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PROCUREMENT APPEAL IN THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of
DFS Guam L.P., Appellant
of the Decision of the
A.B. Won Pat International Airport Authority,
Guam

NOTICE OF APPEAL
Office of Public Accountability
DOCKET NO. OPA-PA _____

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I. APPELLANT INFORMATION

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II. APPEAL INFORMATION

Purchasing Agency: A.B. Won Pat International Airport Authority, Guam
Identification/Number of Procurement, Solicitation, or Contract: GIAA 010-FY12

The decision being appealed was made on May 17, 2013 by the Head of the Purchasing Agency.

The appeal is made from a Decision on Protest of Method, Solicitation or Award. The May 17, 2013 decision is attached.

Names of Competing Bidders, Offerors, or Contractors known to Appellant:

- 1. Lotte Duty Free Guam, LLC
- 2. The Shilla Duty Free
- 3. James Richardson (Guam), LLC

III. INTRODUCTION

DFS Guam, L.P. (“DFS”) brings this appeal of the A.B. Won Pat International Airport Authority, Guam’s (“GIAA”) decision of May 17, 2013 to deny DFS’ proposal protest (“Proposal Protest”) of the GIAA’s conduct in connection with its April 12, 2013 decision to approve the recommendations of the GIAA evaluation committee ranking Lotte Duty Free Guam LLC and its relevant subsidiaries and affiliates (collectively, “Lotte”) as the “most qualified proposer” pursuant to the RFP No. GIAA 010-FY12 (“RFP”).

DFS began its proposal protest on October 30, 2012, when it first wrote to the GIAA to

1 request an investigation into allegations that Lotte attempted to improperly influence the RFP process
2 in connection with a trip to Seoul, South Korea by a Guam Visitors Bureau (“GVB”) delegation that
3 included two GIAA board members. DFS continued its proposal protest with correspondence on
4 April 11, 2013, and April 23, 2013. On May 17, 2013, the GIAA notified DFS that the Proposal
5 Protest had been denied. DFS now brings this timely appeal of that decision pursuant to 5 GCA
6 § 5425(e), within the 15-day statutory period for appeal.

7 This Notice of Appeal, together with this statement of grounds for appeal, statement of the
8 ruling requested, the petition for discovery, and the evidence and documents attached, collectively
9 constitute DFS’ appeal (“Appeal”) of the GIAA’s May 17, 2013 denial of the Proposal Protest.

10 IV. STATEMENT OF GROUNDS FOR APPEAL

11 A. Issues Subject to Appeal

12 At the outset, DFS notes the GIAA’s response to DFS’ Proposal Protest was compromised by
13 a fatal conflict of interest, and its subsequent conduct demonstrates the GIAA’s bad faith.
14 Specifically, DFS believes that that GIAA’s “investigation” into the Proposal Protest was
15 compromised when it responded to (and denied) DFS’ protest, in part, by fully ratifying all of the
16 actions undertaken by various GIAA Board Members, GIAA employees and staff members and by
17 making numerous affirmative findings to the effect that the GIAA Board of Directors had not
18 engaged in any wrongdoing whatsoever. In effect, the GIAA’s investigation took the additional and
19 unwarranted step of affirmatively exonerating GIAA board members and GIAA staff on the road to
20 denying DFS’ protest. In addition, the fact that it was GIAA staff members who were charged with
21 investigating serious allegations that implicated their own supervisors (the GIAA Board of Directors)
22 raises troubling questions about the impartiality and fairness of the “investigative” process that
23 underpins the GIAA’s findings, which further illustrates the existence of a conflict of interest here.

24 Furthermore, the highly expedited timeline surrounding the execution and announcement of
25 the GIAA’s putative operating contract with Lotte—DFS’ Proposal Protest was denied on Friday,
26 May 17; the contract with Lotte was signed on Saturday, May 18; and the GIAA issued a public press
27 release announcing the putative award on Monday, May 20—strongly suggests that the GIAA failed
28 to observe the requirement that it “not proceed further with the solicitation or with the award of [a

1 contract prior to final resolution of [a pending protest].” 5 GCA § 5425(g). The timing of the
2 GIAA’s actions also provided no opportunity for DFS to appeal the GIAA’s denial of the Proposal
3 Protest because DFS received the denial of the Proposal Protest after the close of business on Friday,
4 May 17, and GIAA and Lotte executed the putative contract on Saturday, May 18. Thus, DFS’ due
5 process under Guam law was violated.

6 In addition, as detailed below, throughout the proposal period Lotte repeatedly engaged in
7 behavior that was violative of both the terms of the RFP and numerous provisions within the Guam
8 Procurement Code (“GPC”). Contrary to the GIAA’s finding that Lotte was the “most qualified”
9 proposer, *Lotte is not even a responsible proposer*, much less the most qualified one, and its proposal
10 should accordingly be deemed non-responsive to the RFP.

11 DFS’ Proposal Protest and this Appeal are based on the following independent bases:

- 12 1. Lotte should not be deemed to be a responsible proposer, and accordingly Lotte’s
13 proposal should be deemed non-responsive to the RFP, given its improper conduct and
14 attempts to unduly influence the award of the contract during the proposal period (whether
15 that influence in fact occurred or not).
- 16 2. Lotte’s should also not be deemed to be a responsible proposer, and accordingly Lotte’s
17 proposal should be deemed non-responsive to the RFP, because the facts indicate that it
18 supplied false affidavits under oath in support of its proposal relating to compliance with
19 Guam ethical rules and laws.
- 20 3. Public policy arguments support reversing the GIAA’s determination that Lotte is the
21 “best qualified proposer” due to the provision of, or attempted provision of, gifts and other
22 items of value from Lotte to GIAA officials. The acknowledged provision of gifts, as well
23 as other irregularities, irrevocably compromised the integrity of the proposal process and
24 thus requires invalidating the GIAA’s determination with respect to Lotte;
25 notwithstanding any subsequent recusals, the occurrence of non-transparent events failed
26 to assure compliance with the public policy set forth in GPC Section 5625, which
27 mandates that public employees “should conduct themselves in such a manner as to foster
28 public confidence in the integrity of the territorial procurement organization.”

- 1 4. Lotte’s proposal should be placed on hold so as to permit the United States Attorneys’
2 Office and any other relevant agencies to conduct an investigation into potential violations
3 of U.S. federal and Guam territorial law, as DFS believes may be appropriate here.
- 4 5. Lotte’s proposal should be placed on hold so that the provisions of GPC Section 5425 *et*
5 *seq.* may be followed, which specifically permit DFS to appeal any initial determination
6 that Lotte should not be disqualified from the proposal process.
- 7 6. Lotte’s proposal should be disqualified because any putative contract between Lotte and
8 the GIAA shall be voidable under Section 15207 of 4 GCA, Ch. 15, because the contract
9 would have been entered into in violation of the laws of Guam.
- 10 7. Lotte’s proposal should be disqualified because the procedure that the GIAA Board of
11 Directors instituted to select Lotte after the foregoing issues were reported publicly was a
12 disingenuous attempt to “paper over” serious ethical concerns. These procedures were
13 improper and unauthorized under Guam law. Rather than conduct an investigation and
14 follow the proposal protest rules, the GIAA designed an *ad hoc* procedure that is not
15 authorized in Guam procurement law and regulations. Further, in any event, as even the
16 GIAA “investigation” acknowledged, the procedure that the GIAA adopted was not truly
17 blind and thus *could not* have effectively addressed the pressing bias concerns that it was
18 ostensibly designed to remedy: “[T]he non-abstaining GIAA Board members were given
19 an opportunity prior to the March 28, 2013 Board meeting to review all proposals *with*
20 *identities of the proposers fully disclosed therein.*” (Emphasis added). The GIAA’s
21 “evaluation process” was thus rife with conflicts of interest, and it appears to have been
22 adopted by GIAA Directors to disguise their own bias in favor of Lotte rather than to
23 actually protect the integrity of the RFP process.
- 24 8. The conduct of various GIAA Board Members throughout the bidding period casts serious
25 doubt on the fundamental impartiality of the GIAA in awarding this bid, as well as the
26 integrity of the GIAA’s ultimate finding that Lotte was the “best qualified proposer.”
- 27 9. The GIAA’s decision to respond to DFS’ Proposal Protest by unilaterally conducting a
28 wholly unmonitored investigation into itself also created a troubling and inherent conflict

1 of interest. The alleged impropriety on the part of GIAA Board Members casts serious
2 doubt on the fullness and fairness of this ostensible “investigative” process, which
3 ultimately resulted in the full ratification of the GIAA’s previous findings and the
4 affirmative exoneration of all GIAA Board Members of any wrongdoing in connection
5 with this RFP.

6 **B. Supporting Facts**

7 The following facts support the Proposal Protest and this Appeal, and are believed to be true
8 upon information and belief:

9 1. As was reported in media accounts, two members of the GIAA board of directors—
10 Chairman Francisco Santos and member Rosalynda Tolan—were part of a delegation sponsored by
11 the Guam Visitors’ Bureau (“GVB”) that participated in the inaugural Guam flight of Jeju Air, which
12 took place on September 27, 2012. The delegation included a number of other persons who were,
13 and remain, highly influential in the Guam tourism industry. The date of this flight is significant
14 given that Lotte’s proposal in response to the RFP was due just a few weeks later, on October 17,
15 2012.

16 2. During their stay in Seoul (on September 26 and 27, 2012), arrangements were made
17 for the GVB delegation to tour the main downtown store of Lotte, where they were personally
18 greeted by the President of Lotte. This tour was not on the published agenda of the delegation but
19 was instead a last-minute addition, added at the instruction of GVB Deputy General Manager Nathan
20 Denight. The meeting was suggested because John Calvo, brother of GVB Board member Eduardo
21 “Champ” Calvo, had “connections” with Lotte, and he sought to “set up a meeting” with the Lotte
22 group. GVB staff, including GVB Korea Marketing Officer Felixberto S. Reyes, expressed concern
23 about the propriety of the meeting in light of the fact that the GIAA had put out the RFP and Lotte
24 was known to be an interested proposer.¹ Notwithstanding these concerns, the meeting went ahead.

25 3. During one of the “free” periods on the delegation’s agenda, they were driven to the
26

27 ¹ DFS is also aware of facts indicating that GVB Board Chairman Monte Mesa was assisting Lotte
28 in obtaining consulting services from third parties in connection with the RFP.

1 Lotte department store, where they were met by Lotte staff and escorted to the duty free area on the
2 top floors of the store building. They were personally greeted there by the President of Lotte. The
3 GIAA’s assertions that this meeting was unconnected to earlier attempts to arrange a meeting and
4 was merely a spontaneous decision are not credible. It strains credulity to believe that Lotte
5 employees—including the President of Lotte himself—were coincidentally available to greet and
6 escort the GVB delegation for an impromptu shopping trip which was allegedly “added [to the
7 Delegation’s itinerary] on the afternoon of September 26.” Shopping cards were also provided by
8 Lotte to the members of the delegation, including the GIAA directors, and *it is uncontested* that while
9 the Delegates were in the Lotte store, Chairman Mesa told his fellow delegates something to the
10 effect of “choose whatever you want.”

11 4. As the GIAA “investigation” itself revealed: “[W]hile in the Coach section of the
12 [Seoul store], [GIAA] Chairman Santos attempted to purchase a purse for his wife. Upon handing his
13 credit card to the Lotte cashier, he was informed by the cashier that Mr. Mesa ‘will take care of it.’ . .
14 . According to Mr. Mesa, he informed Chairman Santos that he would pay for the purse . . . Mr.
15 Mesa arranged with Lotte to have the purchased item delivered to the Incheon Airport at the time of
16 the Delegates’ departure . . . According to Mr. Mesa, he delivered the purchased purse to Chairman
17 Santos prior to boarding the return flight to Guam On October 24, 2012, after . . . being
18 reminded about the pending RFP, Chairman Santos returned the bag with the purse to Mr. Mesa who,
19 in turn, attempted to return the purse to Lotte for a refund.” While damaging, even these facts do not
20 appear to constitute a full and accurate accounting of the relevant events.

21 5. As the GIAA “investigation” also revealed: “When Mr. Mesa returned to the hotel, he
22 received a message that gift bags were being delivered by Lotte for the female members of the
23 Delegation Later that evening . . . Director Tolan encountered Mr. Mesa, who told her he had a
24 gift bag for her, which he would have delivered to her room . . . [and Director Tolan] later found a
25 gift bag of lotions and face creams in her hotel room.” Again, while damaging, even these facts do
26 not appear to constitute a full and accurate accounting of the relevant events.

27 6. On September 27, when the delegation arrived at Incheon Airport to return to Guam,
28 they were again met by Lotte staff who accompanied them to the Lotte airport duty free store, where

1 they were given additional gifts. Merchandise that they had selected the previous day at the Seoul
2 store was also delivered to them at the airport.

3 7. After the fact of these gifts became public, Chairman Santos and Director Tolan, each
4 recognizing the improper appearance their respective acceptance of the gifts from Lotte had created,
5 reportedly returned the gifts to GVB. They each thereafter recused themselves from participating in
6 the approval of the recommendations of the GIAA's evaluation committee as to the ranking of the
7 proposers. To date, however, there has still not been a full accounting for these gifts.

8 8. It has been suggested that the value of the gifts Lotte provided to the GIAA board
9 members was nominal, but DFS disputes that. "Nominal value" means actual worth or actual value
10 not exceeding \$25, pursuant to 2 GAR 11101(6). It is DFS' understanding that the value of the gifts
11 provided to the GIAA directors by Lotte greatly exceeded \$25—indeed, even the GIAA
12 "investigation" revealed that the value of Director Tolan's gift bag alone "is [worth] around \$200."

13 9 Following the GIAA meeting at which Chairman Santos and Director Tolan
14 announced their decisions to recuse themselves, Lotte's Guam legal counsel, Cesar Cabot, publicly
15 admitted that Lotte provided gifts to the GVB delegation, but claimed that Lotte was not aware of the
16 fact that GIAA board members were part of the GVB delegation. Given the circumstances of the
17 meeting, and the aforementioned objections, these statements lack credibility. In particular, it strains
18 credulity that neither GVB Chairman Mesa, who assisted Lotte with engaging consultants in
19 connection with the RFP, nor Champ Calvo, whose brother was connected to Lotte, were unaware
20 that their fellow delegation members include high-ranking officials of the GIAA.

21 10. As part of its proposal, Lotte was required to submit various affidavits. One of those
22 affidavits required Lotte to attest, under penalty of perjury, that neither it, nor any of its officers,
23 representatives, agents, subcontractors or employees had offered, given, or agreed to give any
24 Government of Guam employee any payment, gift, or other gratuity in connection with its proposal.
25 The giving of gifts by Lotte, and the circumstances surrounding those gifts, indicate that Lotte's
26 sworn affidavit was false.

27 11. Similarly, Lotte was required to swear, under penalty of perjury, that neither it nor any
28 of its officers, representatives, agents, subcontractors or employees had knowingly influenced any

1 government of Guam employee to breach any of the ethical standards set forth in 5 GCA, Chapter 5,
2 Article 11. 5 GCA 5630(d) provides that:

3 *It shall be a breach of ethical standards for any person who is or may become a contractor, a*
4 *subcontractor under a contract to the prime contractor or higher tier contractor, or any*
5 *person associated therewith, to offer, give or agree to give any employee or agent of the*
6 *Territory or for any employee or agent of the Territory to solicit or accept from any such*
7 *person or entity or agent thereof, a favor or gratuity on behalf of the Territory whether or not*
8 *such favor or gratuity may be considered a reimbursable expense of the Territory, during the*
9 *pendency of any matter related to procurement, including contract performance warranty*
10 *periods.*

11 (Emphasis added.) The giving of valuable gifts and other gratuities to government officials during the
12 pendency of the RFP falls squarely within the proscription of Section 5630(d), notwithstanding
13 Lotte's sworn affidavit to the contrary.

14 12. At the GIAA's April 12, 2013 board meeting, the GIAA ignored the public facts
15 regarding Lotte's conduct and instead declared that Lotte was found to be a responsive and
16 responsible proposer within the meaning of the RFP. However, the procedure followed by the GIAA
17 board to approve the recommendations of the evaluation committee as to the ranking of the four
18 proposers was unprecedented, not authorized in the Guam procurement law or regulations, and not
19 disclosed in the RFP. Rather, it appears that the procedure was an *ad hoc* one devised by the GIAA's
20 legal counsel as a means to superficially sanitize this procurement in order to deal with the taint
21 caused by Lotte's improper actions and the inevitable fallout.

22 13. Ostensibly in order to protect the confidentiality of the contents of the various
23 proposals, the identities of the proposers in the rankings recommended by the evaluation committee
24 were not disclosed. Consequently, the remaining GIAA directors who did not recuse themselves
25 were required to approve the rankings on an apparently anonymous basis. At the March 28, 2013
26 GIAA board meeting, however, Director Ed Untalan stated that he had personally reviewed each of
27 the four proposals and commented on them in very general terms. Indeed, each of the GIAA
28 directors was apparently given the opportunity to review the proposals themselves and form their

1 own views as to their relative merits—as the GIAA “investigation” itself noted, “the non-abstaining
2 GIAA Board members were given an opportunity prior to the March 28, 2013 Board meeting to
3 review all proposals *with identities of the proposers fully disclosed therein.*” (Emphasis added).

4 14. Similarly, the *ad hoc* procedure appears to have been aimed at avoiding the possible
5 disqualification of one or more of the remaining three directors who voted to approve the evaluation
6 committee’s rankings.² DFS has, for example, received information that the sister of one of those
7 three directors, Director Martin Gerber, reportedly has a business relationship with Lotte.³ If the
8 identity of Lotte had been revealed, as it would have under normal circumstances, Director Gerber
9 would presumably have been obliged to recuse himself,⁴ which would have left the GIAA board
10 without a quorum. The *ad hoc* procedure may have been designed to assure the preservation of a
11 quorum, notwithstanding the existence of serious conflicts of interest.

12 15. In response to DFS’ ongoing Proposal Protest, the GIAA conducted an “investigation”
13 into the serious allegations raised therein (and reiterated herein). DFS believes that that GIAA’s
14 “investigation” into the Protest was compromised by a fatal conflict of interest—in responding to
15 (and denying) DFS’ protest, and in fully ratifying all of the actions undertaken by various GIAA
16 Board Members, GIAA employees and staff members, the GIAA made numerous affirmative
17 findings to the effect that the GIAA Board of Directors had not engaged in any wrongdoing
18 whatsoever. In effect, the GIAA’s investigation took the additional and unwarranted step of
19 affirmatively exonerating GIAA board members and GIAA staff on the road to denying DFS’ protest.
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22 ² DFS reiterates that it has not yet been provided the opportunity to review the Lotte proposal or the
23 memorandum which the GIAA will be required to prepare in accordance with 2 GAR 3114(m),
explaining the basis of any putative award of the contract to Lotte, notwithstanding this protest.

24 ³ Director Gerber’s sister is also married to John Calvo, the person with “connections to Lotte”
25 who first suggested setting up a meeting with the Lotte group. John Calvo’s brother, Champ
26 Calvo, is the senior named partner of Calvo Fisher Jacob, the law firm which serves as GIAA’s
legal counsel and which devised the *ad hoc* process in an effort to guide the board through the
ethical shoals created by Lotte’s improper actions.

27 ⁴ DFS has also learned that Director Gerber was seen having lunch with Anthony Sgro on Monday,
28 April 15, 2013, at the Chili’s Restaurant in Tamuning. Mr. Sgro is known to be connected with
Lotte. The award of the concession contract is still pending, so such a contact was potentially
improper.

1 The fact that it was GIAA staff members who were charged with investigating serious allegations that
2 implicated their own supervisors (the GIAA Board of Directors) raises troubling questions about the
3 impartiality and fairness of the “investigative” process that underpins the GIAA’s findings.

4 16. Furthermore, the highly expedited timeline surrounding the execution and
5 announcement of its putative operating contract with Lotte—DFS’ Proposal Protest was denied on
6 Friday, May 17; the contract was signed on Saturday, May 18; and the GIAA issued a public press
7 release announcing the putative award on Monday, May 20—strongly suggests that the GIAA also
8 failed to observe the requirement under 5 GCA § 5425(g) that it “not proceed further with the
9 solicitation or with the award of [a] contract prior to final resolution of [a pending protest].” The
10 timing of the GIAA’s actions also provided no opportunity for DFS to appeal the GIAA’s denial of
11 the Proposal Protest because DFS received the denial of the Proposal Protest after the close of
12 business on Friday, May 17, and GIAA and Lotte executed the putative contract on Saturday, May
13 18, before the start of the next business day (Monday, May 20).

14 17. On May 23, DFS sent the GIAA a cease-and-desist letter requesting that the GIAA
15 refrain from proceeding with any actions taken under or in furtherance of the putative operating
16 contract with Lotte, pending a final resolution of the Proposal Protest pursuant to 5 GCA § 5425(g).
17 In this letter, DFS also pointed out that the GIAA’s failure to give DFS *even a single business day* to
18 appeal its denial of the Proposal Protest—instead notifying DFS of this denial on a Friday after the
19 close of business, and then signing a putative contract with Lotte *on Saturday*—constituted a
20 particularly egregious violation of 5 GCA § 5425(g). DFS also noted that because GIAA Board had
21 not given final approval to the putative contract signed with Lotte, this putative award was not yet a
22 final award in any event.

23 **C. DFS’ Legal Grounds for Appeal**

24 DFS has standing to bring this Appeal, despite the GIAA’s assertions to the contrary.

25 **1. DFS Has Standing as an “Aggrieved Person” under Guam law.**

26 The GIAA argues that DFS is not an “aggrieved person” and therefore has no standing to
27 bring a proposal protest pursuant to 5 GCA § 5425(a). That argument fails because each of the three
28 non-Lotte RFP proposers are aggrieved persons under these circumstances. The Proposal Protest is

1 based on the GIAA’s wholly improper RFP process, which relied on a flawed selection methodology.
2 The Proposal Protest alleges that the underlying evaluation criteria and board approval process was
3 tainted as a result of Lotte’s attempts to improperly influence the RFP process by giving items of
4 value to GIAA board members. Under such circumstances, the proposals must be, at the very least,
5 re-evaluated under fair and transparent criteria, and the proposer rankings that were generated by the
6 flawed methodology must be thrown out. This is reflected in the relief that DFS requests. The
7 Proposal Protest requires that the proposal scoring mechanisms used by the GIAA and the GIAA
8 board vote approving the ranking of the proposals be nullified. Thus, each of the three non-Lotte
9 RFP proposers, *including DFS*, is an “aggrieved person” with standing to bring a protest because the
10 fair and transparent criteria that should be used to rank the RFP proposals may result in a completely
11 different ranking of the various proposals.

12 **2. DFS’ Proposal Protest Was Timely**

13 The GIAA also attempts to characterize the Proposal Protest as untimely, but that assertion is
14 incorrect. The Proposal Protest was submitted and supplemented promptly after DFS established a
15 sufficient legal and factual basis to bring a proposal protest, within the statutory 14-day period for the
16 initiation of timely protests. 5 GCA § 5425 provides, in part, that “the protest shall be submitted in
17 writing within fourteen (14) days after such aggrieved person *knows or should know of the facts*
18 *giving rise thereto.*” (Emphasis added.) Although the GIAA asserts that DFS was aware of *some* of
19 the underlying conduct giving rise to the Proposal Protest more than 14 days prior to its October 30,
20 2013 letter (and seemingly argues that DFS should therefore be held to account for constructive
21 knowledge of everything from the earliest possible date), in fact, on the date that the GIAA cites,
22 DFS was only aware of vague speculation and rumors of uncertain veracity. Upon learning of these
23 rumors, DFS promptly undertook its own investigation into the facts—but DFS was in no position to
24 protest the decision before DFS knew or should have known “*the facts*” what would support such a
25 protest. Accordingly, DFS acted quickly to establish whether “*the facts*” supporting these rumors
26 rose to a level of credibility that merited a protest, and following a diligent and speedy investigation,
27 DFS did, in fact, uncover credible facts and formally filed a Proposal Protest on the strength of those
28 facts.

