17 Glimpses incorporates by reference as if fully set forth herein all of the terms and
18 claims made and set forth in its Notice of Procurement Protest served on February 2,
19 2025, its Notice of Procurement Appeal filed and served on March 11, 2025, and Notice
20 of Second Procurement Protest served on April 2, 2025.

21 **Ruling Requested**

22 Glimpses requests that the Requests for Proposal be voided, and that any
23 Contract awarded to non-bidder RIMS be invalidated and the contract entered be
24 terminated.

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26
27 ² *Techconsulting, LLC v. United States*, 129 Fed. Cl. 208, 215 (2016). The automatic stay provision cannot
28 function, as intended, if potential bid protestors do not know how long they have to file before they lose
their right to an automatic stay.

1 Alternatively, Glimpses requests that GVB seek independent re-evaluation of the
2 true and actual bids submitted for this procurement. The resulting failure of RIMS to
3 submit any individual bid has subverted the purpose of this procurement and is cause
4 to re-evaluate the bids.

5 **Declaration Re No Court Action**

6 Pursuant to 5 GCA Chapter 5 § 5425(g), unless the court requests, expects, or
7 otherwise expresses interest in a decision by the Public Auditor, the Office of Public
8 Accountability will not take action on any appeal where action concerning the protest
9 or appeal has commenced in any court.

10 The undersigned party does hereby confirm that to the best of his or her
11 knowledge, no case or action concerning the subject of this Appeal has been
12 commenced in court. All parties are required to and the undersigned party agrees to
13 notify the Office of Public Accountability within 24 hours if court action commences
14 regarding this Appeal or the underlying procurement action.

15 DATED this 17th day of April, 2025.

16 Respectfully submitted,

17 **BERMAN LAW FIRM**
18 Attorneys for Appellant
GLIMPSES OF GUAM, INC.

19 *Daniel J. Berman*

20 By:

DANIEL J. BERMAN

21 Address: Suite 503, Bank of Guam Building
22 111 Chalan Santo Papa
Hagatna, Guam 96910

23 Telephone: 671-477-2778



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-25-006 Notice of Receipt of Appeal

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Cc: Rudd Gudmalin <rudd.gudmalin@visitguam.org>, djberman@pacificlawyers.law

Fri, Apr 18, 2025 at 10:34 AM

Hafa Adai,

Please see the attached Notice of Receipt of Appeal for OPA-PA-25-006. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

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Best Regards,



Jerrick J.J.G. Hernandez, MA, CGFM, CFE, CICA, CGAP
Accountability Auditor

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