1 Admittedly, the record remains far from complete in this matter. Undoubtedly, additional
2 evidence remains to be uncovered. However, the GIAA is incorrect in suggesting that as a result of
3 this limited fact development, DFS has failed to meet a “burden of proof” with regard to its
4 allegations—it is illogical to suggest that an administrative proceeding in which an aggrieved party
5 has no right to mandatory discovery, and enjoys a window for private investigation that the GIAA
6 would suggest remains open for *only fourteen days from the first whiff of wrongdoing to the deadline*
7 *for filing*, nevertheless imposes the same stringent standards of proof as a civil trial before a judicial
8 body that affords a party ample time to engage in exhaustive court-ordered discovery. Administrative
9 proposal protests are justified whenever there are credible facts suggesting that a procurement process
10 was flawed and further investigation is merited, and an aggrieved person is not legally required to
11 fully prove up his or her case to any degree of legal certainty within the 14-day statutory period
12 establishing for appealing from the underlying agency decision. There is no legal basis in Guam law
13 for imposing a more stringent requirement here, and there was no reasonable opportunity for DFS to
14 meet any such heightened “burden of proof” in connection with these allegations, given the absence
15 of any discovery mechanism and the extremely short window of time open for private investigation.

16 **V. STATEMENT OF THE RULING REQUESTED**

17 DFS notes that, upon the filing of this Appeal, the RFP award process must be suspended
18 pursuant to 5 GCA § 5425(g), which provides, in part, that “[i]n the event of a timely protest under
19 Subsection (a) of this Section or under Subsection (a) of § 5480 of this Chapter, the Territory shall
20 not proceed further with the solicitation or with the award of the contract prior to final resolution of
21 such protest” subject to administrative determinations that have not been made. DFS understands
22 that the putative contract signed by Lotte and the GIAA has not received final GIAA board approval.

23 DFS also requests the following rulings from the OPA: that Lotte is a non-responsible
24 proposer; that Lotte’s RFP proposal is non-responsive; that a new RFP process be instituted and (as a
25 non-responsible proposer in this matter) that Lotte be barred from participating in additional bidding;
26 that an independent monitor be appointed to supervise the GIAA’s future conduct in connection with
27 this new RFP process; and that DFS is awarded reasonable costs incurred in connection with the
28 solicitation and protest.

1 **A. Lotte Is a Non-Responsible Proposer.**

2 The foregoing facts establish that Lotte is a non-responsible proposer because its conduct
3 violated the terms of the RFP, its submission of inaccurate affidavits in support of its proposal, and its
4 conduct may also constitute independent violations of law. Specifically, Lotte’s conduct failed to
5 comply with the following RFP requirements:

6 **1. Lotte Violated the Single Point of Contact Provision.**

7 Section II.C of the RFP (“Single Point of Contact”) restricts proposers from communicating
8 with any GIAA Staff, board members, or officials regarding the RFP, except for a designated single
9 point of contact—in this case, Franklin Taitano. As the foregoing facts establish, Lotte flagrantly and
10 repeatedly violated this provision at numerous points throughout the bidding period.

11 **2. Lotte Violated the Prohibition Against Improper Influence.**

12 Along with its bid proposal, Lotte submitted a sworn affidavit attesting, under penalty of
13 perjury, that neither Lotte, nor any of its officers, representatives, agents, subcontractors, or
14 employees, had offered, given, or agreed to give any Government of Guam employee any payment,
15 gift, or other gratuity in connection with its bid proposal. As the foregoing facts establish, this
16 supporting affidavit was false.

17 **3. Lotte Submitted an Inaccurate Affidavit that it Did Not Attempt to Give or Give**
18 **any Gifts.**

19 Lotte also submitted an additional sworn affidavit attesting, under penalty of perjury, that
20 neither it nor any of its officers, representatives, agents, subcontractors, or employees had knowingly
21 influenced any Government of Guam employee to breach any of the ethical standards set forth in 5
22 GCA, Chapter 5, Article 11, which reads in relevant part: “It shall be a breach of ethical standards for
23 any person who is or may become a contractor, a subcontractor under a contract to the prime
24 contractor or higher tier contractor, or any person associated therewith, to offer, give, or agree to give
25 any employee or agent of the Territory . . . a favor or gratuity on behalf of the Territory whether or
26 not such favor or gratuity may be considered a reimbursable expense of the Territory, during the
27 pendency of any matter related to procurement” As the foregoing facts establish, this supporting
28 affidavit was also false.

1 **B. Lotte's RFP Proposal Is Non-Responsive.**

2 Because Lotte is a non-responsible proposer, and Section II.I of the RFP requires that bidders
3 be affirmatively determined to be responsible as a pre-condition of a contract award, it follows that
4 Lotte's RFP proposal is therefore non-responsive and must be disqualified.

5 **C. A New RFP Process Should Be Instituted, and (as a Non-Responsible Proposer in this**
6 **Matter) Lotte Be Barred from Participating Further in the RFP Process.**

7 Because all of the foregoing facts establish that, as it now stands, this RFP process has been
8 irrevocably tarnished by a litany of fatal flaws (certainly in appearance, even if—as GIAA
9 contends—not in substance), DFS requests that the OPA hereby mandate that the results which were
10 obtained through this flawed process be voided in their entirety, and that a new RFP process be
11 pursued in a timely fashion. Because Lotte is a non-responsible proposer *and the source of many of*
12 *these fatal flaws*, it should be barred from further participation in the RFP.

13 **D. An Independent Monitor Should Be Appointed to Supervise the GIAA's Future**
14 **Conduct in Connection with this New RFP Process.**

15 As discussed above, the GIAA's conduct throughout the course of the current RFP process,
16 including its response to DFS' proposal protest, has been characterized by bad faith, prejudice against
17 DFS, and a clear bias in favor of Lotte. The appropriate remedy to ensure that future proceedings in
18 connection with a new RFP process are conducted fairly and transparently is to appoint a truly
19 independent monitor, selected by an independent administrative or judicial officer, and to empower
20 that monitor to supervise and oversee the GIAA in relation to this matter. Such an independent
21 monitor should supervise, among other things, the procedures by which proposals are solicited; the
22 methods of communication between the GIAA and proposals; the criteria used by the GIAA
23 evaluation committee to evaluate the proposals; the procedures used by the GIAA board to adopt or
24 reject the recommendation of the evaluation committee; the negotiations of any contract pursuant to
25 the RFP; and the GIAA board's ultimate approval of any contract pursuant to the RFP. Absent an
26 independent monitor with broad authority to supervise the GIAA's conduct, there can be no
27 assurance that the GIAA will not simply repeat its pattern of bad faith conduct in violation of the
28 terms of a new RFP and applicable Guam laws.

1 **E. DFS Should Be Awarded Its Reasonable Costs.**

2 Pursuant to 5 GCA § 5425(h), if this proposal protest is sustained by the OPA, DFS is
3 “entitled to the reasonable costs incurred in connection with the solicitation and protest, including bid
4 preparation costs, excluding attorney’s fees, if . . . there is a reasonable likelihood that the protestant
5 may have been awarded the contract but for the breach of any ethical obligation imposed by Part B of
6 Article 11 of this Chapter or the willful or reckless violation of any applicable procurement law or
7 regulation.” The foregoing facts establish that the GIAA’s proposer ranking methodology was
8 flawed. As one of the three RFP responsible proposers after Lotte is properly disqualified, DFS had a
9 reasonable likelihood that it would have been awarded the contract but for the wrongful conduct of
10 Lotte and the GIAA. Further, the repeated conduct of Lotte and the GIAA constituted willful or
11 reckless violations of applicable procurement laws and regulations.

12 **VI. DISCOVERY**

13 DFS also petitions the OPA to grant substantial discovery in connection with this appeal.
14 Pursuant to 4 GAR §12109(c) and 4 GAR §12109(i), the OPA has the power to compel the
15 attendance and testimony of witnesses and the production of documents. DFS petitions the OPA to
16 subpoena following entities or individuals for depositions and testimony at the OPA’s hearing, if
17 necessary (collectively, “Subpoenaed Parties”):

- 18 1. Charles Ada
- 19 2. Francisco Santos
- 20 3. Rosalynda Tolan
- 21 4. Martin Gerber
- 22 5. Ed Untalan
- 23 6. Jesse Torres
- 24 7. Nathan Denight
- 25 8. Eduardo “Champ” Calvo
- 26 9. John Calvo
- 27 10. Janet Calvo
- 28 11. Anthony Sgro

- 1 12. Joseph L. Cruz
- 2 13. Danny Leon Guerrero
- 3 14. Monte Mesa
- 4 15. Felixberto Reyes

5 Further, DFS petitions the OPA to subpoena the following documents from each of the
6 Subpoenaed Parties, for the time period from January 1, 2012 to the present:

- 7 1. Any and all documents that constitute communications between the Subpoenaed Parties
8 and Lotte or Lotte’s agents and consultants.
- 9 2. Any and all documents in connection with or referring to the GVB delegation’s trip to
10 Seoul, South Korea on or around September 26, 2012.
- 11 3. Any and all documents related to or referring to any items of value received by any GIAA
12 board members from Lotte, Monte Mesa, any director or employee of the GVB, or any
13 director or employee of the GIAA.
- 14 4. Any and all documents related to or referring to the April 12, 2013 GIAA board decision
15 that Lotte was the “best qualified proposer.”
- 16 5. Any and all documents related to or referring to the GIAA board decision that Lotte was a
17 responsible proposer.
- 18 6. Any and all documents regarding the procedures used by the GIAA’s RFP evaluation
19 committee to evaluate the RFP proposals.
- 20 7. Any and all documents related to the Leigh Fisher report, including the report itself.
- 21 8. Any and all documents regarding the procedures used by the GIAA board to evaluate or
22 act on the recommendations of the GIAA’s RFP evaluation committee.
- 23 9. Any and all documents that constitute communications between the Subpoenaed Parties
24 and Eduardo “Champ” Calvo.
- 25 10. Any and all documents that constitute communications between the Subpoenaed Parties
26 and John Calvo.
- 27 11. Any and all documents that constitute communications between the Subpoenaed Parties
28 and Anthony Sgro.

- 1 12. Any and all documents that constitute communications between the Subpoenaed Parties
2 and Danny Leon Guerrero.
- 3 13. Any and all documents in connection with any modification of Lotte's RFP proposal after
4 the date of the RFP.
- 5 14. Any and all documents related to or referring to any disclosure of the terms of any other
6 proposers' RFP proposals to Lotte.
- 7 15. Any and all documents in connection with the lease of a Lotte Hotel involving Janet
8 Calvo.
- 9 16. Any and all documents in connection with any contingency fee payments promised by
10 Lotte.
- 11 17. Any and all documents related to the GIAA's internal investigations in response to the
12 correspondence from DFS, including its initial investigation in response to DFS'
13 correspondence dated October 30, 2012, and its investigation in response to DFS'
14 correspondence dated April 23, 2013, or any other investigations.
- 15 18. Any and all documents related to negotiations between GIAA and Lotte in connection
16 with the putative contract signed on May 18, 2013 in connection with the RFP, including
17 draft contracts.

18 **VII. SUPPORTING EXHIBITS, EVIDENCE, AND/OR DOCUMENTS**

19 Attached below are supporting documents and evidence to substantiate the foregoing claims
20 and grounds for appeal. DFS anticipates that further supporting documents and evidence will become
21 available within two weeks of this filing—by June 14, 2013—as DFS receives and reviews the
22 GIAA's responses to outstanding Sunshine Act requests.

23 **VIII. CONCLUSION**

24 For all the foregoing reasons, DFS appeals the adverse decision of the GIAA (triggering an
25 automatic stay of the RFP process), and hereby requests a ruling that (i) Lotte be deemed a non-
26 responsible bidder; (ii) that Lotte's bid was non-responsive; (iii) that a new RFP process be instituted
27 and (as a non-responsible proposer in this matter) that Lotte be barred from participating in additional
28 bidding; (iv) that an independent monitor be appointed to supervise the GIAA's future conduct in

1 connection with this new RFP process; and (v) that DFS is awarded its reasonable costs pursuant to 5
2 GCA § 5425(h).

3 **IX. DECLARATION RE COURT ACTION**

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

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

11
12
13 Dated: May 30, 2013

By: 

14 Maurice M. Suh

15
16 Attorneys for Appellant
DFS Guam, L.P.

17 101523479.6

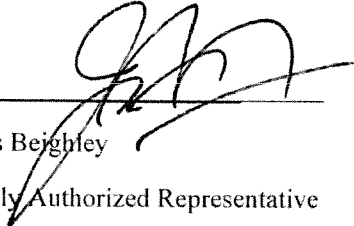
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VERIFICATION

I, Lamonte James Beighley, am Appellant's duly authorized representative and am authorized to make this verification. I have read the foregoing Appeal and, based on information and belief and to the best of my knowledge, the facts stated therein are true and correct. I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct. This verification was executed on this 30th day of May, 2013.

Dated: May 30, 2013

By: 
Lamonte James Beighley
Appellant's Duly Authorized Representative

SUPPORTING DOCUMENTS

WILLIAM J. BLAIR
THOMAS C. STERLING
RICHARD L. JOHNSON
JEHAN'AD G. MARTINEZ

JAMES F. BALDWIN
MARTIN F. DEINHART
OF COUNSEL
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WRITER'S E-MAIL:
wjblair@kbsjlaw.com

May 23, 2013



MAY 23 2013

TIME:

REC'D BY:

VIA HAND DELIVERY

Mr. Charles H. Ada, II
Executive Manager
GUAM INTERNATIONAL AIRPORT AUTHORITY
Administration Office, 3rd Floor
355 Chalan Pasajeru
Tamuning, Guam 96913

**RE: PROTEST OF PROPOSAL PROCESS/AWARD OF PROPOSAL: RFP
NO. GIAA010-FY12**

Dear Mr. Ada:

We write in response to your May 17, 2013 denial of DFS Guam L.P.'s ("DFS") protest of the process leading up to, and the April 12, 2013 decision of, the Guam International Airport Authority ("GIAA") to approve the recommendations of the GIAA evaluation committee ranking Lotte Duty Free Guam, LLC and its relevant subsidiaries and affiliates (collectively, "Lotte") as the "most qualified proposer pursuant to the RFP No. GIAA 010-F712 ("Proposal Protest"). We also write in response to the GIAA's subsequent May 20, 2013 press release, in which it announced that the GIAA "has entered into a specialty retail concession agreement with Lotte Duty Free Guam, LLC for the operation of the duty free retail concession at the Main Terminal of [A.B. Won Pat International] Airport,"¹ and the GIAA's May 22, 2013 correspondence regarding a contemplated transition meeting on May 23, 2013.

We begin by directing your attention to 5 GCA §5425(g), which mandates that "[i]n the event of a timely protest [of a

¹We understand that the contract was signed by Lotte on Saturday, May 18, 2013, a non business day, just one day after the GIAA delivered to DFS, after the close of business, the May 17, 2013 correspondence denying the Proposal Protest.

To Mr. Charles H. Ada, II

Date May 23, 2013

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contract award], the Territory shall not proceed further with the solicitation or with the award of the contract prior to final resolution of such protest, and any such further action is void, unless (1) The Chief Procurement Officer or the Director of Public Works after consultation with and written concurrence of the head of the using or purchasing agency and the Attorney General or designated Deputy Attorney General, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the Territory; and (2) Absent a declaration of emergency by the Governor, the protestant has been given at least two (2) days notice (exclusive of territorial holidays); and (3) If the protest is pending before the Public Auditor or the Court, the Public Auditor or Court has confirmed such determination, or if no such protest is pending, no protest to the Public Auditor of such determination is filed prior to expiration of the two (2) day period specified [above]."² (Emphasis added.)

Notwithstanding your assertion in the May 17, 2013 denial of DFS's protest that DFS "did not submit a protest in conformity with the requirements of the Guam Procurement Act" and "thereby waived its right to bring its Protest"—an assertion that DFS flatly rejects, and a finding which is subject to reversal on appeal—there can be no question that as a matter of right, DFS is entitled to appeal the GIAA's denial "within fifteen (15) days after receipt by the protestant of the notice of decision." 5 GCA §5425(e). DFS fully intends to file a timely appeal, and because the period for filing an appeal is still running, GIAA's putative contract with Lotte was void *ab initio* and any further actions undertaken under or in furtherance of that contract constitute a clear violation of 5 GCA §5425(g).

We note that the very existence of this putative contract with Lotte constitutes a particularly egregious violation of 5 GCA §5425(g). The manifest purpose of 5 GCA §5425(g) is to ensure that a "final resolution of [a] protest" has been achieved before "further . . . solicitation or . . . award of the contract" is undertaken. At a minimum, under these

²The narrow, conjunctive three-pronged carve-out from the general prohibition against further action on the RFP is inapplicable here, where none of those determinations or declarations have been made.

To Mr. Charles H. Ada, II

Date May 23, 2013

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circumstances, "final resolution" would require the GIAA to refrain from taking action until the period for DFS to file a timely appeal from this denial had fully run—yet the GIAA did not even give DFS a single business day to respond to its protest denial. Certainly, the GIAA's denial of the Proposal Protest did not constitute a "final resolution" of the proposal protest process. DFS was not notified of the GIAA's denial until after the close of business on Friday, May 17th, yet the putative contract with Lotte was already signed and announced by early Monday, May 20th. Far from respecting the mandated period for appeal, the GIAA's aggressively accelerated timeline foreclosed any possibility that DFS could have responded to their protest denial, either in an administrative or a judicial forum, before the contract with Lotte was signed. 5 GCA §5425(g) clearly contemplates that a protester, like DFS, should have no less than two business days to act.

Nor are DFS's concerns about the propriety of the GIAA's conduct in this matter restricted to this troubling episode. DFS harbors grave concerns about the GIAA's entire ostensible "investigation" into the issues raised in DFS's protest. Specifically, DFS believes that this "investigation" was compromised by a fatal conflict of interest. In responding to (and denying) DFS's protest, and in fully ratifying all of the actions undertaken by various GIAA Board Members, you (apparently with the assistance of other GIAA staff) made numerous affirmative findings to the effect that the GIAA Board of Directors had not engaged in any wrongdoing whatsoever.

In effect, your investigation appears to have taken the additional and unwarranted step of exonerating GIAA board members and GIAA staff - the very persons to whom you answer and work with - on the road to denying DFS' protest. In light of the way in which you have conducted this investigation, it is clear that you have pursued this investigation notwithstanding the clear conflict of interest presented by it. The fact that it was GIAA staff members charged with investigating serious allegations implicating their own supervisors (the GIAA Board of Directors) raises troubling questions about the impartiality and fairness of the "investigative" process that underpins these findings.

To Mr. Charles H. Ada, II

Date May 23, 2013

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In light of the aforementioned, we respectfully demand that the GIAA immediately cease and desist any and all actions taken under, or in furtherance of, this putative contract with Lotte (which was void *ab initio*). We further demand that you refrain from any further activities that may violate or prejudice DFS's rights and interests as it pursues its timely appeal of your protest denial—including, but not limited to, refraining from any further actions directed at ousting DFS from its holdover tenancy under the operative November 6, 2002 Concession Agreement. In particular, we request that the GIAA and Lotte do not submit any putative contract for required GIAA Board approval until a *final resolution* of the proposal protest process is reached.

Failure to promptly comply with these requests will force us to take appropriate action to protect DFS's rights and interests, and DFS hereby reserves the right to pursue any and all appropriate administrative or judicial recourse in this matter.

Be advised that Maurice Suh of Gibson, Dunn & Crutcher LLP will be assisting our firm in the representation of DFS in this matter and any further administrative and judicial proceedings. We request that the GIAA direct all future correspondence to counsel, including Mr. Suh.

Very truly yours,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation



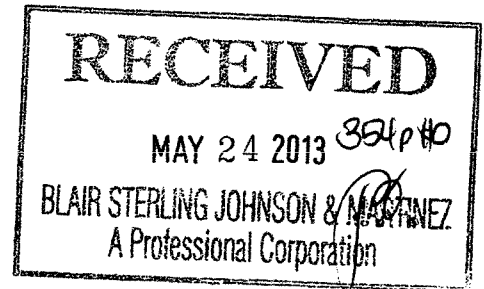
WILLIAM J. BLAIR
Counsel for DFS Guam, L.P.

cc: Maurice M. Suh
msuh@gibsondunn.com
Telephone: (213) 229-7260
Facsimile: (213) 229-6260

May 24, 2013

VIA HAND DELIVERY

William J. Blair
Blair Sterling Johnson & Martinez
Suite 1008 DNA Building
238 Archbishop F.C. Flores Street
Hagåtña, Guam 96910-5205



**Re: REQUEST FOR PROPOSAL FOR SPECIALTY RETAIL
CONCESSION (RFP NO. GIAA010-FY12)**

Dear Mr. Blair:

This firm represents the Guam International Airport Authority ("GIAA") regarding the above-referenced matter. Please direct all future correspondence regarding this matter to counsel.

We are writing to respond to your May 23 letter in which you raise several "concerns" about GIAA's investigation of the issues raised in DFS's protest and GIAA's subsequent decision to sign an agreement with Lotte after denying the protest. Based on these purported concerns, you demand that GIAA "refrain" from terminating DFS's holdover tenancy under the 2002 and 2006 concession agreements and "cease and desist" from performing its agreement with Lotte. For the reasons set forth below (many of which were addressed in GIAA's May 17 decision to deny DFS's protest), we believe your "concerns" are frivolous and without merit. Therefore, GIAA will not comply with your unjustified demands, and expects that DFS will cooperate fully with the transition of concession operations in the Main Terminal to Lotte.

First, as explained in GIAA's May 17 decision, DFS's protest was frivolous because it lacked standing to challenge GIAA's decision to select Lotte as the most qualified proposer. DFS lacked standing because it was not an "aggrieved" party under 5 GCA § 5425(a) since it was not selected as the second most qualified proposer and therefore did not have a "substantial chance" of securing the concession contract but for Lotte's alleged conduct. *See e.g. I.C.S. Illinois, Inc. v. Waste Mgmt. of Illinois, Inc.*, 403 Ill. App. 3d 211, 225 (2010); *Steelgard, Inc. v. Jannsen*, 171 Cal. App. 3d 79, 93 (1985); *Three S Consulting v. U.S.*, 104 Fed. Cl. 510, 519 (2012). Because DFS's protest was defective based on its lack of standing, any appeal will be similarly groundless.

William J. Blair
May 24, 2013
Page 2 of 3

Second, DFS's protest was frivolous because it was untimely. As required by 5 GCA § 5425(a), DFS failed to submit its protest within fourteen (14) days of when it knew or should have known of the facts underlying its protest. For this reason, your contention that GIAA's agreement with Lotte was "void *ab initio*" because it was entered into while a stay was in place is plainly wrong. The automatic stay imposed by Section 5425(g) is only triggered upon the filing of a timely protest. (See Section 5425(g) ("In the event of a **timely protest** under Subsection (a) of this Section....") [emphasis added].) Because DFS did not file a timely protest, there was no stay in place at the time GIAA and Lotte signed an agreement. Therefore, the agreement is valid and enforceable.

In addition, even assuming DFS files a timely appeal, no stay would be triggered under Section 5425(g) because the agreement with Lotte was signed before DFS filed an appeal. See *In the Appeal of Guam Publications, Inc.*, Appeal No. OPA-PA-08-007. ("These automatic stay provisions are triggered when a protest is timely and the protest is filed before the award was made....The Public Auditor finds that the automatic stay provisions were not triggered as a result of this appeal because GSA completed its award to Marianas Variety between GSA's denial of PDN's April 7, 2008 protest and PDN's appeal.")

Third, your objections relating to GIAA's investigation of the allegations underlying DFS's protest are also groundless. So is your legally unsupported contention that Mr. Ada's participation in the investigation of DFS's claims somehow constituted a "fatal conflict of interest" that "compromised" the investigation. To the contrary, as the Executive Manager of GIAA, Mr. Ada was responsible for issuing a decision on behalf of GIAA concerning DFS's protest. (See 5 GCA § 5425(c) ("[T]he head of a purchasing agency, or a designee of one of those officers, shall promptly issue a decision in writing.") .) Therefore, it was critical that Mr. Ada be involved in the fact-finding process in order to assure himself that he was making an informed and correct decision. The fact that one component of GIAA's investigation included looking into allegations concerning two GIAA board members did not make that process less fair. Moreover, DFS has not shown any prejudice resulting from Mr. Ada's involvement in the investigation. Nor could it show any such prejudice, because irrespective of who investigated the issues raised in the protest, the fact remains that DFS lacked standing to bring a protest, and when it did, the protest was untimely. Both of these facts render DFS's protest and anticipated appeal frivolous, and neither depends at all upon Mr. Ada's involvement in the investigation.

Fourth, your demand that GIAA refrain from "ousting" DFS from its holdover tenancy because doing so would somehow "violate or prejudice DFS's rights and interests as it pursues its timely appeal" is misguided and hereby rejected. Under the 2002 and 2006 concession agreements between GIAA and DFS, GIAA has the absolute right to terminate DFS's tenancy upon notice – a right that has nothing to do with DFS's protest or appeal rights arising from an unrelated and separate procurement process for a new concession agreement.

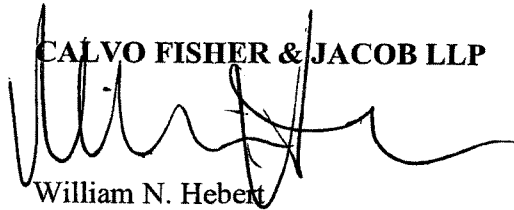
CALVO FISHER & JACOB LLP

William J. Blair
May 24, 2013
Page 3 of 3

Finally, DFS is again put on notice that if it continues pursuing its frivolous protest on appeal, then GIAA fully intends to recover its attorneys' fees and costs from DFS pursuant to 5 GCA § 5425(h)(1).

Very truly yours,

CALVO FISHER & JACOB LLP

A handwritten signature in black ink, appearing to read 'William N. Hebert', written over the printed name.

William N. Hebert

cc: Maurice M. Suh
Gibson Dunn & Crutcher

WILLIAM J. BLAIR
THOMAS C. STERLING
RICHARD L. JOHNSON
JEHAN'AD G. MARTINEZ

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WRITER'S E-MAIL:
wjblair@kbsjlaw.com

April 23, 2013

VIA HAND DELIVERY

Mr. Charles Ada
Executive Director
GUAM INTERNATIONAL
AIRPORT AUTHORITY
355 Chalan Pasajeros
Tamuning, Guam 96911

**RE: PROTEST OF PROPOSAL PROCESS/AWARD OF PROPOSAL:
RFP NO. GIAA010-FY12**

Dear Mr. Ada:

This letter constitutes DFS Guam L.P.'s ("DFS") continued protest of the process leading up to, and the April 12, 2013 decision, of the Guam International Airport Authority ("GIAA") to approve the recommendations of the GIAA evaluation committee ranking Lotte Duty Free Guam, LLC and its relevant subsidiaries and affiliates (collectively, "Lotte") as the "most qualified proposer" pursuant to the RFP No. GIAA 010-FY12 ("Proposal Protest"). As you are aware, we have been protesting the actions related to the selection of Lotte since our October 30, 2012 letter, in which we specifically stated that facts related to the RFP No. GIAA 010-FY12 "have been in contravention [of] the procedures stipulated under the RFP." See Exhibit A. Your failure to respond to our October 30 letter, as well as a follow-up letter on April 11, 2013 letter, culminates in this correspondence. See Exhibit B. The Proposal Protest is made pursuant to 5 GCA Guam Government Operations, Article 9, Section 5425 *et seq.* and RFP No. GIAA 010-FY12, and incorporates the relevant provisions of 5 GCA Ethics and Government Employees, Article 11 and 4 GCA Standards of Conduct for Elected Officers, Appointed Officers, and Public Employees of the Government of Guam, Article 2.

To Mr. Charles Ada

Date April 23, 2013

Page 2

Please be advised that due to the significant nature of the allegations made by the Proposal Protest, we reserve DFS' right to administrative and judicial review. In light of the foregoing, we request that the GIAA demand, as part of its review, that Lotte preserve, and cause its consultants, including, but not limited to Anthony "Tony" Sgro, to preserve, records and documents related to this proposal, including and in particular, electronic mail records and documents in native form. Lastly, we note that DFS had urged the GIAA to investigate the matters set forth in our October 30 proposal protest letter, but to our knowledge, no such investigation took place. Indeed, instead, it appears that the GIAA has simply taken steps to move forward with the award of the proposal by attempting to "fix" problems without adherence to the provisions of Section 5425 *et seq.* DFS places GIAA on notice that if the proposal process is not immediately halted pursuant to 5 GCA Section 5425(g) pending a final resolution of this protest, DFS will pursue injunctive relief in court to require adherence to those requirements. A GIAA board meeting has been scheduled for Thursday, April 25, 2013, and DFS requests assurance that no award to Lotte will be made at that meeting, as a result of this Proposal Protest and the requirements of 5 GCA Section 5425(g).

At this juncture¹, DFS bases its Proposal Protest on the following reasons, each of which is an independent basis. DFS reserves the right to supplement these bases as additional facts are discovered. DFS has also issued a Request for Information under the Sunshine Reform Act of 1999, set forth at 5 GCA Section 10101 *et seq.*, to the Guam Visitors Bureau ("GVB") on April 22, 2013, which may result in the disclosure of additional relevant facts.

¹ DFS notes that, due to the GIAA's failure to pursue any investigation of DFS' concerns and the restrictions imposed on the GIAA under Guam's procurement law and regulations with regard to the disclosure of information prior to the award of a contract, DFS does not have a full understanding of the facts behind the Lotte proposal. This protest is based solely on information which has come to the attention of DFS through media reports and DFS' own investigation.

To Mr. Charles Ada

Date April 23, 2013

Page 3

First, Lotte's proposal should be deemed nonresponsive to the RFP and Lotte should not be deemed a responsible proposer given its improper conduct and attempts to influence the award of the contract, whether or not influence has in fact occurred;

Second, Lotte's proposal should be deemed nonresponsive and Lotte should not be deemed a responsible proposer because the facts indicate it supplied false affidavits in support of its proposal relating to compliance with Guam ethical rules and laws;

Third, public policy arguments support reversing the GIAA determination that Lotte is the "best qualified proposer" due to the receipt of, or attempted receipt of, gifts and other items of value from Lotte by GIAA officials. The acknowledged receipt of gifts and other irregularities irrevocably compromised the integrity of the proposal process and requires invalidating the GIAA's determination with respect to Lotte. Whether or not recusals have occurred, non-transparent events have occurred that fail to assure compliance with the public policy set forth under Section 5625 that public employees "should conduct themselves in such a manner as to foster public confidence in the integrity of the territorial procurement organization." 5 GCA Government Operations, Section 5625;

Fourth, Lotte's proposal should be placed on hold so as to permit the United States Attorney's Office and relevant agencies to conduct an investigation into potential violations of United States and Guam law, as we believe may be appropriate;

Fifth, Lotte's proposal should be placed on hold so that the provisions of Section 5425 *et seq.* may be followed, which specifically permit DFS to appeal any initial determination that Lotte should not be disqualified from the proposal process;

Sixth, Lotte's proposal should be disqualified because any contract between Lotte and the GIAA shall be voidable

To Mr. Charles Ada

Date April 23, 2013

Page 4

under Section 15207 of 4 GCA, Ch. 15 because the contract would have been entered into in violation of the laws of Guam governing Ethics and Government Employees; and,

Seventh, Lotte's proposal should be disqualified because the procedure that the GIAA board instituted to select Lotte after the foregoing issues were reported publicly was a disingenuous attempt to "paper over" serious ethical concerns. These procedures are improper and fail to follow Guam law. Rather than conduct an investigation and follow the proposal protest rules, the GIAA designed an ad hoc procedure not authorized in Guam procurement law or regulations. The Directors are required to exercise judgment and discretion to endorse the staff's selection of the best qualified bidder. If the blind selection procedure was in fact blind, then the directors abdicated their oversight responsibility. If the procedure was not truly blind, then it failed to address its intended purpose - to have a procedure that erased the clear bias concerns that have been raised. Either way, the GIAA put in place a flawed "evaluation process" that was rife with a lack of confidentiality and conflicts of interest. The procedure adopted by the GIAA board was designed to disguise bias by the GIAA directors in favor of Lotte, not to protect the integrity of the RFP process.

The foregoing bases are supported by the following facts established by DFS' own internal investigation. We emphasize that these facts are the result of preliminary investigation, and some have only recently been discovered. Nonetheless, in totality, they support the Proposal Protest and raise the significant concern that the award to Lotte is tainted by impropriety and/or a significant and meaningful appearance of impropriety. They are as follows:

1. As was reported in media accounts, two members of the GIAA board of directors, Chairman Francisco Santos and member Rosalinda Tolan, were members of a delegation sponsored by the GVB which participated in the inaugural Guam flight of Jeju Air which took place on September 27, 2012. The delegation included a number of other persons highly influential in the Guam tourism industry. The date

To Mr. Charles Ada

Date April 23, 2013

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is significant given that Lotte's proposal in response to the RFP was due on October 17, 2012.

2. During their stay in Seoul on September 26, 2012, arrangements were made for the GVB delegation to tour the main downtown store of Lotte where they were personally greeted by the President of Lotte. This tour was not on the published agenda of the delegation but added at the instruction of GVB Deputy General Manager Nathan Denight. This meeting was suggested because John Calvo, brother of GVB Board member Eduardo "Champ" Calvo, had "connections" with Lotte, and he sought to "set up a meeting" with the Lotte group. GVB staff, including GVB Korea Marketing Officer Felixberto S. Reyes, expressed concern about the propriety of the meeting in light of the fact that the GIAA had put out the RFP and Lotte was known to be an interested proposer.² Notwithstanding these concerns, the meeting went ahead.

3. During one of the "free" periods on the delegation's agenda, they were driven to the Lotte department store, where they were met by Lotte staff and escorted to the duty free area on the top floors of the store building. They were personally greeted there by the President of Lotte. Shopping cards were provided by Lotte to the members of the delegation, including the GIAA directors. Mr. Reyes has also informed us that the delegation members were told by GVB Chairman Mesa to "choose whatever you want."

4. On September 27, when the delegation arrived at Incheon Airport to return to Guam, they were again met by Lotte staff who accompanied them as they checked in and then took them to the Lotte airport duty free store, where they were given gifts. It is also possible that merchandise they had picked out the day before at the Seoul store may have been delivered to them at the airport.

² DFS is also aware of facts indicating that GVB Board Chairman Monte Mesa was at the same time providing consulting services to Lotte or assisting it in obtaining consulting services from third parties in connection with the RFP.

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5. After the fact of these gifts became public, Chairman Santos and Director Tolan, each recognizing the improper appearances their acceptance of the gifts from Lotte had created, reportedly returned the gifts to GVB. They each thereafter recused themselves from participating in the approval of the recommendations of the GIAA's evaluation committee as to the ranking of the proposers. To date, there has also been no confirmation that the purportedly returned gifts were, in fact, returned.

6. It has been suggested that the value of the gifts Lotte provided to the GIAA board members was nominal, but DFS disputes that. "Nominal value" means actual worth or actual value not exceeding \$25. 2 GAR 11101(6). It is DFS' understanding that the value of the gifts provided to the GIAA directors exceeded \$25.³

7. Following the GIAA meeting at which Chairman Santos and Director Tolan announced their decisions to recuse themselves, Lotte's Guam legal counsel, Cesar Cabot, publicly admitted that Lotte provided gifts to the GVB delegation, but claimed that Lotte was not aware of the fact that GIAA board members were part of the GVB delegation. Given the circumstances of the meeting, and the aforementioned objections, these statements lack credibility.

8. As part of its proposal, Lotte was required to submit various affidavits. One of those affidavits required Lotte to attest, under penalty of perjury, that neither Lotte, not any of its officers, representatives, agents, subcontractors or employees had offered, given or agreed to give any Government of Guam employee any payment, gift, or other gratuity in connection with its proposal. The giving of gifts by Lotte, and the circumstances surrounding those gifts, indicate that Lotte's sworn affidavit was false.

³ Again, DFS had urged that these facts be thoroughly investigated by the GIAA, but to our knowledge, no investigation took place, and certainly not a thorough one.

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9. Similarly, Lotte was required to swear, under penalty of perjury, that neither it nor any of its officers, representatives, agents, subcontractors or employees had knowingly influenced any government of Guam employee to breach any of the ethical standards set forth in 5 GCA, Chapter 5, Article 11. 5 GCA 5630(d) provides that:

It shall be a breach of ethical standards for any person who is or may become a contractor, a subcontractor under a contract to the prime contractor or higher tier contractor, or any person associated therewith, to offer, give or agree to give any employee or agent of the Territory or for any employee or agent of the Territory to solicit or accept from any such person or entity or agent thereof, a favor or gratuity on behalf of the Territory whether or not such favor or gratuity may be considered a reimbursable expense of the Territory, during the pendency of any matter related to procurement, including contract performance warranty periods.
[italics supplied]

The giving of valuable gifts and other gratuities to government officials during the pendency of the RFP falls squarely within this proscription of Section 5630(d), notwithstanding Lotte's sworn affidavit to the contrary.

10. At the GIAA's April 12, 2013 board meeting, the GIAA ignored the public facts regarding Lotte's conduct and instead declared that Lotte was found to be a responsive and responsible proposer within the meaning of the RFP. However, the procedure followed by the GIAA board to approve the recommendations of the evaluation committee as to the ranking of the four proposers was unprecedented. It was not authorized in the Guam procurement law or regulations and not disclosed in the RFP. Rather, it appears that the procedure was an ad hoc one devised by the GIAA's legal counsel as a means to sanitize this procurement in order to deal with the taint caused by

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Lotte's improper actions and the resulting (or anticipated) fallout.

11. In order ostensibly to protect the confidentiality of the contents of the various proposals, the identities of the proposers in the rankings recommended by the evaluation committee were not disclosed. Thus, the GIAA directors remaining after the self-recusals of Chairman Santos and Director Tolan were asked to approve the rankings on an anonymous basis. At the March 28, 2013 GIAA board meeting, Director Ed Untalan stated that he had personally reviewed each of the four proposals and commented on them in very general terms. Thus, each of the GIAA directors apparently had been given the opportunity to review each of the proposals themselves and form their own views as to their relative merits.

12. Similarly, the ad hoc procedure avoided the possible disqualification of one or more of the remaining three directors who voted blindly and unquestioningly to approve the evaluation committee's rankings.⁴ DFS has, for example, received information that the sister of one of those three directors, Director Martin Gerber, reportedly has a business relationship with Lotte.⁵ If the identity of Lotte had been revealed, as it would have under normal circumstances, Director Gerber would presumably have been obliged to recuse himself,⁶ which would have left the GIAA

⁴ DFS reiterates that it has not yet been provided the opportunity to review the Lotte proposal or the memorandum which the GIAA will be required to prepare in accordance with 2 GAR 3114(m), explaining the basis of an award of the contract to Lotte, notwithstanding this protest.

⁵ Director Gerber's sister is also married to John Calvo, the person with "connections to Lotte" who first suggested setting up a meeting with the Lotte group. John Calvo's brother, Champ Calvo, is the senior partner of Calvo Fisher Jacob, the law firm which serves as GIAA's legal counsel and which devised the ad hoc process in an effort to guide the board through the ethical shoals created by Lotte's improper actions.

⁶ DFS has also learned that Director Gerber was seen having lunch with Anthony Sgro on Monday, April 15, 2013 at the Chili's Restaurant in Tamuning. Mr. Sgro is known to be connected with Lotte. The award of the concession contract is still pending, so such a contact was improper and yet another impropriety on the part of Lotte.

To Mr. Charles Ada

Date April 23, 2013

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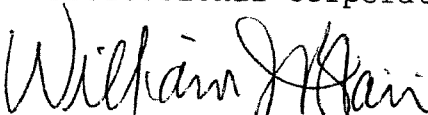
board without a quorum. The ad hoc procedure may have been designed to assure the existence of a quorum, notwithstanding conflicts of interest.

The RFP states that a determination as to whether a proposer meets the standards of responsibility "may be made at any time during the evaluation process and through contract negotiation if information surfaces that would result in a determination of non-responsibility." The GIAA should now change its determination based on the foregoing information, or, at a minimum, place Lotte's proposal on hold pending a full and thorough investigation of the aforementioned improprieties.

If you have any questions, please do not hesitate to contact me.

Sincerely,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation


William J. Blair

Attachments:

Exhibits "A" & "B"



October 30, 2012

Mr. Charles H. Ada II
Executive Manager
A.B. Won Pat International Airport Authority
Administration Office, 3rd Floor
355 Chalan Pasajeru
Tamuning, Guam 96931

Re: **GIA RFP 010-FY12**

Dear Mr. Ada:

I am writing to you to raise concerns that DFS has over some recent activities which have come to our attention surrounding the GIA RFP 010-FY12 which we feel may have been in contravention the procedures stipulated under the RFP as well as violative of the spirit of the Guam procurement laws.

Mr. Ada, we raise this letter of concern to you with the expectation that you will investigate this matter fully and take the appropriate action warranted by the outcome of your investigation. It is unfortunate that one of the bidding entities has chosen to act in such a blatantly questionable manner as it casts a shadow over what otherwise has been, in our opinion, a very well coordinated and well managed bid process. GIAA staff and management should be commended for the professional and thorough manner in which they have handled the bid process thus far – as both the incumbent operator and bidder we are proud to be associated with GIAA, and we are confident that you will handle this situation appropriately.

Specifically, we have learned that:

- On September 26th a delegation from Guam organized by GVB sponsored a trip to Korea to celebrate the inaugural Jeju Air flight to Guam. Two GIAA Board Directors were participants in that delegation.
- We understand that the delegation met with high-ranking officials of the Lotte Group who we understand to be a proposer for the GIAA retail bid.
- In addition to touring the Lotte off-Airport Duty Free and Department stores, the Board Directors also extensively toured the Lotte Airport store prior to their departure from Korea.
- Gifts were given from Lotte to the GIAA Board Members.

DFS Guam L.P.
1296 Pale San Vitores Road
Tumon, Guam 96913

EXHIBIT "A"

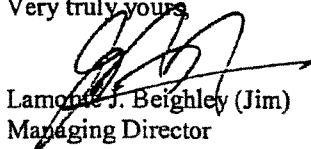
These discoveries concern us because they may be in contravention of the following requirements or regulations:

- Potentially a violation of the “single point of contact” requirement of Part II.C of the RFP which states that “from the date the RFP is issued until final award, Proposers shall not communicate with any GIAA staff, Board Members or officials regarding this RFP...”
- Assuming Lotte is a proposer for this RFP, as we understand, they would have been required to affirm when they submitted their bid on October 17th that they have not purposely or knowingly tried to directly influence any government officials directly connected with GIA who may have involvement or influence in the RFP process or outcome, Giving a guided tour of the Duty Free facilities downtown and especially those at the airport would almost certainly be done in an effort to showcase their operations and positively influence the GIA Board Members in their opinion of Lotte’s operations. The giving of gifts could be perceived to be done with the same intention in mind. The opportunity to showcase the bidders retail operations was not afforded to other bidding entities who are based in Korea, nor was it afforded to DFS or any other bidding entities based outside of Guam – it was specifically organized for the benefit of one single bidder.
- Depending on the nature and the value of the gifts, any Board Members that may have accepted such a gift or other gratuity potentially open themselves up to scrutiny under the standards of ethical conduct prescribed in Guam’s procurement law.

We submit this letter of concern in the spirit of transparency and professional conduct which has governed our mutual relationship throughout the years. We must also, as I’m sure you can appreciate, protect our interests and legal options throughout all stages of this process so as to guard against any undue and potentially illegal influence that other parties may choose to engage in. Any actions that are not in complete respect of the regulations of the RFP and the laws of Guam would be to the detriment of our enterprise, the employees and families of DFS, the GIAA and the tourism industry on Guam of which we are a part and which the Guam International Airport serves as the bedrock of the foundation upon which the island’s most important industry is built.

Should you have any additional questions, please don’t hesitate to contact me and should I learn any additional information which may be related to this matter, I will continue to update you in due course.

Very truly yours,



Lamonte J. Beighley (Jim)
Managing Director
DFS Mid-Pacific Division



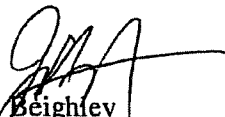
April 11, 2013

Mr. Franklin P. Taitano
A.B. International Airport Authority, Guam
355 Chalan Pasajeru, Route 10A
Tamuning, Guam 96913

RE: RFP GIAA010-FY12

Dear Mr. Taitano,
Please find attached the following letter for processing and distribution accordingly:

With my sincerest respect and regards,


Jim Beighley
Managing Director
DFS Guam

DFS Guam L.P.
P. O. Box 7746
Tamuning, Guam 96931

EXHIBIT "B"



April 11, 2013

To the Attention of:

Lucy Alcorn
Martin Gerber
Jess Torres
Edward Untalan
c/o A.B. International Airport Authority, Guam
355 Chalan Pasajeru, Route 10A
Tamuning, Guam 96913

Re: RFP No. GIAA010-FY12 Specialty Retail Concession Multi Concepts.

I am writing to express our continuing concerns relative to the above referenced RFP currently in process. At the recent GIAA board meeting, two GIAA directors, including the board chairman, felt obliged to disqualify themselves from participating in the process because of concerns over appearances of impropriety resulting from the fact they received gifts during the GVB sponsored trip to Korea in September. Per a subsequent media report, local legal counsel for Lotte, reacting to the directors' actions, admitted that it was his client that had provided the gifts, but minimized their value, downplayed their significance and denied that Lotte was aware that GIAA board members were part of the GVB delegation.

I first raised concerns over these matters in my letter to the Executive Manager dated October 30, a copy of which is attached. It was our assumption that an investigation would have been undertaken by GIAA or its legal counsel as we suggested. We believe such an investigation would have established that the actions of Lotte were not as unknowing and innocent as it and its legal counsel would want the GIAA and the public to believe. The meetings in Korea involved both GIAA and GVB staff and management and were coordinated by GVB staff. These staff personnel would have direct knowledge of what transpired. We understand, however, that none of the involved GVB staff were interviewed or otherwise questioned.

We understand the true facts may have been that:

Senior Lotte management were fully aware of the fact that GIAA directors were part of the GVB delegation

DFS Guam L.P.
P. O. Box 7746
Tamuning, Guam 96931



Senior Lotte management participated in the meetings—including tours of Lotte facilities

Members of the GVB delegation were encouraged to select merchandise at the Lotte store which they later received as gifts free of charge

The GIAA directors who were members of the delegation may have picked out their own gifts

The value of the gifts was not at all nominal, as has been stated

Earlier press reports also suggested that GVB staff had expressed concerns early on concerning the propriety of the meetings between Lotte officials and delegation members including the GIAA directors, but those concerns were overridden by members of GVB management, who themselves may have some connections to Lotte.

Instead of focusing on the questionable actions of one of the proponents, the GIAA's legal counsel and GIAA management have done what they can to "sanitize" the RFP process and remove the taint caused by Lotte's actions. The involved GIAA directors have returned the gifts and recused themselves. As a result, the burden of making one of the most important decisions the board must make, which decision will affect GIAA for decades, has fallen on a minority of the board—per Robert's Rules of Order.

We believe the focus more properly should have been on the actions of Lotte, not on those of the directors. As a result, a cloud still hangs over this RFP process. The RFP required each of the proponents to submit affidavits regarding the giving of gifts and gratuities and knowingly attempting to influence government employees to commit ethical breaches. These affidavits go to the heart of the integrity of the procurement process. Arranging for meetings with GIAA officials, giving tours of their stores and providing valuable gifts to those officials, all on the eve of vying for a valuable concession opportunity that will be awarded by those same officials, would, if true, raise, serious questions as to the accuracy of the statements Lotte was required to make.

We believe that it is of the utmost importance for the Board of Directors of GIAA to insist that a very thorough investigation is conducted as to what exactly transpired during that GVB Korea trip. The nature and value of the gifts, the circumstances under which they were given and how they were selected by various members of the delegation are important elements to consider. It is also important to ascertain what knowledge Lotte actually had of the delegation members, when they had that knowledge, and how they chose to act subsequently.

DFS Guam L.P.
P. O. Box 7746
Tamuning, Guam 96931



As a former Vice Chairman and Director of GVB, another semi-autonomous agency in Guam, I appreciate fully the responsibility that the directors of GIAA. The responsibility for the fiscal, legal, and operational health of the agency as well as the local and international perception of the governance of the agency is one that is not taken lightly. We believe that the process of the RFP must continue to move forward. There are several important steps ahead that must be followed. As the process moves forward, however, the directors who are ultimately responsible for the outcome must ensure that this investigation into what transpired is, and has been, conducted thoroughly and that as a body the board is informed of all of the relevant facts, particularly in light of the statements which have just been made during and subsequent to the last board meeting.

With my sincerest respect and regards,

A handwritten signature in black ink, appearing to read "Jim Beighley", is written over a horizontal line.

Jim Beighley
Managing Director
DFS Guam

Attachment: Letter dated October 30, 2012 Attention: Charles H. Ada II

WILLIAM J. BLAIR
THOMAS C. STERLING
RICHARD L. JOHNSON
JEHAN'AD G. MARTINEZ

JAMES F. BALDWIN
MARTIN F. DEINHART
OF COUNSEL
J. BRADLEY KLEMM

LAW OFFICES
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WRITER'S E-MAIL:
wjblair@kbsjlaw.com

May 2, 2013

VIA E-MAIL\HAND DELIVERY
chuck.ada@guamairport.net

Mr. Charles Ada
Executive Director
GUAM INTERNATIONAL
AIRPORT AUTHORITY
355 Chalan Pasajeros
Tamuning, Guam 96911

**RE: SUPPLEMENTAL INFORMATION IN SUPPORT OF PROTEST
PROPOSAL PROCESS/AWARD OF PROPOSAL: RFP NO.
GIAA010-FY12**

Dear Mr. Ada:

This letter constitutes DFS Guam L.P.'s ("DFS") supplemental submission in support of its April 22, 2013 correspondence protesting the decision of the Guam International Airport Authority ("GIAA") approving the recommendations of the GIAA evaluation committee ranking Lotte Duty Free Guam, LLC and its relevant subsidiaries and affiliates (collectively, "Lotte") as the "most qualified proposer" pursuant to the RFP No. GIAA 010-FY12 ("Proposal Protest").

We have continued our fact investigation of the concerns previously raised in our correspondence dated October 30, 2012, April 11, 2013 and April 22, 2013. In order to assist the GIAA in conducting a thorough examination of those concerns, we hereby supplement DFS' Proposal Protest with the facts learned to date. Our fact investigation continues, and we will continue to supplement the record as is appropriate. We emphasize that the proposal protest process places obligations on the GIAA to conduct an investigation, as it is better positioned and

To Mr. Charles Ada

May ~~Date~~ 2013

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has access to more information than does DFS, or any other individual proposer in this process. We further emphasize that to the extent the concerns raised in the Proposal Protest are not fully resolved by the GIAA's investigation to the highest standard of the applicable law, the Proposal Protest should be sustained.

In support of DFS' supplemental submission, we note the following:

- The Proposal Protest raises concerns arising from (1) Lotte's conduct in relation to its proposal, (2) the affidavits that Lotte executed in support of its proposal, and (3) the conduct of GIAA board members and others in receiving gifts and other items of value from Lotte. These concerns render Lotte a nonresponsible proposer and Lotte's bid nonresponsive. 2 GAR § 3109(n)(3). First, these issues are not "curable" by the ad-hoc, unilateral process imposed by the GIAA -- a process that was derisively described by Jess Torres, the Vice-Chair of the GIAA board (and himself a former GIAA Executive Manager) as a "magical process," which made him "queasy." Significantly, as a result of Mr. Torres' "queasiness," the planned vote to approve the evaluation committee's anonymous rankings was postponed. Second, these issues are not rendered a nullity by the scores obtained by Lotte, DFS or any other proposer resulting from this ad-hoc, unilateral "magical process." Attempts made by the "magical process" to make the proposers "anonymous" do not address Lotte's conduct and Lotte's affidavits that it did not violate ethical rules and thus cannot cure those defects or make them disappear.
- From the withdrawal of two GIAA board members from the process and the comments made subsequently by the GIAA following our April 22 correspondence, it is evident that the GIAA recognized early on that there was, at the very least, an appearance of impropriety related to Lotte's behavior in giving items of value to GIAA board members during the pendency of the RFP. The GIAA is under an obligation to investigate the very

To Mr. Charles Ada

May 27th 2013

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concerns that prompted imposing the "magical process," not by devising such a process to defend against allegations of impropriety. Instead, the GIAA is under an affirmative obligation to ensure that no such impropriety occurred.

- DFS emphasizes that the nature of the allegations raised by the Proposal Protest differ from many other proposal protests. Lotte's conduct here may constitute an illegal act or acts. Unlike missing a proposal deadline, or failing to include a form in a proposal, or other similar bases that underlie proposal protests - which often result in a rebidding - DFS' Proposal Protest addresses the fundamental legal nature of the process. Lotte's conduct in providing items of value to GIAA board members during the pendency of the RFP renders Lotte's proposal nonresponsive and Lotte an irresponsible proposer. Because this conduct may constitute a separate illegal act or acts, the facts surrounding this conduct may be difficult to discover. The GIAA should therefore accord the highest level of scrutiny and attention to the issues raised in the Proposal Protest.

Lastly, while DFS is providing this supplemental submission in support of its Proposal Protest, DFS does not waive its right to continue to bring additional facts and bases to the attention of GIAA, as well as the Office of the Public Auditor ("OPA") or the Superior Court, should this matter be subject to appeal. See J. T. Brown, A Guam Procurement Process Primer, at 139 (Public Auditor should consider matters and issues impacting the procurement process, whether or not expressly raised in the protest because to fail to do so would "constrain the Public Auditor's mandate to utilize her jurisdiction to 'promote the integrity of the procurement process and the purposes of the Procurement Act [5 GCA § 5703]'""); see also BSS v. GSA, OPA-PA-08-012 (appellant's protest of method of source selection included issues not raised until appeal, but the Public Auditor considered those newly-raised issues in deciding the appeal). Further, please note that DFS has also issued additional Requests for Information under the Sunshine

To Mr. Charles Ada

May ~~Date~~ 2013

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Reform Act of 1999, set forth at 5 GCA Section 10101 *et seq.*, to both the GIAA and GVB, which may result in the disclosure of additional relevant facts.

I. SUPPLEMENTAL FACTS AND ISSUES

A. Pursuant to DFS' April 22 Request for Information to the GVB, DFS received the evaluator score sheets that assigned numerical values to the proposals submitted to the GIAA. These score sheets are attached as Exhibit A. Critical information was redacted. Nonetheless, a review of these score sheets indicates significant concerns:

1. There is an unexplained several month period between the time when the interviews with the proposers were held, and March 25-27, 2013 - the dates upon which the evaluation score sheets were completed. These evaluation score sheets were completed on the eve of the GIAA's March 28 meeting, at which it was planned to announce that Lotte was the highest ranked proposer.

2. Two of the evaluation sheets apparently have no comments at all. After a period of several months passing between the interviews and the completion of the scoring sheets, the absence of comments suggests that an insufficient factual record supported the evaluator's decision. The fact that the GIAA board, as a whole, failed to explain this lengthy hiatus suggests that it abdicated its responsibility to oversee this process. This was an unprecedented airport tender where the proposers' financial offers were assigned relatively minimal value in the evaluation criteria—only 20%, meaning a proposal significantly less beneficial to the GIAA from a financial perspective could obtain a higher ranking. As a consequence, the interviews with the individual proposers, where the details of the qualitative aspects of the proposals could be explained and explored in detail were essential to fair and accurate scoring by the evaluators. It is highly unlikely that a panel of evaluators could have the level of recall required for something so important after 4 months, and highly likely that the first proposers interviewed would be at a disadvantage in the process since

To Mr. Charles Ada

May ~~Date~~ 2013

Page 5

human recall tends to be better for most recent information..

B. DFS also refers the GIAA to the March 28, 2013 memorandum from the GIAA Executive Manager, which describes the ad-hoc, unilateral, "magical process" that was employed to address the obvious concerns raised by Lotte's behavior. The March 28 memorandum is noteworthy because, instead of referencing an investigation of the concerns raised by Lotte's behavior, it imposed another, more opaque process in the place of an investigation.

C. At the GIAA board meeting held on March 28, 2013, Director Ed Untalan said he personally reviewed the four proposals, which were in fact supposed to have been made anonymous by the "magical process." Director Untalan's statements suggests that even the imperfect "magical process" failed to ensure the anonymity of the proposers, which in any event would not have resolved the concerns about Lotte's conduct raised by the Proposal Protest.

D. DFS also refers to the Pacific Daily News' April 25, 2013 article that quotes Monte Mesa admitting that "shopping cards" given to the GVB delegation included the two airport directors were, actually, "discount cards" that could have been used for "anything in the store." These cards were given in addition to valuable Coach products that DFS believes were given to the delegation members, including GIAA board members.

E. After the allegations of Lotte's misconduct surfaced, Cesar Cabot, counsel for Lotte, was quoted in the Pacific Daily News as having stated that (1) Lotte provided gifts to the GVB delegation but the gifts were nominal in value and (2) Lotte did not know that members of the GIAA were in the delegation received in Seoul, Korea. Lotte's comments thus implicitly recognize that if the value of the gifts was not nominal and that Lotte knew that GIAA members were in the delegation, it would pose a concern for Lotte's proposal to the GIAA. These facts are relatively easy to establish. The GIAA should conduct an investigation to determine what was received, who received it, and what the

To Mr. Charles Ada

May 20 2013

Page 6

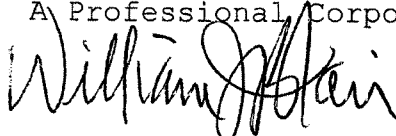
value of each of those received items. Further, since the RFP required Lotte to affirm that no *attempts* were made at providing gifts to members of the GIAA, the same inquiry should be conducted to determine if any such attempt was made to provide any gifts or other items of value to the GIAA through the GVB.

DFS' prior submission was sufficient to sustain its Proposal Protest. This supplemental information further supports the Proposal Protest. In total, this information raises serious concerns about the process and integrity of the RFP, the proposal process and the documents supporting that process. These concerns should result in the Proposal Protest being sustained.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation



WILLIAM J. BLAIR

Attachments

649\15943-59



Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concessions

Evaluator: Carlos P. Borlet
(Print/Sign)

Proposer: Redacted

Date: 3/25/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage; and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	19	<p>Largest has excellent use of materials that incorporate being. New-rebuild improvements to Redacted and Buy local frames also very visible. per sq ft.</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	18	<p>Extensive selection of high end/quality branded merchandise. Redacted Remarking it and appealing also quite</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	20	<p><i>Extensive experience in high traffic high security environment</i></p>
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	19	<p><i>staffing management gate staff.</i> Redacted design and construction</p>
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	17	<p>Redacted <i>MAG</i> <i>pr</i> <i>max</i> <i>sp</i> <i>addition</i> <i>space</i></p>
Total Maximum Points:		100		
Total Points Awarded			93	
Percentage:			93%	
<p>Additional Comments must be written here:</p>				

A



Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: Carlos P. Bunt
(Print/Sign)

Proposer: Redacted

Date: 3/25/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy-Local themes; circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	<p>Redacted concept. Materials are earthy and complementary to land. Frame. Specialty Section for local products. per sq. ft Visual signage attractive Use of materials, paint, and complementary to island colors/frame. Design layout is attractive and well conducive to good traffic flow.</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	18	<p>High quality branded items - extensive Buy Specialty merch Redacted offering local and products. Misc section</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	20	<p><i>Proposer has extensive experience with high traffic and high security environment</i></p>	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	18	<p><i>Redacted staff & management - sales staff lay design and construction</i></p>	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	19	<p><i>MAG MAG No Rent Redacted</i></p>	
Total Maximum Points:		100			
Total Points Awarded:			92		
Percentage:			92%		
<p>Additional Comments must be written here:</p>					

D



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: Carlo P. Burtlett
(Print/Sign)

Proposer: Redacted

Date: 3/25/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	18	<p>Attractive design and implementation of Local theme in Redacted : Eco friendly materials and lighting will reduce energy consumption. Per Sq. Ft. investment Floor plan appears to promote good traffic flow.</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	17	<p>Has good assortment of quality high-end products to include an Redacted in section. Does not plan to</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	20	<p>Proposer has extensive experience in high traffic and high security environments.</p>
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	18	<p>staff members with dedicated to sales. Good corporate support and training program. will accommodate and deploy team members Redacted</p>
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	18	<p>Redacted Includes for additional stores projected and sales over 10 years</p>
Total Maximum Points:		100		
Total Points Awarded			91	
Percentage:			91%	
<p>Additional Comments must be written here:</p>				

B



Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
 Special Retail Merchandise Concession
 Multiple Concepts
 Proposer: Redacted

Evaluator: Carlo P. Benditt
 (Print/Sign)
 Date: 3/28/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	<p>Buy local themes present and availability of local products. Redacted concept.</p> <p>Investment for redevelopment of current facilities and for continuing improvements and rebranding. Will utilize energy efficient devices or of Design & Construction</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	17	<p>High quality merchandise offered. Made in Guam Section. No plans to Redacted Local branding very apparent.</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	20	<p><i>Proposer has extensive experience in high traffic and high security environment</i></p>
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	17	<p>Redacted staff sales associated. <i>no. 5 Design & Construction schedule. Available outside normal working hours.</i></p>
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	19	<p><i>mito</i> <i>in case spec on total amount</i> Redacted <i>percentage</i></p>
Total Maximum Points:		100		
Total Points Awarded			90	
Percentage:			90%	
<p>Additional Comments must be written here:</p>				

C



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: *Pedro R. Martinez*
(Print/Sign)

Proposer: Redacted

Date: 3-25-2013

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	20	<p>*Theme: *Initial Investment: Redacted inventory designer open and c in area and enhancement *completed in revenue projected</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	19	<p>*large retail space *outstanding design for cultural experience *increased Redacted shopping plan *huge such as; and *impressive design of color palette *selection of local artifacts reflects the rich culture and natural beauty of Guam *impressive,</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	19	<p>well know brand sales 2011 Redacted and € in countries *invest for marketing departmen in 2012 *opened 1st *Koreans largest customers employees, stores</p>
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted bt flight delays or flight diversions.</p>	20	20	<p>of employees over experience local senior management team *sales staff : languages people initial hiring *investing per yr per employee for training (logistics) Redacted construction period *experienced local consultants</p>
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	20	<p>*1st year : i MAG additional concession); in year 10 MAG *gross sales Redacted rate fr investmnt fr luxury boutiques per enplaned passengers projected enplaned passengers</p>
Total Maximum Points:		100		
Total Points Awarded			98	
Percentage:				
<p>Additional Comments must be written here:</p>				



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Pedro R. Martinez
Pedro R. Martinez

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: Pedro R. Martinez
(Print/Sign)

Proposer: REDACTED

Date: 3-25-2013

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	<p>*Theme: *Initial Investment: *additional throughout term designer, associated with REDACTED</p> <p>*clear signage, adequate circulation space, engaging graphics. each store/outlet initial inventory</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	17	<p>*6 REDACTED</p> <p>*finishes/materials inspired by Guam culture & natural beauty *focus operational efficiency & unique cultural experience *working with local vendors to promote Guam or</p> <p>*implement REDACTED & policy for all stores catalog *chinese, Japanese and Koreans market *fashions largest sale program</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	18	<p>well known brands gross sales 2011 and per/yr Guam/GIAA airports, *outlets; employees in Guam and worldwide REDACTED program *active in developing tourism and community involvement</p>
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	17	<p>of employees worked with years. *majority of top managers are *wide range of training development programs REDACTED warehouse space *see pG-63</p>
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	19	<p>*1st yr gross sales) REDACTED *gross sales 1st yr- *annual growth rate in sales projected enplaned pasengers per enplaned pasengers</p>
Total Maximum Points:		100		
Total Points Awarded			88	
Percentage:				
Additional Comments must be written here:				



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts ~~ADDED~~
Proposer: _____

Evaluator: Pedro R. Martinez
(Print/Sign)

Date: 3-25-2013

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	16	<p>*Theme: REDACTED</p> <p>*Initial Investment: retail construction 1 initial inventory next 5 yrs improvements designer</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	17	<p>theme concept; REDACTED &</p> <p>*high on shopping total revenue -local products- with language skills</p> <p>REDACTED</p> <p>*Japanese & Koreans target customers *Lots of local/Guam theme display Concept membership (Japanese) REDACTED Concept -local and community involvement *customers engagement/awareness</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	18	<p>premium brands and</p> <p>sales 2011 REDACTED in sales -exclusive employees</p> <p>*Backed by primary business:</p> <p>annual growth rate</p> <p>*operate</p> <p>*no mentioned of doing business on an island enviroment</p>
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	16	<p>personnel initial hiring</p> <p>*top managers</p> <p>*considering hiring REDACTED for each store corps of staff</p> <p>*replenish store inventory</p> <p>*major refurbishing (equip, fixtures) in</p> <p>to speaking staff</p> <p>*construction time-</p>
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	20	<p>*1st year & in year 10 MAG</p> <p>MAG up to</p> <p>*1st year gross sales in year 10 at REDACTED per enplaned passengers projected enplaned passengers</p>
Total Maximum Points:		100		
Total Points Awarded			87	
Percentage:				
<p>Additional Comments must be written here:</p>				



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: *Pedro R. Martinez*
(Print/Sign)

Proposer: REDACTED

Date: 3-25-2013

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	15	<p>*Theme: REDACTED</p> <p>*Initial Investment: area designer/architectural firm. Worked with the assisted by design/fixtures where passengers walk through NOT walk by aisle pattern</p> <p>*limited local/natural finishes/textures design</p> <p>*construction completed in initial inventory</p>
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	17	<p>theme is well define</p> <p>*a large selection of REDACTED are</p> <p>*developing concept</p> <p>compliments area</p> <p>theme rationale tastefully reflects the rich culture and natural beauty of Guam</p> <p>*The REDACTED</p> <p>departure for traveling</p> <p>families</p>

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	15	<p>*stores in _____ and _____ in 2011 REDACTED</p>	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	15	<p>_____ personnel initial hiring. _____ directly for sales _____ senior management team _____ hirers for buyers, HR, accounting department _____ approach _____, Director _____ distribution center REDACTED _____ flights</p>	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	18	<p>*1st year _____ REDACTED *gross sales 1st yr is _____ in year 10; -annual growth rate _____ sales per enplaned passengers projected enplaned passengers</p>	
Total Maximum Points:		100			
Total Points Awarded			80		
Percentage:					
<p>Additional Comments must be written here:</p>					



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: JM Anuta
(Print/Sign)

Proposer: REDACTED

Date: 3/24/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	22	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	19	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	L9	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	L8	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	L9	
Total Maximum Points:		100		
Total Points Awarded			45	
Percentage:				
<p>Additional Comments must be written here:</p>				

A



Won Pat
International Airport Authority, Guam

WON PAT
INTERNATIONAL AIRPORT AUTHORITY, GUAM

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts **REDACTED**

Evaluator: JM Am J
(Print/Sign)

Proposer: _____

Date: 3/24/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	18	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	19	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	18	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	18	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	19	
Total Maximum Points:		100		
Total Points Awarded			92	
Percentage:				
<p>Additional Comments must be written here:</p>				

D



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts **REDACTED**

Evaluator: Jim Amata
(Print/Sign)

Proposer: _____

Date: 3/24/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	17	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	19	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	18	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	14	
Total Maximum Points:		100		
Total Points Awarded			89	
Percentage:				
<p>Additional Comments must be written here:</p>				

C



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts REDACTED

Evaluator: CMAN
(Print/Sign)

Proposer: _____

Date: 3/26/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	18	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	18	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	17	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	18	
Total Maximum Points:		100		
Total Points Awarded			88	
Percentage:				
<p>Additional Comments must be written here:</p>				

b



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concents

Evaluator: FRANK SANTOS *FRS*
(Print/Sign)

Proposer: REDACTED

Date: 3/27/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	19	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	19	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	19	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	18	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	17	
Total Maximum Points:		100		
Total Points Awarded			92	
Percentage:				
<p>Additional Comments must be written here:</p>				

A



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: FRANK SAUTOS *[Signature]*
(Print/Sign)

Proposer: REDACTED

Date: 3/27/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	19	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	20	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	17	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	18	
Total Maximum Points:		100		
Total Points Awarded			91	
Percentage:				
<p>Additional Comments must be written here:</p>				

C



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: FRANK SANTOS *FRS*
(Print/Sign)

Proposer: REDACTED

Date: 3/27/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	18	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	18	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	17	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	18	
Total Maximum Points:		100		
Total Points Awarded			88	
Percentage:				
<p>Additional Comments must be written here:</p>				



Won Pat
International Airport Authority, Guam

Evaluation Score Sheet

Proposal For: RFP NO. GIAA-010-FY12
Special Retail Merchandise Concession
Multiple Concepts

Evaluator: FRANK SANTOS *FRS*
(Print/Sign)

Proposer: REDACTED

Date: 3/27/13

The criteria and their relative importance which will be used in evaluating the RFP are as follows:

Item No.	Criteria	Maximum Points	Points Awarded	Comments
1	<p>Facility Design and Capital Investment. GIAA is seeking attractive, exciting and innovative facility designs, which will enhance the image of the Airport, attract the interest of the passengers, and complement the Airport terminal. Interiors should utilize innovative concepts in marketing that will maximize the use of the retail space from a revenue generating standpoint and provide for adequate circulation. To that end, the committee will evaluate the physical design and construction of the retail space(s) including, but not limited to, consideration of such factors as innovation, creativity of design concepts, quality of materials/improvements, floor plans, presentation of Guam and Buy Local themes, circulation and queuing; graphics and signage, and visual interest. GIAA will also evaluate the Proposer's proposed capital investment, including construction cost per square foot, and the use of sustainable practices and energy efficient fixtures and lighting.</p>	20	17	
2	<p>Concepts & Theme and Merchandise and Marketing Plan. GIAA is seeking retail concepts that are internationally, nationally, regionally, or locally recognized. New, creative, unique concepts, which are appropriate and supported by adequate rationale, will be considered. The rationale for the inclusion of proposed concepts in the Airport's retail program will be thoroughly reviewed. The extent to which the retail theme reflects Guam and the Asia/Pacific region will be evaluated, as well as the rationale for the theme. The Committee will also evaluate the Proposer's offering of high quality branded merchandise utilizing innovative merchandising and whether the assortment is appropriate for the markets. Proposer's proven ability to develop a plan targeted at key market segments to obtain the maximum patronage of customers will also be evaluated. It is expected that the proposed plan will include frequent promotions and product events. The Committee will consider the Proposer's proposed concessions plan including, but not limited to, factors such as sub-tenants for retail operations, themes and products, general price levels, innovation, breadth and depth of product offerings, extent of international, national, regional, and local branding, and compatibility with the merchandising plan.</p>	20	18	

3	<p>Experience, Qualifications and Financial Capability. The Committee will consider Proposer's experience and qualifications based on an assessment of whether the Proposer has met the minimum qualifications set out in Part III and an evaluation of its prior experience at other airports or other high-volume, high-traffic, high-security venues. This criterion includes, but is not limited to, factors such as the comparative size, number and performance of the Proposer's other business, and Proposer's experience with the proposed concepts. The references provided by Proposer will also be assessed to determine whether the Proposer's expertise and experience qualify it to develop and manage the proposed concession under strict security measures. This criterion also includes an assessment of the Proposer's financial plan for and ability to fund the proposed improvements.</p>	20	17	
4	<p>Management and Operations Plan. The education, training, qualifications, and general and specific experience of the proposed on-site management and key personnel assigned to plan, implement and manage the proposed concession will be assessed. The Committee will also assess staffing levels, corporate management support, inventory logistics, employee training, sales and customer service programs, after sales guarantee, facility maintenance and schedule, transition and construction schedule. The Committee will also assess the Proposer's plan to make its concession available outside of the normal operating hours to accommodate passengers impacted by flight delays or flight diversions.</p>	20	18	
5	<p>Annual Rent and Projected Sales. Evaluation of this criteria is based on the MAG Rent and Percentage Rent Rate proposed as well as projected sales for ten years.</p>	20	17	
Total Maximum Points:		100		
Total Points Awarded			87	
Percentage:				
<p>Additional Comments must be written here:</p>				

B



A.B. WON PAT
INTERNATIONAL AIRPORT AUTHORITY, GUAM
ATURIDAT PUEYTON BATKON AIREN GUAHAN ENTENASIONAT

P.O. Box 8770
Tamuning, GU 96931

Tel (671) 646-0300
Fax (671) 646-8823

www.guamairport.com

May 3, 2013

VIA HAND DELIVERY

Mr. William J. Blair
Blair, Sterling, Johnson & Martinez
Suite 1008 DNA Building
238 AFC Flores Street
Hagatna, Guam 96910-5205

**RE: Request For Proposal For Specialty Retail Concession – Multiple Concepts
RFP No. GIAA010-FY12**

Hafa Adai Mr. Blair:

I am writing with regard to DFS Guam L.P.'s April 23, 2013 Protest of Proposal Process/Award of Proposal and May 2, 2013 Supplemental Information in Support of Protest of Proposal/Award of Proposal relating to the above-reference Request for Proposal (together, the "Protest"). Pursuant to 2 G.A.R. §9101(d), DFS is hereby requested to deliver to my attention at the A.B. Won Pat International Airport Authority, no later than 5:00 p.m. on Tuesday, May 7, 2013, all of the evidence, including documents and tangible things, and a list of all witnesses and their current addresses, telephone numbers and email addresses, that DFS contends supports the facts and conclusions set forth in its Protest.

GIAA is requesting this information in order to expedite its consideration of DFS's Protest. Failure by DFS to comply expeditiously with GIAA's request for information may result in resolution of DFS's protest without consideration of any information which is untimely submitted pursuant to this request. See 2 G.A.R. §9101(d).

Si Yu'us Ma'ase,

Charles H. Ada II
Executive Manager

cc: Legal counsel



WILLIAM J. BLAIR
THOMAS C. STERLING
RICHARD L. JOHNSON
JEHAN'AD G. MARTINEZ

JAMES F. BALDWIN
MARTIN F. DEINHART
OF COUNSEL
J. BRADLEY KLEMM

LAW OFFICES
BLAIR STERLING JOHNSON & MARTINEZ
A PROFESSIONAL CORPORATION

SUITE 1008 DNA BUILDING
238 ARCHBISHOP F.C. FLORES STREET
HAGÅTÑA, GUAM 96910-5205

TELEPHONE:
(671) 477-7857

FACSIMILE:
(671) 472-4290

WRITER'S E-MAIL:
wjblair@kbsjlaw.com

May 7, 2013

VIA HAND DELIVERY

Mr. Charles H. Ada, II
Executive Manager
Guam International Airport Authority
Administration Office, 3rd Floor
355 Chalan Pasajeru
Tamuning, Guam 96913

**RE: PROTEST OF PROPOSAL PROCESS/AWARD OF PROPOSAL:
RFP NO. GIAA010-FY12**

Dear Mr. Ada:

Thank you for your correspondence of May 3, 2013.

At the outset, we note that over six months have passed since DFS Guam L.P. ("DFS") first initiated its protest of the process leading up to and the April 12, 2013 decision of the Guam International Airport Authority ("GIAA") to approve the recommendations of the GIAA evaluation committee ranking Lotte Duty Free Guam, LLC and its relevant subsidiaries and affiliates (collectively, "Lotte") as the "most qualified proposer" pursuant to Request for Proposal for Specialty Retail Concession - Multiple Concepts RFP No. GIAA010-FY12 ("RFP"). Notwithstanding that little action from GIAA appears to have occurred until we sent our April 23, 2013 correspondence, you now demand that we provide numerous discovery items within less than three business days or risk GIAA refusing to consider that information. GIAA's position is both unreasonable and outside the requirements of the applicable law.

Your letter cites to 2 GAR § 9101(d) for support for that proposition that DFS must provide to GIAA "all the evidence, including documents and tangible things, and a list of all witnesses and their current addresses, telephone numbers and

To Mr. Charles H. Ada, II

Date May 7, 2013

Page 2

email addresses that DFS contends supports the facts and conclusions set forth in its Protest."

Section 9101(d) does not support the sweeping breadth of your request as drafted. You appear to conflate two separate provisions of the Guam Procurement Regulations. First, Section 9101(c)(3)(d) references "supporting exhibits, evidence or documents to substantiate any claims unless not available within the filing time in which case the expected availability date shall be indicated." Section 9101(d) states that:

Any additional information requested by any of the parties should be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure by any party to comply expeditiously with a request for information by the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency may result in resolution of the protest without consideration of any information which is untimely filed pursuant to such request.

See 2 GAR § 9101(d).

First, Section 9101(d) does not require the production of "all the evidence" and a "list of all witnesses" within less than three business days. Rather, Section 9101(d) generally states that any additional information requested by any of the parties be submitted within the time period established by the requesting source to expedite consideration of the protest.

Second, we highlight that this protest differs from a proposal protest challenging technical non-compliance with RFP requirements insofar as it addresses whether separate and independent violations of law may have occurred. GIAA, not DFS, is in a better position to conduct an investigation of these violations of law, although we are willing to provide you with the information we have. DFS has made extraordinary efforts to provide the information available to it promptly and timely. We have continued our investigation, at great expense, to highlight to GIAA concerns that GIAA should have investigated on its own before DFS filed its Proposal Protest. Your threat that you intend to dismiss our Proposal Protest absent production of full litigation-type discovery within

To Mr. Charles H. Ada, II

Date May 7, 2013

Page 3

less than three business days is unreasonable and fails to address the more central concerns raised by DFS' Proposal Protest.

GIAA has a responsibility to ensure that its proposers are "responsible" within the meaning of Section II.I (Determination of Responsibility) of the RFP. RFP Section II.I provides that "GIAA will determine whether a Proposer has met the standards of responsibility. Such a determination **may be made at any time during the evaluation process and through contract negotiation if information surfaces that would result in a determination of non-responsibility.** . . . GIAA determination as to whether a Proposer is qualified and responsible will be based on information provided by the Proposer in its proposal, interviews (if applicable) and other sources deemed to be valid by GIAA. By submitting its proposal, a Proposer, its constituent entities, subtenants, owners (of any tier), and officers agree to permit and cooperate with any investigations by GIAA relating to a Proposer's business experience and financial responsibility" (emphasis added). Given the highly unusual circumstances raised by DFS' Proposal Protest, this determination requires a parallel investigation by GIAA, with Lotte's mandatory cooperation under the requirements of the RFP, not simply an attempt to find procedural mechanisms to dispose of a significant protest and the critical concerns it raises.

Third, and notwithstanding the foregoing objections and the unreasonable time frame within which you have requested DFS operate, we provide you a summary of information, gathered or learned to date that underlies DFS' Proposal Protest. This summary is attached as Exhibit A to this correspondence. DFS provides this information in complete reservation of every one of its rights, and specifically provides you notice that our investigation is continuing and that some of these facts may be subject to change or fuller description, and that we anticipate additional information may become available, as our investigation continues.

We emphasize that DFS currently has outstanding Sunshine Act requests, and our investigation is ongoing. We will make promptly make available information as we have it. Pursuant to Section 9101(c)(3)(d), some of this information will be made continually available, and we will update our response to you when we receive it.

To Mr. Charles H. Ada, II

Date May 7, 2013

Page 4

Section 9101(d) specifically states that "any additional information" requested by "any of the parties" should be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Pursuant to Section 9101(d), DFS, as a party to this protest, specifically requests that GIAA provide the following:


- (1) Any evidence that Lotte did not give any item of value to GIAA board members during the pendency of the RFP;
- (2) Any evidence that Lotte did not intend to influence the RFP process in any way; and,
- (3) Any evidence that Lotte did not intend to influence any Guam government officer or employee, as defined by 5 GCA § 5030.

We request that this information be produced by Friday, May 10, 2013 at 5 p.m.

Please do not hesitate to contact me with any questions you may have.

Very truly yours,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation


WILLIAM J. BLAIR

Enclosures

EXHIBIT A

FACT OR FACT ISSUE REQUIRING FURTHER INVESTIGATION¹

1. At the encouragement of John Calvo, brother of GVB board member Eduardo “Champ” Calvo, GVB Deputy Manager Nathan Denight sought to change hotel arrangements for the GVB delegation to the Lotte Hotel and to arrange a meeting.
2. GVB staff member questioned the propriety of setting up meetings with Lotte due to (1) the fact that GIAA directors will be part of GVB delegation and (2) Lotte was expected to submit a proposal in response to the pending RFP.
3. Nathan Denight calls Felix Reyes from JATA conference in Japan instructing him to add the Lotte visit to the delegation agenda, despite concerns of impropriety.
4. Champ Calvo requested to be and was added to the GVB delegation. He planned to travel to Seoul one day earlier for an undisclosed meeting but cancelled his trip a couple of days before the trip.
5. GVB delegation was taken to a Lotte department store where they are greeted by senior Lotte officers. This visit was not on the published trip itinerary.
6. GVB and GIAA officials (Rosalynda Tolan and Francisco Santos) receive discount cards/gifts at Lotte stores in Seoul. The GIAA board members were urged by GVB chairman Monte Mesa to “choose whatever you want.”
7. The following day the delegation went to Incheon airport where they were met by Lotte representatives who accompanied them through the check in and immigration processes and guided them to the Lotte airport shop. Gifts were provided or delivered.
8. Lotte submitted an affidavit that it did not give any gifts in connection with its proposal or violate any ethics rules.
9. GIAA directors Santos and Tolan returned Lotte gifts to GVB.
10. At a GIAA board meeting where the results of the proposal evaluation were to be announced, two GVB directors who received the gifts (Santos and Tolan) recused themselves and announced that they would not participate in discussion to avoid any appearance of impropriety. GIAA legal counsel announces that board action is still possible because there

¹ These facts and fact issues are provided with DFS complete reservation of rights to supplement the list as information becomes available, per our correspondence dated April 22, 2013 and May 6, 2013.

was a quorum (4) and a majority of the quorum (3) could make a decision under default Robert's Rules. GIAA legal counsel also announces that to preserve confidentiality of proposals, the proposals had been "randomly" given letter designations and identities would not be revealed. Vice Chairman Torres presided over discussion, expressing strong reservations and misgivings about the process. Because of Torres' concerns the matter was "tabled."

11. At the same GIAA board meeting, Director Ed Untalan admitted that he had personally reviewed the four proposals.
12. Under an ad hoc and irregular procedure, the GIAA Board found Lotte to be a responsible and "most qualified proposer." The procedure was devised by the GIAA's counsel. The managing partner of that law firm is Eduardo "Champ" Calvo, brother of John Calvo. The score sheets were completed on the eve of the March 28 meeting.
13. Director Martin Gerber's sister, Janet Calvo, has a business relationship with Lotte and is married to John Calvo.
14. Janet Calvo (Today's Realty) was the real estate agent involved in the transaction leading to the long term lease of the Aurora Hotel (Tumon Bay Resort & Spa LLC) to Lotte Hotel Guam, LLC. Janet Calvo purportedly received the fees on that lease deal.
15. Director Martin Gerber had lunch with Anthony Sgro, a Lotte-connected consultant, at a Chili's restaurant during the pendency of the proposal.
16. GIAA Directors Tolan and Santos recused themselves from the proposal decision after receiving improper gifts.
17. Lotte's Guam counsel Cesar Cabot admitted Lotte provided gifts to the GVB delegation but claimed Lotte was not aware that GIAA board members were present.

WITNESSES²³

1. Felix Reyes
 2. Jon Nathan Denight
 3. Henry Lee
-

² Due to privacy considerations, DFS will not provide the "telephone numbers, addresses and email addresses" of the persons listed. We are willing to discuss a reasonable method of providing contact information for those persons on this list with whom the GIAA is unfamiliar.

³ DFS reserves the right to supplement this witness list as additional information becomes available.

4. John Calvo
5. GVB board members
6. Lotte delegation members.
7. GIAA executive manager Chuck Ada
8. GIAA evaluation committee
9. Janet Gerber Calvo
10. Anthony Sgro
11. Eduardo (“Champ”) Calvo
12. Today’s Realty
13. Michael Ysrael
14. Jannalyn Cruz Damian (GIAA counsel – responsible for new evaluation process)
15. Michael Pangelinan (GIAA counsel – responsible for new evaluation process)
16. Monte Mesa

Documents⁴

1. Emails
2. Public reporting (news articles and YouTube videos and attached transcripts of same)
3. Various draft itineraries and related documents
4. Memorandum of Lease recorded with Land Management
5. Taped conversation between Tak Takeda of DFS and Felix Reyes
6. Photographs
7. RFP
8. GIAA board meeting minutes
9. Audio recordings of GIAA board meetings
10. GIAA proposal scoring documents

⁴ DFS reserves the right to supplement this document list as additional information becomes available. Copies of documents are attached to Exhibit A.



Mark Manglona <mark.manglona@visitguam.org>

Jeju inaugural flight

6 messages

Jon Nathan Denight <nathan.denight@visitguam.org>

Tue, Sep 18, 2012 at 10:25 AM

To: Henry Lee <hlee@tlkmarketing.net>, Felix Reyes <felix.reyes@visitguam.org>, Mark Manglona <mark.manglona@visitguam.org>

Cc: jtcalvo@midpacguam.com, Joann Camacho <joann.camacho@visitguam.org>

Hafa Adai Felix and Henry,

John Calvo (brother of GVB Board Member Champ Calvo/Mid Pac Guam Owner) has connections with Lotte in Korea and may be able to secure us a great room rate in Seoul. He also may set up a meeting in the afternoon with the Lotte group. I have cc'd him on this email. Pls work with him on this.

Si Yu'os Ma'âse'

Jon Nathan Denight

Deputy General Manager

GUAM VISITORS BUREAU | SETBISION BISITAN GUAHAN

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 18, 2012 at 11:07 AM

To: Jon Nathan Denight <nathan.denight@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>,"jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

Nate, we've gotten confirmations fr rooms @ Westin Chosun already with Brian Pak. To cancel now will be a concern. Also, as you know, Lotte is bidding for the Guam airport duty free concession n may pose a conflict as a govt agency at this time, especially for the Governor.

Sent from my pugua iPhone 4

[Quoted text hidden]

Joann Camacho <joann.camacho@visitguam.org>

Tue, Sep 18, 2012 at 11:20 AM

To: Felix Reyes <felix.reyes@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>,"jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>

Agree. Stick to the Westin. Thanks

[Quoted text hidden]

[Quoted text hidden]

Jon Nathan Denight <nathan.denight@visitguam.org>

Tue, Sep 18, 2012 at 1:57 PM

To: Felix Reyes <felix.reyes@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>,"jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

Thank you for the response Felix. Sure, let's stay with Westin. As for the meeting with Lotte, they are a huge company that may also be interested in investing in hotels, theme parks and other developments for Guam, as

DFS0001

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well as a partner with JTB. The Gov is not involved with airport procurement and I see no problem with him meeting with the Lotte Group to encourage investment into Guam, just as he would do for other potential investors into Guam, also understanding that he couldn't discuss the airport rfp during the meeting.
Si Yu'os Ma'åse'

Jon Nathan Denight
Deputy General Manager

GUAM VISITORS BUREAU | SETBISION BISITAN GUAHAN
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org> Tue, Sep 18, 2012 at 2:15 PM
To: Jon Nathan Denight <nathan.denight@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

[Quoted text hidden]

>Sure. In fact we were going to invite them to the Gov's trade mission next year.

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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John T. Calvo <jtcalvo@midpacguam.com> Tue, Sep 18, 2012 at 2:36 PM
To: Jon Nathan Denight <nathan.denight@visitguam.org>
Cc: Felix Reyes <felix.reyes@visitguam.org>, Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, Joann Camacho <joann.camacho@visitguam.org>

Nathan

This is getting too complicated. I'll let them know the group is not available to meet.

Thanks

John

Sent from my iPhone

[Quoted text hidden]



GUAM VISITORS BUREAU

50th ANNIVERSARY · 1963 - 2013

September 11, 2012

Charles H. Ada II
Executive Manager
A.B. Won Pat International Airport Authority
P.O. Box 8770
Tamuning, GU 96913

Hafa Adâi! The Guam Visitors Bureau (GVB), together with your agency, is preparing for the September 27, 2012 inaugural flight arrival of Guam's newest air service provider from Korea, Jeju Air. Our collaborative efforts in seeking to bring new airlines to Guam will soon produce dividends, as this becomes a reality. Without the assistance from our industry partners, we would not be able to achieve this result.

In preparing for the arrival of the inaugural flight, GVB would plans to organize a welcome lei greeting ceremony at the arrival gate. We would like to have two (2) GVB Marketing Staff and greeter present a lei to each of the inaugural flight passengers and VIPs. *That said, I am kindly requesting your approval for the following to be authorized entry to the airport's arrival/gate area.*


1. Regina Nedlic, GVB Marketing Officer II
2. Dee Hernandez, GVB Marketing Officer I
3. Georgiana Perez, Greeter

In addition, for your planning purposes, the VIP passengers arriving on the Jeju Air Inaugural Flight are:

- | | |
|---|---|
| 1. Edward J.B. Calvo, Governor of Guam | 8. Francisco Santos, GIAA Board Vice Chairman |
| 2. Christine Calvo, First Lady of Guam | 9. Rosalynda Tolan, GIAA Board Member |
| 3. Tina Muna-Barnes, Senator | 10. Jeneva Bosko, Miss Guam World |
| 4. Vincente Pangelinan, Senator | 11. Kyu Nam Choi, Jeju Air CEO |
| 5. Monte Mesa, GVB Board Chairman | 12. Boo Young Eum, Jeju Air COO |
| 6. Jon Nathan Denight, GVB Deputy General Manager | 13. Jong Eun Yoon, Jeju Air Sales General Manager |
| 7. Felixberto Reyes, GVB Marketing | 14. Min Seok Kim, Jeju Air Branch Manager |
| | 15. Jin A. Jang, Jeju Air Route Manager |

Thank you in advance for your assistance. Should you have any questions or need more information, please contact my staff, Felix Reyes at 646-5278.

Senseramenté,


Joann G. Camacho
GENERAL MANAGER





GUAM VISITORS BUREAU

50th ANNIVERSARY · 1963 - 2013

**REGULAR BOARD MEETING
GVB MAIN CONFERENCE ROOM, 4:00PM
THURSDAY; September 13, 2012**

Board of Directors Present:

Chairman Monte Mesa	Vice Chairman Mark Baldyga
Hope A. Cristobal	Bruce Kloppenburg
Carissa Fortino	Judy Flores
Rizk Saad	Nathan Taimanglo
Jennifer Camacho	Eduardo (Champ) Calvo
N. Oscar Miyashita	Carol Tayama

Board of Directors Present Telephonically:

Board of Directors Absent:

Theresa C. Arriola

GVB Management and Staff Present:

Joann Camacho	Nathan Denight	Doris Ada
Laurette Perez	Dee Hernandez	Pilar Laguana
Kraig Camacho	Regina Nedlic	Felix Reyes
June Sugawara	Meriza Peredo	Debi Phillips

Guests:

❖ **Proceedings:**

- Meeting called to order at 4:05 p.m. by Chairman Monte Mesa.
Review of the previous Regular Board minutes dated August 23, 2012.
- o **Motion made by Vice Chairman Baldyga, seconded by Director Fortino, to approve the minutes of August 23, 2012.**
Motion approved (subject to correction).

E. Korea Marketing:

- o Director Miyashita made a motion, seconded by Chairman Fortino to approve travel for the Governor, First Lady, Senator Barnes, Chairman Mesa, Nathan Denight, a Miss Guam, Korea Marketing Officer (total 7 pax) to travel to Seoul, Korea on Wednesday, September 26 to participate at the Jeju Air Inaugural Ribbon Cutting Ceremony and related events and fly back to Guam on the Inaugural flight on Thursday, September 27, 2012. Cost is approximately \$5,908.90 from the FY2012 Korea Sales Marketing Development Acct# SMD023 or SMD 019.

Motion approved.

Airfare (7 pax)	\$3,500.00
Per Diem – Lodging for Governor and 1 Senator (2 pax x 1-day)	\$605.80
Per Diem – Lodging for Chairman Mesa & N. Denight (2 pax x 1-day)	\$582.50
Per Diem – Lodging for GVB staff (1 pax x 1-day)	\$233.00
M&IE – Governor and 1 Senator (2 pax x 1-day)	\$327.60
M&IE – Chairman Mesa & N. Denight (2 pax x 1-day)	\$315.00
M&IE – First Lady, MG & GVB Staff (3 pax x 1-day)	\$378.00
Professional Fees – MG (\$100 x 2 days)	\$200.00
Total	\$5,908.90

Background: Jeju Air has entered the Korea-Guam route with an inaugural flight scheduled to depart Incheon Airport, Seoul, Korea on Thursday, September 27. GVB was invited to participate in the inaugural ceremony at the Incheon Airport, including the ribbon cutting ceremony and to fly on the inaugural flight.

To show appreciation to Jeju Air's entry to the Guam market, GVB would like to send the above noted protocol delegation to participate in their inaugural flight ceremonies.

- o An Executive Committee motion was needed and approved by V. Chairman Baldyga and Director Flores to approve travel for Mr. Eduardo (Champ) Calvo to travel to Seoul, Korea on Wednesday, September 26 to join the Governor and the Guam delegation at the Jeju Air Inaugural Ribbon Cutting Ceremony and related events and fly back to Guam on the Inaugural flight on Thursday, September 27, 2012. Cost is approximately \$859.65 from the FY2012 Korea Sales Marketing Development Acct# SMD023 or SMD 019.

Motion approved.

Airfare (1 pax)	\$410.90
Per Diem – Lodging (1 pax x 1-day)	\$291.25
M&IE – (1 pax x 1-day)	\$157.50
Total	\$859.65

Background: Jeju Air has entered the Korea-Guam route with an inaugural flight scheduled to depart Incheon Airport, Seoul, Korea on Thursday, September 27. GVB was invited to participate in the inaugural ceremony at the Incheon Airport, including the ribbon cutting ceremony and to fly on the inaugural flight.

To show appreciation to Jeju Air's entry to the Guam market, GVB would like to send the above noted protocol delegation to participate in their inaugural flight ceremonies.

F. Existing Markets:

- Chairman Fortino reported that there is good momentum in Taiwan.
 - Chairman Fortino reported that there will be a Taipei International Travel Fair in October.
 - Director Fortino reported that PATA is coming up and we will have a travel mart and annual meeting from the 25- 28.
 - Director Fortino reported the Hong Kong Road show at the beginning of September, which was a social media promotion.
 - Director Fortino reported that the Lifestyle media FAM tour in the Philippines is this weekend.
- Director Fortino made a motion, seconded by Director Kloppenburg to authorize the General Manager as Chief Procurement Officer of the Bureau to begin negotiations with the highest ranked respondent for RFP2012-012: Tourism Destination Marketing Representation Services in Taiwan and, if successful, enter into a contract.
Motion approved.

G. New Market Development:

- Nothing to Report

H. Destination Management:

- Director Saad made a motion, seconded by Director Kloppenburg to authorize the General Manager as Chief Procurement Officer of the Bureau to award an FY2013 contract for Tumon Landscaping Maintenance Services. Reference IFB # 2012-001.

Motion approved.



Meriza Peredo <meriza.peredo@visitguam.org>

ExComm Motion

8 messages

Felix Reyes <felix.reyes@visitguam.org>

Fri, Sep 14, 2012 at 2:35 PM

To: Meriza Peredo <janel.perez@visitguam.org>

Cc: Joann Camacho <joann.camacho@visitguam.org>, Oscar Miyashita <oscar.miyashita@gmail.com>, Mark Manglona <mark.manglona@visitguam.org>, Laurette Perez <laurette.perez@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>, Henry Lee <hlee@tlkmarketing.net>

Riza,
See attached motion for electronic ExComm review.
Pls set a deadline of Monday, 10 a.m. for response.

--

Felix Sablan Reyes

Marketing Officer II

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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 **Jeju Air Inaugural 2012 Travel MotionR1.docx**
77K

Meriza Peredo <meriza.peredo@visitguam.org>

Fri, Sep 14, 2012 at 3:01 PM

To: Mark Baldyga <mbaldyga@baldyga.com>, Judy Flores <judyflores@guam.net>, "Mayor Carol S. Tayama" <agatmayorsoffice@hotmail.com>

Cc: Laurette Perez <laurette.perez@visitguam.org>, Joann Camacho <joann.camacho@visitguam.org>, Felix Reyes <felix.reyes@visitguam.org>

Hafa Adai ExComm Members!

Please see attached Korean Marketing Motion for travel for GVB Board Member Eduardo Champ Calvo to join the Governor and the delegation traveling to Seoul, Korea for the Jeju Air Inaugural Flight ceremonies. He will also join the Governor in meetings with other Korean entities in support of our continuing efforts to keep driving Korean arrivals to Guam. KMC Chairman Oscar Miyashita is in full support of this intent.

Best,
Meriza

Please advise your position by 10:00 .a.m., Monday, September 17, 2012.

[Quoted text hidden]

--

Si Yu'os Ma'ase,

Meriza U. Peredo
Executive Secretary

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
meriza.peredo@visitguam.org | <http://www.visitguam.org>



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 **Jeju Air Inaugural 2012 Travel MotionR1.docx**
77K

Meriza Peredo <meriza.peredo@visitguam.org> Fri, Sep 14, 2012 at 3:38 PM
To: Theresa Arriola <tcarriola@yahoo.com>, EAC/HAC <ecris64@teleguam.net>, Rose Cunliffe <rcunliffe@visitguam.org>

[Quoted text hidden]

 **Jeju Air Inaugural 2012 Travel MotionR1.docx**
77K

Mark Baldyga <mbaldyga@baldyga.com> Fri, Sep 14, 2012 at 4:21 PM
To: Meriza Peredo <meriza.peredo@visitguam.org>
Cc: Judy Flores <judyflores@guam.net>, "Mayor Carol S. Tayama" <agatmayorsoffice@hotmail.com>, Laurette Perez <laurette.perez@visitguam.org>, Joann Camacho <joann.camacho@visitguam.org>, Felix Reyes <felix.reyes@visitguam.org>

Approved for me

MB

Sent from my iPhone

[Quoted text hidden]

| <Jeju Air Inaugural 2012 Travel MotionR1.docx>

Judy Flores <judyflores@guam.net>
To: Meriza Peredo <meriza.peredo@visitguam.org>

Fri, Sep 14, 2012 at 9:31 PM

I can't open the attachment. Please send in a Word format or past it in the text.

Thanks,
Judy

- > Hafa Adai ExComm Members!
- > Please see attached Korean Marketing Motion for travel for GVB Board
- > Member
- > Eduardo Champ Calvo to join the Governor and the delegation traveling to
- > Seoul, Korea for the Jeju Air Inaugural Flight ceremonies. He will also
- > join the Governor in meetings with other Korean entities in support of our
- > continuing efforts to keep driving Korean arrivals to Guam. KMC Chairman
- > Oscar Miyashita is in full support of this intent.
- >
- > Best,
- > Meriza
- >
- > Please advise your position by 10:00 .a.m., Monday, September 17, 2012.
- >
- > ----- Forwarded message -----
- > From: Felix Reyes <felix.reyes@visitguam.org>
- > Date: Fri, Sep 14, 2012 at 2:35 PM
- > Subject: ExComm Motion
- > To: Meriza Peredo <janel.perez@visitguam.org>
- > Cc: Joann Camacho <joann.camacho@visitguam.org>, Oscar Miyashita <oscar.miyashita@gmail.com>, Mark Manglona <mark.manglona@visitguam.org> ,
- > Laurette Perez <laurette.perez@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>, Henry Lee <hlee@tkmarketing.net>
- >
- >
- > Riza,
- > See attached motion for electronic ExComm review.
- > Pls set a deadline of Monday, 10 a.m. for response.
- > --
- > *Felix Sablan Reyes*
- > *Marketing Officer II
- > **
- > **GUAM VISITORS BUREAU
- > *401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
- > felix.reyes@visitguam.org | www.visitguam.org
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- >
- >
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- >
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- >

> *Si Yu'os Ma'ase,*
 >
 > **
 >
 > *Meriza U. Peredo
 > **Executive Secretary
 > *
 >
 > *GUAM VISITORS BUREAU
 > *401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
 > meriza.peredo@visitguam.org | http://www.visitguam.org
 >
 >
 [Quoted text hidden]

Judy Flores <judyflores@guam.net>
 To: felix.reyes@visitguam.org, meriza.peredo@visitguam.org

Sat, Sep 15, 2012 at 11:48 AM

Thanks - it opened. I just wanted to see the \$ amount.
 I approve.
 Judy

> Hi Judy! Hope you can open this one. Felix/
 >

> Sent from my pugua iPhone 4
 >

> Begin forwarded message:
 >

>> From: Meriza Peredo <meriza.peredo@visitguam.org>
 >> Date: September 14, 2012 15:01:51 GMT+10:00
 >> To: Mark Baldyga <mbaldyga@baldyga.com>, Judy Flores
 >> <judyflores@guam.net>, "Mayor Carol S. Tayama"
 >> <agatmayorsoffice@hotmail.com>
 >> Cc: Laurette Perez <laurette.perez@visitguam.org>, Joann Camacho
 >> <joann.camacho@visitguam.org>, Felix Reyes <felix.reyes@visitguam.org>
 >> Subject: Fwd: ExComm Motion

[Quoted text hidden]

>> Like us on Facebook
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 >> --

>> Si Yu'os Ma'ase,
 >>
 >>
 >> Meriza U. Peredo
 >> Executive Secretary
 >>
 >> GUAM VISITORS BUREAU

>> 401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
>> meriza.peredo@visitguam.org | http://www.visitguam.org
>>
>>
>>

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: Judy Flores <judyflores@guam.net>
Cc: "meriza.peredo@visitguam.org" <meriza.peredo@visitguam.org>

Sat, Sep 15, 2012 at 12:26 PM

Much thanks Judy! Riza, pls forward the response to Joann n Laurette. Tks!

Sent from my pugua iPhone 4

[Quoted text hidden]

Meriza <meriza.peredo@visitguam.org>
To: Laurette Perez <laurette.perez@visitguam.org>, Rose Cunliffe <rose.cunliffe@visitguam.org>, Joann Camacho <joann.camacho@visitguam.org>

Sat, Sep 15, 2012 at 3:58 PM

Begin forwarded message:

From: Felix Reyes <felix.reyes@visitguam.org>
Date: September 15, 2012 12:26:20 PM GMT+10:00
To: Judy Flores <judyflores@guam.net>
Cc: "meriza.peredo@visitguam.org" <meriza.peredo@visitguam.org>
Subject: Re: ExComm Motion

[Quoted text hidden]

Korea Market Motion

EXECUTIVE COMMITTEE MOTION

Motion to approve travel for Mr. Eduardo (Champ) Calvo to travel to Seoul, Korea on Wednesday, September 26 to join the Governor and the Guam delegation at the Jeju Air Inaugural Ribbon Cutting Ceremony and related events and fly back to Guam on the Inaugural flight on Thursday, September 27, 2012. Cost is approximately \$859.65 from the FY2012 Korea Sales Marketing Development Acct# SMD023 or SMD 019.

Airfare (1 pax)	\$410.90
Per Diem - Lodging (1 pax x 1-day)	\$291.25
M&IE - (1 pax x 1-day)	\$157.50
Total	\$859.65

Background: Jeju Air has entered the Korea-Guam route with an inaugural flight scheduled to depart Incheon Airport, Seoul, Korea on Thursday, September 27. GVB was invited to participate in the inaugural ceremony at the Incheon Airport, including the ribbon cutting ceremony and to fly on the inaugural flight.

To show appreciation to Jeju Air's entry to the Guam market, GVB would like to send the above noted protocol delegation to participate in their inaugural flight ceremonies.

Issue: Board approved for travel required.



Felix Reyes <felix.reyes@visitguam.org>

Jeju Air Inaugural

12 messages

Felix Reyes <felix.reyes@visitguam.org>
To: Monte Mesa <monte@guam.net>

Thu, Sep 20, 2012 at 4:35 PM

Hafa Adai Monte,
Please see attached Jeju Air Inaugural Draft Itinerary.
Updates continue.

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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 **Jeju Air Inaugural 2012 Itinerary2.0.xlsx**
24K

Monte Delmar Mesa <monte@guam.net>
To: Felix Reyes <felix.reyes@visitguam.org>

Thu, Sep 20, 2012 at 4:41 PM

Hafa adai Felix,
How about the schedule for Korea on Wednesday when we arrive and depart on
Thursday?
thanks,
Monte

> Hafa Adai Monte,
> Please see attached Jeju Air Inaugural Draft Itinerary.
> Updates continue.
> —
> *Felix Sablan Reyes*
> *Marketing Officer II*
> **
> **GUAM VISITORS BUREAU
> *401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
> felix.reyes@visitguam.org | www.visitguam.org
>
>
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>

JEJU AIR INAUGURAL FLIGHT		GV	FL	TM	MM	CH	ND	GA	FR	MG	HL	YK	AD
Venue	INCHEON, SEOUL KOREA TO GUAM												
R2													
Hotel	Westin Chosun Hotel, Seoul (Tentative)	G	F	S	M	C	N	G	F	M	H	Y	A
	87 Sogong-Dong, Jung-gu Seoul, 100-070	O	I	E	O	H	A	I	E	I	E	K	N
	Tel: 82-2-771-0500	V	R	N	N	A	T	A	L	S	N		N
	Room rate: 300,000 Korean Won (Approx. US\$267), all taxes included	E	S		T	M	H	A	I	S	R	K	D
GVB Korea Office	Mr. Henry Lee - (Mobile: 82-10-3701-6124)	R	T	B	E	P	A		X		Y	I	O
	Mr. YK Kim - (Mobile: 82-10-5238-6314)	N	A				N			G		M	N
	MS. Ann Dong - (Mobile: 82-10-9276-3023)	O	L	R	M	C			R	U	L		G
		R	A	N	E	A	D		E	A	E		
			D	E	S	L	E		Y	M	E		
Delegation	Edward J. Baza Calvo, Governor of Guam	C	Y	S	A	V	N		E				
	Christine Calvo, First Lady of Guam	A				O	I		S	W			
	Tina Rose Muña Barnes, Senator, 31st Guam Legislature	I					G			O			
	Monte Mesa, GVB Chairman	V					H			R			
	Eduardo Champ Calvo, GVB Board Member	O					T			L			
	J. Nathan Denight, GVB Deputy General Manager (671-686-4823)									D			
	Felixberto S. Reyes, GVB Korea Marketing Officer II (671-483-1904)												
	Jeneva Bosko, Miss Guam World (777-6382)												
	Francisco Santos, GIAA Board Vice Chairman												
	Rosalyn Toian, GIAA Board Member												
	Wednesday, September 26, 2012	GV	FL	TM	MM	CH	ND	GA	FR	MG	HL	YK	AD
01:30 a.m.	Check-in to KAL / Guam Airport (Attire: Casual)	X	X	X	X		X	X	X	X			
03:20 a.m.	Depart Guam for Seoul via KE112	X	X	X	X		X	X	X	X			
06:55 a.m.	Arrive Seoul, Incheon Airport	X	X	X	X		X	X	X	X			
	Meet Henry Lee w/charter bus	X	X	X	X		X	X	X	X	X	X	
	Transfer to Downtown Seoul hotel, early check-in	X	X	X	X		X	X	X	X	X	X	
	Rest	X	X	X	X		X	X	X	X	X	X	
10:50 a.m.	Meet at the Westin Chosun Hotel Lobby for Press Conference	X	X	X	X	X	X	X	X	X	X	X	X
11:00 a.m.	Media Interview	X	X	X	X	X	X	X	X	X	X	X	X
	- Same Korean media who visited with the Gov. after the Japan triple disaster	X	X	X	X	X	X	X	X	X	X	X	X
	- Some Korean travel trade media are also being invited - no #'s yet	X	X	X	X	X	X	X	X	X	X	X	X
11:45 a.m.	End media interview - transfer via charter bus to lunch venue	X	X	X	X	X	X	X	X	X	X	X	X
12:00 Noon	Lunch meeting with KOREA AIR (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
	- Lunch venue: Hamiri Korean Cuisine Restaurant	X	X	X	X	X	X	X	X	X	X	X	X
After lunch	Meeting w/Korea Chamber of Commerce at their office (Pending confirmation)	X	X	X	X	X	X	X	X	X	X	X	X
Afternoon	Free	X	X	X	X	X	X	X	X	X	X	X	X
	Return to hotel, change and freshen up	X	X	X	X	X	X	X	X	X	X	X	X
17:30 p.m.	Meet at the Westin Chosun Hotel lobby - transfer to Dinner Reception venue (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
18:00 p.m. - 20:00 p.m.	Dinner reception with Jeju Air Management	X	X	X	X	X	X	X	X	X	X	X	X
	- Dinner venue: DONGBOSUNG Korean-Chinese Cuisine (GVB Hosted)	X	X	X	X	X	X	X	X	X	X	X	X
	(Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
20:00 p.m.	Return to hotel via charter bus	X	X	X	X	X	X	X	X	X	X	X	X
	Overnight Busan												
	Thursday, September 27, 2012	GV	FL	TM	MM	CH	ND	GA	FR	MG	HL	YK	AD
	Early breakfast at Hotel - Unhosted	X	X	X	X	X	X	X	X	X			
07:00 a.m.	Meet Henry Lee and staff at hotel lobby (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	
	Transfer to Incheon Airport via charter bus	X	X	X	X	X	X	X	X	X	X	X	
08:15 a.m.	Arrive Incheon Airport	X	X	X	X	X	X	X	X	X	X	X	
	Check-in to Jeju Air	X	X	X	X	X	X	X	X	X	X	X	
8:45 a.m.	Jeju Air Inaugural Ceremony at Gate	X	X	X	X	X	X	X	X	X	X	X	
10:40 a.m.	Depart Incheon for Guam	X	X	X	X	X	X	X	X	X	X	X	
16:00 p.m.	Arrive Guam	X	X	X	X	X	X	X	X	X	X	X	
18:00 p.m.	Dinner Reception hosted by Pleasure Island Group at Sea Grill, Tumon (Attire: Island Casual)	X	X	X	X	X	X	X	X	X	X	X	
		X	X	X	X	X	X	X	X	X	X	X	

JEJU AIR INAUGURAL FLIGHT		GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
Venue	INCHEON, SEOUL KOREA TO GUAM												
R2													
Hotel	Westin Chosun Hotel, Seoul	G	F	S	M	N	G	F	M	H	Y	A	P
	87 Sogong-Dong, Jung-gu Seoul, 100-070	O	I	E	O	A	I	E	I	E	K	N	A
	Tel: 82-2-771-0500	V	R	N	N	T	A	L	S	N	N	U	
	Room rate: 300,000 Korean Won (Approx. US\$267), all taxes included	E	S	T	H	A	I	S	R	K	L		
		R	T	B	E	A		X		Y	I	D	
GVB Korea Office	Mr. Henry Lee - (Mobile: 82-10-3701-6124)	N	A		N			G		M	O	S	
	Mr. YK Kim - (Mobile: 82-10-5238-6314)	O	L	R	M			R	U	L	N	A	
	MS. Ann Dong - (Mobile: 82-10-9276-3023)	R	A	N	E	D		E	A	E	G	N	
		D	E	S	E			Y	M	E		T	
Delegation	Edward J. Baza Calvo, Governor of Guam	C	Y	S	A	N		E				O	
	Christine Calvo, First Lady of Guam	A				I		S	W			S	
	Tina Rose Muña Barnes, Senator, 31st Guam Legislature	L				G		O					
	Monte Mesa, GVB Chairman	V				H		R					
	J. Nathan Denight, GVB Deputy General Manager (671-686-4823)	O				T		L					
	Felixberto S. Reyes, GVB Korea Marketing Officer II (671-483-1904)							D					
	Jeneva Bosko, Miss Guam World (671-777-6382)												
	Francisco Santos, GIAA Board Vice Chairman												
	Rosalinda Tolan, GIAA Board Member												
	Paul Santos, Governor's Security Detail												
	Wednesday, September 26, 2012	GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
01:30 a.m.	Check-in to KAL / Guam Airport (Attire: Casual)	X	X	X	X	X	X	X	X				X
03:20 a.m.	Depart Guam for Seoul via KE112	X	X	X	X	X	X	X	X				X
06:55 a.m.	Arrive Seoul, Incheon Airport	X	X	X	X	X	X	X	X				X
	Meet Henry Lee w/charter bus	X	X	X	X	X	X	X	X	X	X		X
	Transfer to Downtown Seoul hotel, early check-in	X	X	X	X	X	X	X	X	X	X		X
	Rest	X	X	X	X	X	X	X	X	X	X		X
10:50 a.m.	Meet at the Westin Chosun Hotel Lobby for Press Conference	X	X	X	X	X	X	X	X	X	X	X	X
11:00 a.m.	Media Interview	X	X	X	X	X	X	X	X	X	X	X	X
	- Same Korean media who visited with the Gov. after the Japan triple disaster	X	X	X	X	X	X	X	X	X	X	X	X
	- Some Korean travel trade media are also being invited - no #'s yet	X	X	X	X	X	X	X	X	X	X	X	X
11:45 a.m.	End media interview - transfer via charter bus to lunch venue	X	X	X	X	X	X	X	X	X	X	X	X
12:00 Noon	Lunch meeting with KOREA AIR (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
	- Lunch venue: Hamiri Korean Cuisine Restaurant	X	X	X	X	X	X	X	X	X	X	X	X
	Afternoon Free	X	X	X	X	X	X	X	X	X	X	X	X
16:00 p.m.	Meeting w/Korea Chamber of Commerce at their office (Attire: Suit/Tie/Formal)	X	X	X	X	X	X			X	X		X
	Return to hotel, change and freshen up	X		X	X	X				X	X		X
17:30 p.m.	Meet at the Westin Chosun Hotel lobby - transfer to Dinner Reception venue (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
	Dinner reception with Jeju Air Management	X	X	X	X	X	X	X	X	X	X	X	X
	- Dinner venue: DONGBOSUNG Korean-Chinese Cuisine (GVB Hosted)	X	X	X	X	X	X	X	X	X	X	X	X
	(Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
20:00 p.m.	Return to hotel via charter bus	X	X	X	X	X	X	X	X	X	X	X	X
	overnight in Seoul												
	Thursday, September 27, 2012	GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
	Early breakfast at Hotel - Unhosted	X	X	X	X	X	X	X	X				X
07:00 a.m.	Meet Henry Lee and staff at hotel lobby (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X		X
	Transfer to Incheon Airport via charter bus	X	X	X	X	X	X	X	X	X	X		X
08:15 a.m.	Arrive Incheon Airport	X	X	X	X	X	X	X	X	X	X		X
	Check-in to Jeju Air	X	X	X	X	X	X	X	X	X	X		X
8:45 a.m.	Jeju Air Inaugural Ceremony at Gate	X	X	X	X	X	X	X	X	X	X		X
10:40 a.m.	Depart Incheon for Guam	X	X	X	X	X	X	X	X	X	X		X
16:00 p.m.	Arrive Guam	X	X	X	X	X	X	X	X	X	X		X
18:00 p.m.	Dinner Reception hosted at Sea Grill, Tumon (Attire: Island Casual)	X	X	X	X	X	X	X	X	X	X		X
		X	X	X	X	X	X	X	X	X	X		X



Meriza Peredo <meriza.peredo@visitguam.org>

Jeju Air Events

1 message

Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 25, 2012 at 4:34 PM

To: Oscar Miyashita <oscar.miyashita@gmail.com>, Joann Camacho <joann.camacho@visitguam.org>, Jon

Nathan Denight <nathan.denight@visitguam.org>, Monte Mesa <monte@guam.net>

Cc: Mark Manglona <mark.manglona@visitguam.org>, Elaine Pangelinan <elaine.pangelinan@visitguam.org>,

Regina Nedlic <regina.nedlic@visitguam.org>, Meriza Peredo <janel.perez@visitguam.org>

Just an fyi...see attached.

--

Felix Sablan Reyes

Marketing Officer II


GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

felix.reyes@visitguam.org | www.visitguam.org

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4 attachments

 **draft Jeju briefing packet_20120924_rv3.docx**
20K

 **Jeju Air Inaugural 2012 Itinerary2.0.xlsx**
20K

 **Jeju Air Inaugural Korea Mtgs ++.docx**
516K

 **Jeju Air Reception Invites List.xlsx**
15K

JEJU AIR INAUGURAL FLIGHT		GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
Venue	INCHEON, SEOUL KOREA TO GUAM												
Hotel	Westin Chosun Hotel, Seoul	G	F	S	M	N	G	F	M	H	Y	A	P
	87 Sogong-Dong, Jung-gu Seoul, 100-070	K	I	E	O	A	I	E	I	E	K	N	A
	Tel: 82-2-771-0500	V	R	N	N	T	A	L	S	N		N	U
	Room rate: 300,000 Korean Won (Approx. US\$267), all taxes included	R	S	T	H	A	I	S	R	K		L	
		R	T	B	E	A		X		Y	I	D	
GVB Korea Office	Mr. Henry Lee - (Mobile: 82-10-3701-6124)	N	A		N				G		M	O	S
	Mr. YK Kim - (Mobile: 82-10-5238-6314)	K	L	R	M			R	U	L		N	A
	MS. Ann Dong - (Mobile: 82-10-9276-3023)	R	A	N	E	D		E	A	E		G	N
		G	D	E	S	E		Y	M	E			T
Delegation	Edward J. Baza Calvo, Governor of Guam	G	Y	S	A	N		E					O
	Christine Calvo, First Lady of Guam	C				I		S	W				S
	Tina Rose Muña Barnes, Senator, 31st Guam Legislature	T				G		O					
	Monte Mesa, GVB Chairman	M				H		R					
	J. Nathan Denight, GVB Deputy General Manager (671-686-4823)	J				T		L					
	Felixberto S. Reyes, GVB Korea Marketing Officer II (671-483-1904)	F							D				
	Jeneva Bosko, Miss Guam World (671-777-6382)	J											
	Francisco Santos, GIAA Board Vice Chairman	F											
	Rosalinda Tolan, GIAA Board Member	R											
	Paul Santos, Governor's Security Detail	P											
	Wednesday, September 26, 2012	GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
01:30 a.m.	Check-in to KAL / Guam Airport (Attire: Casual)	X	X	X	X	X	X	X	X				X
03:20 a.m.	Depart Guam for Seoul via KE112	X	X	X	X	X	X	X	X				X
06:55 a.m.	Arrive Seoul, Incheon Airport	X	X	X	X	X	X	X	X				X
	Meet Henry Lee w/charter bus	X	X	X	X	X	X	X	X	X	X		X
	Transfer to Downtown Seoul hotel, early check-in	X	X	X	X	X	X	X	X	X	X		X
	Rest	X	X	X	X	X	X	X	X	X	X		X
10:50 a.m.	Meet at the Westin Chosun Hotel Lobby for Press Conference	X	X	X	X	X	X	X	X	X	X	X	X
11:00 a.m.	Media Interview	X	X	X	X	X	X	X	X	X	X	X	X
	- Same Korean media who visited with the Gov. after the Japan triple disaster	X	X	X	X	X	X	X	X	X	X	X	X
	- Some Korean travel trade media are also being invited - no #'s yet	X	X	X	X	X	X	X	X	X	X	X	X
11:45 a.m.	End media interview - transfer via charter bus to lunch venue	X	X	X	X	X	X	X	X	X	X	X	X
12:00 Noon	Lunch meeting with KOREA AIR (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
	- Lunch venue: Hamiri Korean Cuisine Restaurant	X	X	X	X	X	X	X	X	X	X	X	X
Afternoon	Free	X	X	X	X	X	X	X	X	X	X	X	X
16:00 p.m.	Meeting w/Korea Chamber of Commerce at their office (Attire: Suit/Tie/Formal)	X	X	X	X	X	X			X	X		X
	Return to hotel, change and freshen up	X	X	X	X	X	X			X	X		X
17:30 p.m.	Meet at the Westin Chosun Hotel lobby - transfer to Dinner Reception venue (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
18:00 p.m. - 20:00 p.m.	Dinner reception with Jeju Air Management	X	X	X	X	X	X	X	X	X	X	X	X
	- Dinner venue: DONGBOSUNG Korean-Chinese Cuisine (GVB Hosted)	X	X	X	X	X	X	X	X	X	X	X	X
	(Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
20:00 p.m.	Return to hotel via charter bus	X	X	X	X	X	X	X	X	X	X	X	X
	Overnight in Seoul												
	Thursday, September 27, 2012	GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
	Early breakfast at Hotel - Unhosted	X	X	X	X	X	X	X	X				X
07:00 a.m.	Meet Henry Lee and staff at hotel lobby (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X		X
	Transfer to Incheon Airport via charter bus	X	X	X	X	X	X	X	X	X	X		X
08:15 a.m.	Arrive Incheon Airport	X	X	X	X	X	X	X	X	X	X		X
	Check-in to Jeju Air	X	X	X	X	X	X	X	X	X	X		X
8:45 a.m.	Jeju Air Inaugural Ceremony at Gate	X	X	X	X	X	X	X	X	X	X		X
10:40 a.m.	Depart Incheon for Guam	X	X	X	X	X	X	X	X	X	X		X
16:00 p.m.	Arrive Guam	X	X	X	X	X	X	X	X	X	X		X
18:00 p.m.	Dinner Reception hosted at Sea Grill, Tumon (Attire: Island Casual)	X	X	X	X	X	X	X	X	X	X		X



GUAM VISITORS BUREAU

50th ANNIVERSARY · 1963 - 2013

JEJU AIR INAUGURAL MEETING DETAILS SEOUL, SOUTH KOREA

WEDNESDAY, SEPTEMBER 26, 2012

12:00 Noon LUNCH MEETING w/KOREAN AIR EXECUTIVES

Mr. Lee, Seung Bum, Managing Vice President, Korean Air

- Mr. Lee is the senior ranking Korean Air executive

Mr. Kim, Han Gon, General Manager, Korean Air

- Mr. Kim has oversight over all Korean Air flight operations

4:00 p.m. MEETING WITH THE KOREA CHAMBER OF COMMERCE & INDUSTRY (KCCI)

- Mr. Sohn, Kyung Shik, KCCI Chairman)
- Mr. Kim, Seo Ho, KCCI Executive Director

6:00 p.m. DINNER RECEPTION FOR JEJU AIR

Mr. Choi, Kyu Nam, Chief Executive Officer (CEO), Jeju Air

- Mr. Choi is the top Jeju Air executive

Mr. Eum, Boo Young, Chief Operating Officer (COO), Jeju Air

- Mr. Eum is second in command with all decision powers

Mr. Lee, Kang Hyo, Chief Marketing Officer (CMO), Jeju Air

- Mr. Lee has overall marketing oversight of Jeju Air

Mr. Yoon, Jong Eun, Sales General Manager (SGM), Jeju Air

- Mr. Yoon oversees the execution of all sales activities for Jeju Air

Mr. Ko, Kyoung Pyo, Marketing General Manager (MGM), Jeju Air

- Mr. Ko oversees all marketing activities for Jeju Air

Mr. Jang, Jia A, Marketing Route Manager (MRM), Jeju Air

- Mr. Jang supports all marketing activities for select routes

Mr. Huh, Seok min, Korean Government Relations Representative for Jeju Air

Mr. Lee, Kyung Un, Korean Government Relations Representative for Jeju Air



Felix Reyes <felix.reyes@visitguam.org>

Korea Jeju Air Travel

1 message

Felix Reyes <felix.reyes@visitguam.org>
To: Champ Calvo <ecalvo@calvofisher.com>

Thu, Sep 20, 2012 at 4:49 PM

Champ,

I have your e-Ticket on Korean Air departing Sept. 25 and returning on the Jeju Air inaugural flight. I'll pass it along maybe Monday or Tuesday early, along with your per diem check.

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

Like us on Facebook

Thanks!

[Quoted text hidden]

[Quoted text hidden]

www.visitguam.org

Like us on Facebook

Felix Reyes <felix.reyes@visitguam.org>
To: Jamie Peightal <jpeightal@calvofisher.com>
Cc: "Eduardo A. Calvo" <ecalvo@calvofisher.com>

Fri, Sep 14, 2012 at 5:36 PM

Tks!

Sent from my pugua iPhone 4

[Quoted text hidden]

<EAC Passport.pdf>

Felix Reyes <felix.reyes@visitguam.org>
To: "efesar05@yahoo.com" <efesar05@yahoo.com>

Fri, Sep 14, 2012 at 5:36 PM

Pp

Sent from my pugua iPhone 4

Begin forwarded message:

From: Jamie Peightal <jpeightal@calvofisher.com>
Date: September 14, 2012 14:58:01 GMT+10:00
To: "felix.reyes@visitguam.org" <felix.reyes@visitguam.org>
Cc: "Eduardo A. Calvo" <ecalvo@calvofisher.com>
Subject: FW: Itinerary

[Quoted text hidden]

 **EAC Passport.pdf**
867K

Jamie Peightal <jpeightal@calvofisher.com>
To: "felix.reyes@visitguam.org" <felix.reyes@visitguam.org>
Cc: "Eduardo A. Calvo" <ecalvo@calvofisher.com>

Mon, Sep 24, 2012 at 3:57 PM

Hi Felix,

Thank you for speaking with me earlier. As I mentioned, Mr. Calvo will not be able to attend the events in Korea because of an unexpected, urgent matter that has come up. However, he will be attending the dinner reception

DFS0021

002147

on Thursday, September 27 at 6pm.

Sincere apologies again.

Thank you.

Regards,

Jamie

Jamie C. Peightal
Secretary to Eduardo A. Calvo

and Janalynn Cruz Damian
Calvo Fisher & Jacob LLP
259 Martyr Street, Suite 100
Hagatna, Guam 96910
(671) 646-9355
(671) 646-9403 facsimile
www.calvofisher.com

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From: Jamie Peightal
Sent: Friday, September 14, 2012 2:58 PM
To: 'felix.reyes@visitguam.org'
Cc: Eduardo A. Calvo
Subject: FW: Itinerary

Dear Felix,

Please find attached a copy of Mr. Calvo's passport. Thank you.

Regards,

Jamie

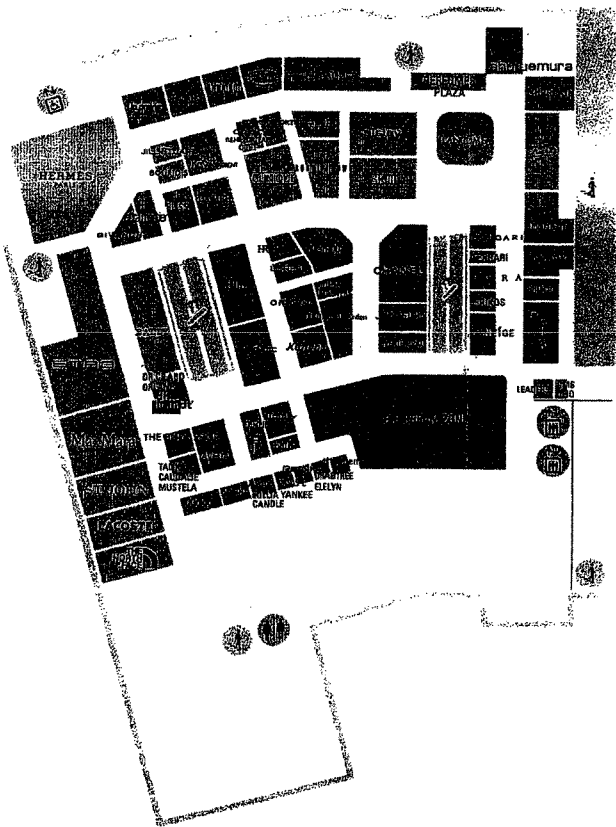
JEJU AIR INAUGURAL FLIGHT		
Venue	INCHEON, SEOUL KOREA TO GUAM	GV
R2		
Hotel	Westin Chosun Hotel, Seoul (Tentative)	G
	87 Sogong-Dong, Jung-gu Seoul, 100-070	O
	Tel: 82-2-771-0500	V
	Room rate: 300,000 Korean Won (Approx. US\$267), all taxes included	E
		R
GVB Korea Office	Mr. Henry Lee - (Mobile: 82-10-3701-6124)	N
	Mr. YK Kim - (Mobile: 82-10-5238-6314)	O
	MS. Ann Dong - (Mobile: 82-10-9276-3023)	R
Delegation	Edward J. Baza Calvo, Governor of Guam	G
	Christine Calvo, First Lady of Guam	A
	Tina Rose Muña Barnes, Senator, 31st Guam Legislature	L
	Monte Mesa, GVB Chairman	V
	Eduardo Champ Calvo, GVB Board Member	O
	J. Nathan Denight, GVB Deputy General Manager (671-686-4823)	
	Felixberto S. Reyes, GVB Korea Marketing Officer II (671-483-1904)	
	Jeneva Bosko, Miss Guam World (777-6382)	
	Francisco Santos, GIAA Board Vice Chairman	
	Rosalyn Tolan, GIAA Board Member	
	Paul Santos, Governor's Security Detail	
	Wednesday, September 26, 2012	GV
01:30 a.m.	Check-in to KAL / Guam Airport (Attire: Casual)	X
03:20 a.m.	Depart Guam for Seoul via KE112	X
06:55 a.m.	Arrive Seoul, Incheon Airport	X
	Meet Henry Lee w/charter bus	X
	Transfer to Downtown Seoul hotel, early check-in	X
	Rest	X
10:50 a.m.	Meet at the Westin Chosun Hotel Lobby for Press Conference	X
11:00 a.m.	Media Interview	X
	- Same Korean media who visited with the Gov. after the Japan triple disaster	X
	- Some Korean travel trade media are also being invited - no #'s yet	X
11:45 a.m.	End media interview - transfer via charter bus to lunch venue	X
12:00 Noon	Lunch meeting with KOREA AIR (Attire: Suit/Tie/Formal)	X
	- Lunch venue: Hamiri Korean Cuisine Restaurant	X
After lunch	Meeting w/Korea Chamber of Commerce at their office (Pending confirmation)	X
Afternoon	Free	X
	Return to hotel, change and freshen up	X
17:30 p.m.	Meet at the Westin Chosun Hotel lobby - transfer to Dinner Reception venue	X
	(Attire: Suit/Tie/Formal)	X
18:00 p.m. - 20:00 p.m.	Dinner reception with Jeju Air Management	X
	- Dinner venue: DONGBOSUNG Korean-Chinese Cuisine (GVB Hosted)	X
	(Attire: Suit/Tie/Formal)	X
20:00 p.m.	Return to hotel via charter bus	X
	Overnight Seoul	
	Thursday, September 27, 2012	GV
	Early breakfast at Hotel - Unhosted	X

07:00 a.m.	Meet Henry Lee and staff at hotel lobby (Attire: Suit/Tie/Formal)	X
	Transfer to Incheon Aiport via charter bus	X
08:15 a.m.	Arrive Incheon Airport	X
	Check-in to Jeju Air	X
8:45 a.m.	Jeju Air Inaugural Ceremony at Gate	X
10:40 a.m.	Depart Incheon for Guam	X
16:00 p.m.	Arrive Guam	X
18:00 p.m.	<i>Dinner Reception hosted by Pleasure Island Group at Sea Grill, Tumon</i>	X
	(Attire: Island Casual)	X

X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X

9 TH FLOOR

B.B CREAM ZONE
 COSMETICS & PERFUMES
 BOUTIQUE










-  Emergency Staircase
-  Restroom
-  Escalator
-  Elevator

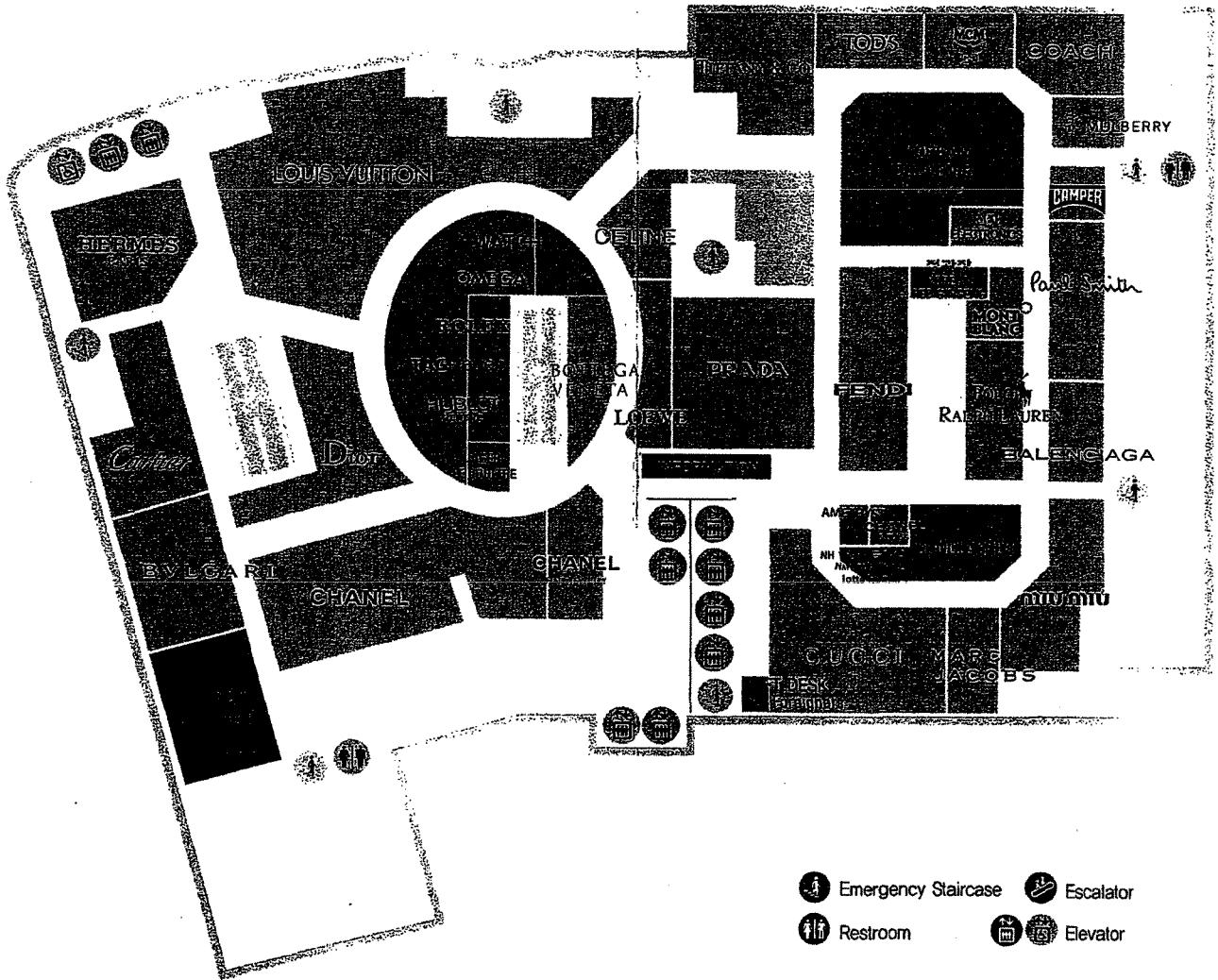
2012년 8월 31일 기준

DFS0027

001





10TH FLOOR

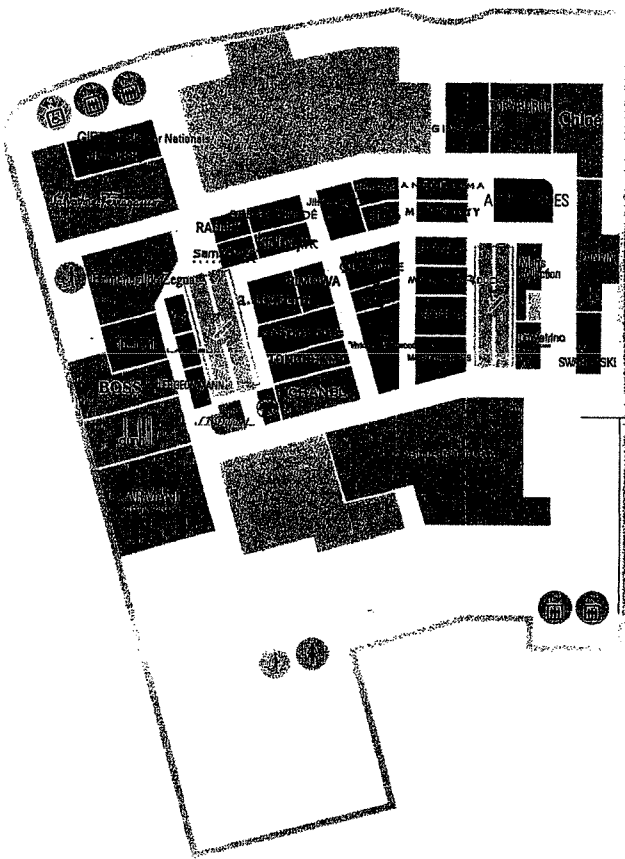
-  BOUTIQUE
-  SUNGLASSES
-  ACCESSORIES & GIFT
-  ELECTRONICS
-  WATCH & JEWELRY
-  KOREAN SOUVENIR
-  HEALTH FOOD



2012년 8월 31일 기준

11TH FLOOR

-  BOUTIQUE
-  SUNGLASSES
-  ACCESSORIES & GIFT
-  SHOES & BAG



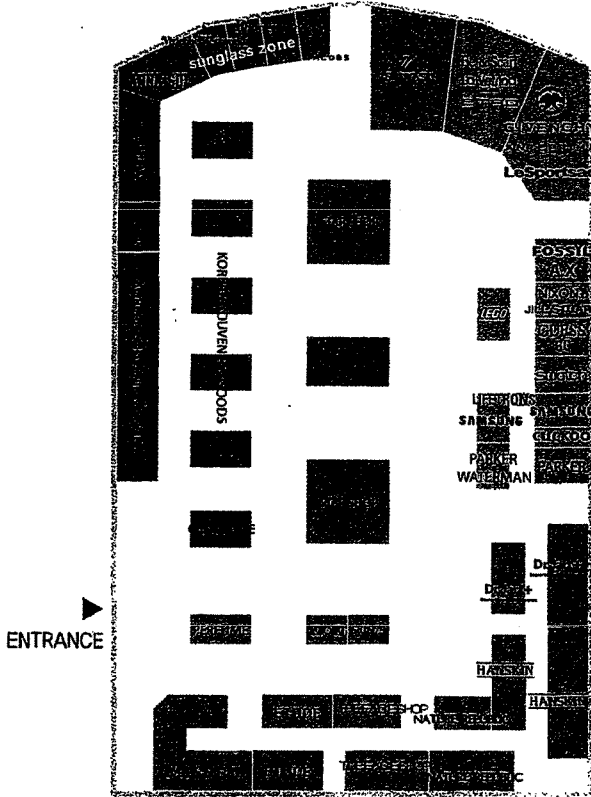
-  Emergency Staircase
-  Restroom
-  Escalator
-  Elevator

2012년 8월 31일 기준

LOTTE DUTY FREE (LOBBY)

BUSINESS HOURS 8:00 AM ~ 10:00 PM

2 ND FLOOR (HOTEL)



- | | | | |
|--|----------------------|--|--------------------|
| | COSMETICS & PERFUMES | | KOREAN SOUVENIR |
| | WATCH & JEWELRY | | ELECTRONICS |
| | BOUTIQUE | | ACCESSORIES & GIFT |
| | SUNGLASSES | | LIQUOR |

2012년 8월 31일 기준

KOREA

LOTTE
DUTY
FREE

LOTTE DUTY FREE
GUIDE MAP



SPECIAL DISCOUNT COUPON

58
59 311001419586

25~5%



Name
(ご氏名)

Birthday
(生年月日)

Male, Female
(性別)

Passport No.
(旅券番号)

Departure Date.
(出発日)

Flight No. & time
(飛行機便名)

Tel No.
(電話番号)

LOTTE
LOTTE DUTY FREE ☎02-759-6600-2



Felix Reyes <felix.reyes@visitguam.org>

Jeju inaugural flight

14 messages

Jon Nathan Denight <nathan.denight@visitguam.org> Tue, Sep 18, 2012 at 10:25 AM
To: Henry Lee <hlee@tlkmarketing.net>, Felix Reyes <felix.reyes@visitguam.org>, Mark Manglona <mark.manglona@visitguam.org>
Cc: jtcalvo@midpacguam.com, Joann Camacho <joann.camacho@visitguam.org>

Hafa Adai Felix and Henry,

John Calvo (brother of GVB Board Member Champ Calvo/Mid Pac Guam Owner) has connections with Lotte in Korea and may be able to secure us a great room rate in Seoul. He also may set up a meeting in the afternoon with the Lotte group. I have cc'd him on this email. Pls work with him on this.

Si Yu'os Ma'åse'

Jon Nathan Denight
Deputy General Manager

GUAM VISITORS BUREAU | SETBISION BISITAN GUAHAN
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

Felix Reyes <felix.reyes@visitguam.org> Tue, Sep 18, 2012 at 11:07 AM
To: Jon Nathan Denight <nathan.denight@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

Nate, we've gotten confirmations fr rooms @ Westin Chosun already with Brian Pak. To cancel now will be a concern. Also, as you know, Lotte is bidding for the Guam airport duty free concession n may pose a conflict as a govt agency at this time, especially for the Governor.

Sent from my pugua iPhone 4
[Quoted text hidden]

Joann Camacho <joann.camacho@visitguam.org> Tue, Sep 18, 2012 at 11:20 AM
To: Felix Reyes <felix.reyes@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>

Agree. Stick to the Westin. Thanks

[Quoted text hidden]

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org> Tue, Sep 18, 2012 at 12:12 PM
To: Oscar Miyashita <oscar.miyashita@gmail.com>

[Quoted text hidden]
FYI..

DFS0032

002098

Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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Jon Nathan Denight <nathan.denight@visitguam.org>

Tue, Sep 18, 2012 at 1:57 PM

To: Felix Reyes <felix.reyes@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

Thank you for the response Felix. Sure, let's stay with Westin. As for the meeting with Lotte, they are a huge company that may also be interested in investing in hotels, theme parks and other developments for Guam, as well as a partner with JTB. The Gov is not involved with airport procurement and I see no problem with him meeting with the Lotte Group to encourage investment into Guam, just as he would do for other potential investors into Guam, also understanding that he couldn't discuss the airport rfp during the meeting.

Si Yu'os Ma'ase'

Jon Nathan Denight
Deputy General Manager

GUAM VISITORS BUREAU | SETBISION BISITAN GUAHAN
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 18, 2012 at 2:15 PM

To: Jon Nathan Denight <nathan.denight@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

[Quoted text hidden]

>Sure. In fact we were going to invite them to the Gov's trade mission next year.

--

Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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John T. Calvo <jtcalvo@midpacguam.com>

Tue, Sep 18, 2012 at 2:36 PM

To: Jon Nathan Denight <nathan.denight@visitguam.org>

Cc: Felix Reyes <felix.reyes@visitguam.org>, Henry Lee <hlee@tlkmarketing.net>, Mark Manglona

DFS0033

002099

<mark.manglona@visitguam.org>, Joann Camacho <joann.camacho@visitguam.org>

Nathan

This is getting too complicated. I'll let them know the group is not available to meet.

Thanks

John

Sent from my iPhone

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: Oscar Miyashita <oscar.miyashita@gmail.com>

Tue, Sep 18, 2012 at 3:04 PM

----- Forwarded message -----

From: John T. Calvo

Date: Tuesday, September 18, 2012

Subject: Jeju inaugural flight

[Quoted text hidden]

FYI

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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Oscar Miyashita <oscar.miyashita@gmail.com>
To: Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 18, 2012 at 5:12 PM

I agree with you Felix san - should not change.

Kind regards,

N. Oscar Miyashita, CPA, CCPS, AIF®
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913
Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com

DFS0034

002100

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: "Takano, Tak (tlmm)" <tlmm3895@ite.net>

Mon, Oct 1, 2012 at 1:54 PM

Tak, thanks for today.
See below communications tracking fyi.
Felix/

----- Forwarded message -----

From: **Jon Nathan Denight** <nathan.denight@visitguam.org>
Date: Tue, Sep 18, 2012 at 10:25 AM
Subject: Jeju inaugural flight
[Quoted text hidden]

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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Tak Takano <tlmm3895@ite.net>
Reply-To: tlmm3895@ite.net
To: Felix Reyes <felix.reyes@visitguam.org>

Mon, Oct 1, 2012 at 2:04 PM

Felix,
Thank you very much to spend a time with me during lunch today. Also, thank you very much for the information.
Did he sent you any further messages after you pointed out that that could be potential conflict of interest? I believe that he further pushed, right?
Thank you.
Tak
[Quoted text hidden]
[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: tlmm3895@ite.net

Mon, Oct 1, 2012 at 2:06 PM

Second time he called me long distance from JATA.
[Quoted text hidden]

Tak Takano <tlmm3895@ite.net>
Reply-To: tlmm3895@ite.net
To: Felix Reyes <felix.reyes@visitguam.org>

Mon, Oct 1, 2012 at 2:12 PM

Felix,
Thank you.
Tak

DFS0035

002101

[Quoted text hidden]
[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: efesar05@yahoo.com

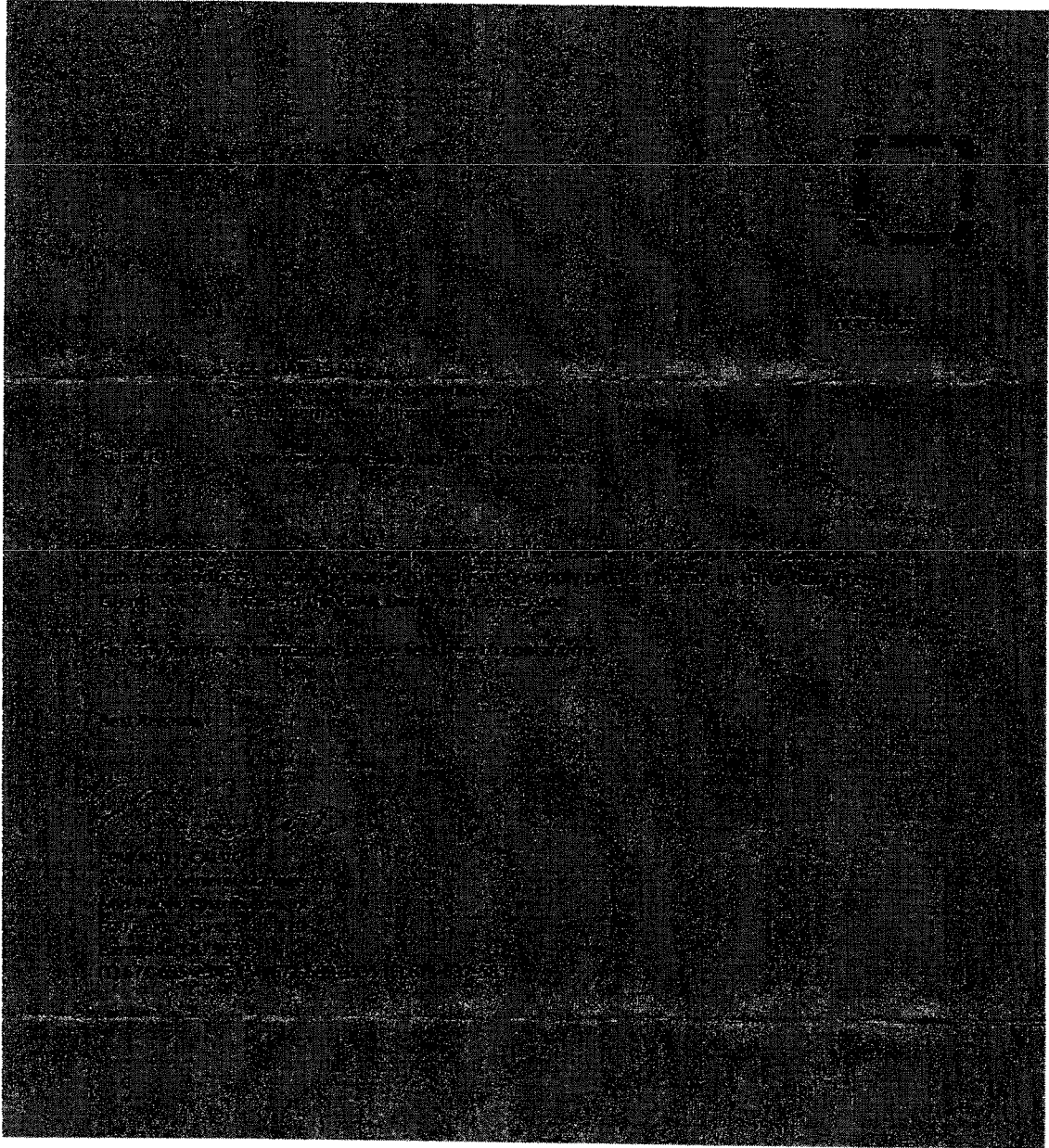
Tue, Nov 13, 2012 at 8:18 PM

Sent from my pugua iPhone 4

Begin forwarded message:

From: Jon Nathan Denight <nathan.denight@visitguam.org>
Date: September 18, 2012, 13:57:04 GMT+10:00
To: Felix Reyes <felix.reyes@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>
Subject: Re: Jeju inaugural flight

[Quoted text hidden]



DFS0037

199-161875

2012 GUAM ANNUAL REPORT
MID-PACIFIC LIQUOR DISTRIBUTING CORPORATION, INC.

AUG 13 2012

BUSINESS REGISTRATION
CHARTER NO. 00005

MID-PACIFIC LIQUOR DISTRIBUTING CORPORATION, INC. is incorporated under the laws of Guam, U.S.A.

The date of incorporation is (if chartered in Guam): **May 16, 1947**

The registered office of the corporation in Guam (street address) if any is: N/A

The registered agent in Guam is: N/A

The address of the Principal Office is: **370 Mendioka Street
Dededo, Guam 96929**

The names and business addresses of the corporation's directors and principal officers are as follows:

Name	Title	Business Address
John T. Calvo	Director, President	Post Office Box 192 Hagåtña, Guam 96932
Joseph G. Calvo	Director, Vice President	Post Office Box 192 Hagåtña, Guam 96932
Leonard P. Calvo	Director, Treasurer	Post Office Box 192 Hagåtña, Guam 96932
Eduardo A. Calvo	Director, Secretary	259 Martyr Street, Suite 100 Hagatna, Guam 96932

A brief statement of the character of the business in which the corporation is actually transacting on Guam is a follows:

Engaging in the business of buying and selling beverages, both intoxicating and non-intoxicating.

The aggregate number of shares, which the corporation has authority to issue, itemized by class, par value of shares, shares without par value are as follows:

Authorized Capital	Class of Stock	Par Value of each share	Shares without par value
1,750	Common	\$100	N/A

The aggregate number of issued and outstanding share, itemized by class, par value of shares, shares without par value are as follows:

Number of issued & Outstanding shares	Class of Stock	Par Value of each share	Shares without par value
718	Common	\$100	N/A

The corporation has less than fifteen (15) shareholders, their names, citizenship, number and class of shares held are as follows:

Name	Citizenship	Number Shares	Class of Stock
John T. Calvo	U.S.	1	Common
Leonard P. Calvo	U.S.	1	Common
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Date: August 9, 2012



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Attorney Calvo denies conflict, not involved in duty free procurement

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Written by Pacific Daily News

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Attorney Eduardo "Champ" Calvo, responding to DFS Group's allegations related to the A.B. Won Pat Guam International Airport Authority's process to select a new duty free concessionaire at the airport, says he doesn't have a conflict and is not involved in the process.

"Even though I do not believe that I have a conflict of interest, I had no involvement in the procurement process for the GIAA duty free concession," Calvo says.

"As for the various allegations and concerns raised in DFS' protest letter, I understand that GIAA will address those through and in connection with the formal protest process."

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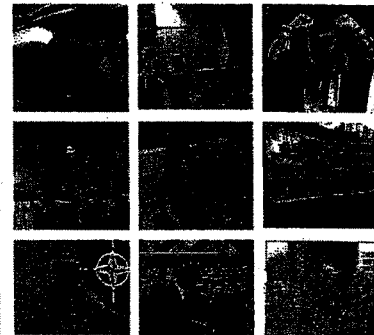
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Attorney Calvo denies conflict, not involved in duty free procurement

*Written by Pacific Daily News
May. 06*

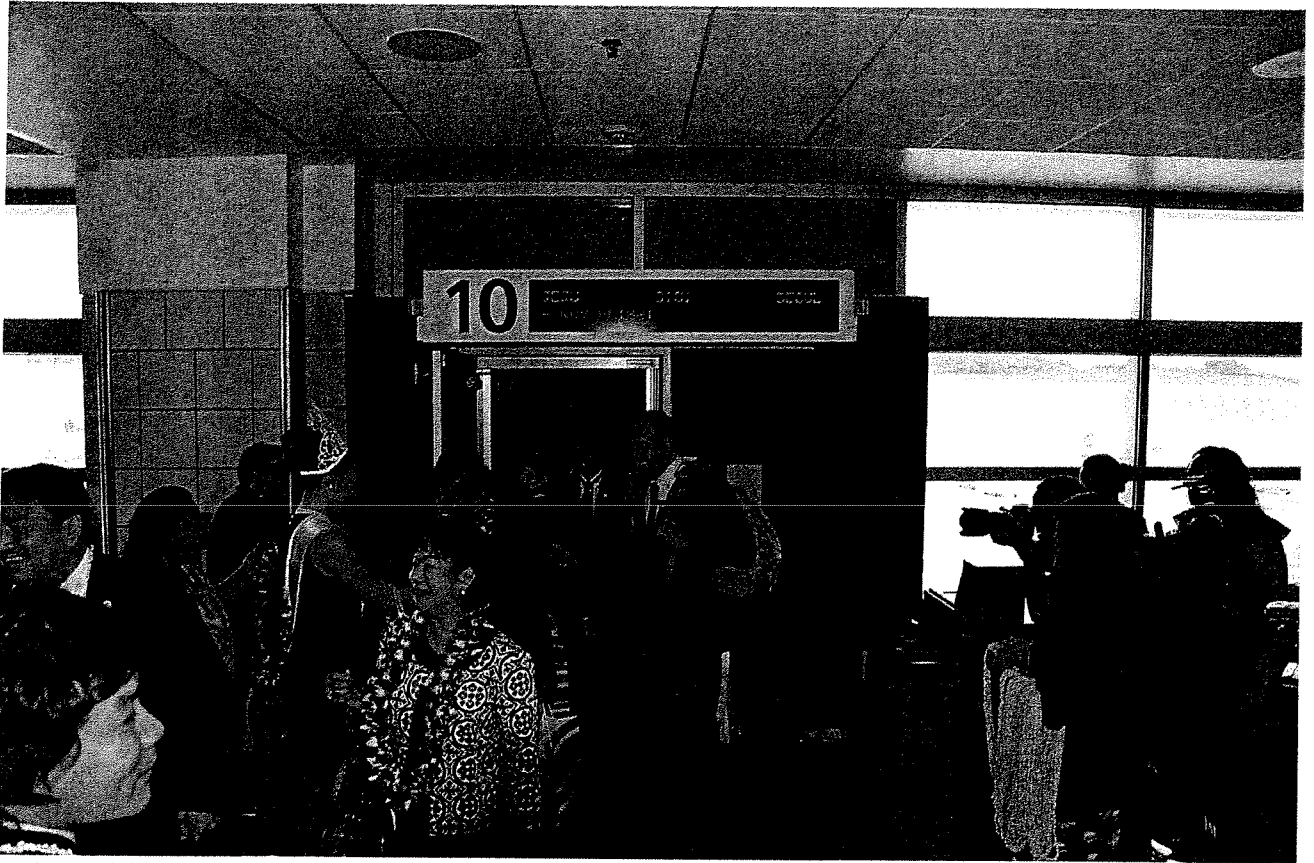
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Attorney Eduardo "Champ" Calvo, responding to DFS Group's allegations related to the A.B. Won Pat Guam International Airport Authority's process to select a new duty free concessionaire at the airport, says he doesn't have a conflict and is not involved in the process.

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"As for the various allegations and concerns raised in DFS' protest letter, I understand that GLAA will address those through and in connection with the formal protest process."

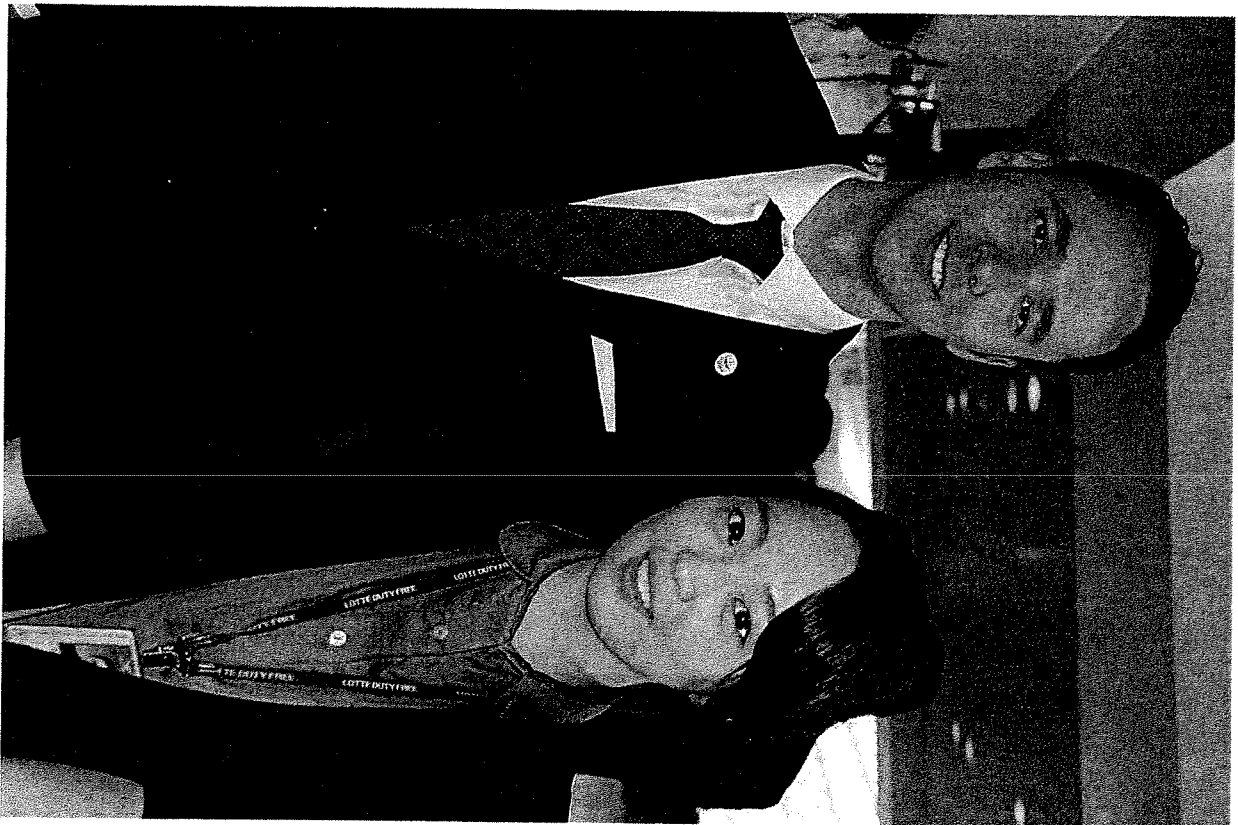
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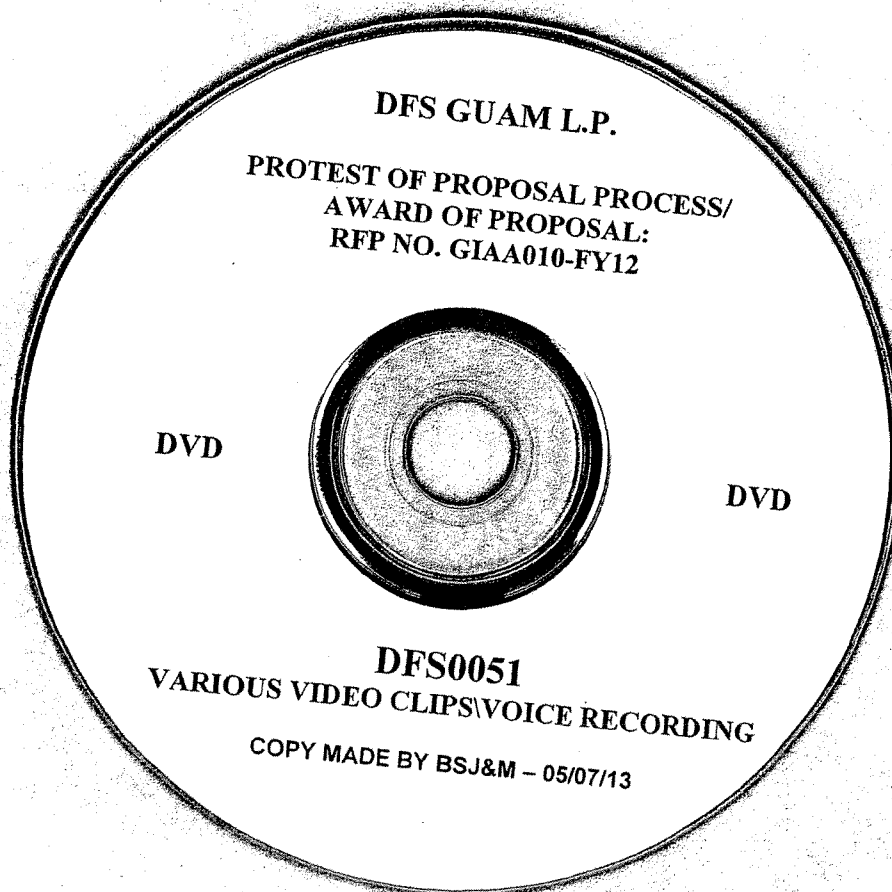
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May 8, 2013

VIA HAND DELIVERY

Mr. Charles H. Ada, II
Executive Manager
Guam International Airport Authority
Administration Office, 3rd Floor
355 Chalan Pasajeru
Tamuning, Guam 96913

**RE: PROTEST OF PROPOSAL PROCESS/AWARD OF PROPOSAL:
RFP NO. GIAA010-FY12**

Dear Mr. Ada:

Delivered herewith are additional documents and information which relate to the issues raised by DFS Guam L.P.'s Proposal Protest. They supplement the documents and information previously provided to the GIAA in response to your letter of May 3, 2013.

Very truly yours,

BLAIR STERLING JOHNSON & MARTINEZ
A Professional Corporation



WILLIAM J. BLAIR

Enclosures

cc: Maurice Suh, Esq.

Airport bid protest detailed: DFS alleges questionable activity, ethics violation

*Written by Gaynor Dumat-ol Daleno Pacific Daily News
May. 07*

guampdn.com

Global company DFS Group alleges in a bid protest that the Guam International Airport Authority looked the other way despite "serious ethical concerns" related to the selection of the prime retail concessionaire at the airport.

DFS names public officials and community figures, who, the company said in an April 23 protest letter, knew of alleged improprieties and attempts to influence the selection process. DFS has held the airport concession contract for years, but lost it to Seoul-based Lotte Duty Free.

Steve Park, the CEO of the Lotte Duty Free Guam, stated: "We respect DFS' right to protest the decision of the GIAA, and will cooperate in any way possible during this protest."

Gerry Perez, Lotte Duty Free's transition director, added: "We are confident that the airport's decision shall be upheld as fair, unbiased and in the best interest of Guam."

"Lotte is moving forward to prepare for the transition because we know that further delays cost the people of Guam and the GIAA greatly," the company said last night.

Two airport board members abstained from voting on the decision to award the contract to Lotte, saying they each received a gift they later learned originated from Lotte. The airport board members, Chairman Frank Santos and Linda Tolan, have since returned the gifts.

Neither the airport nor the board members specified the type of gift given when they were in Seoul for the inaugural flight of Jeju Air in September last year, but the DFS protest letter describes it as valuable.

DFS, which said it conducted an investigation, stated in the protest that certain members of the Guam delegation who went on the Seoul trip "were driven to the Lotte department store, where they were met by Lotte staff and escorted to the duty free area on the top floors of the store building."

"They were personally greeted there by the president of Lotte. Shopping cards were provided by Lotte to members of the delegation, including the GIAA directors," DFS' protest states.

GVB's marketing officer for the South Korean visitor market, Felixberto Reyes, "expressed concern about the propriety" of the tour of the Lotte store in Seoul and the meeting with the Lotte president because Lotte was known to be interested in the Guam airport concession contract, DFS' protest states.

"This tour was not on the published agenda of the delegation but added at the instruction of GVB Deputy General Manager Nathan Denight. This meeting was suggested because John Calvo, brother of GVB board member Eduardo 'Champ' Calvo, had 'connections' with Lotte," DFS' protest states.

DFS further alleges, based on information it said it received from Reyes, that the chairman of GVB's board at the time, Monte Mesa, encouraged the delegation members who visited the Lotte store to choose "whatever you want."

"DFS is also aware of facts indicating that GVB board Chairman Monte Mesa was at the same time providing consulting services to Lotte or assisting it with obtaining consulting services from third parties in connection with the RFP," the protest letter states in a footnote. Mesa is no longer chairman of the visitors bureau board and wasn't available for comment yesterday.

The Pacific Daily News asked Reyes yesterday about the statement attributed to him in the DFS protest letter. Reyes said he couldn't comment publicly because the issue may end up in court.

DFS has stated it would try to stop the airport agency in court if it awards the contract to Lotte despite the protest.

Attempts to contact the Calvos through Champ Calvo's law firm weren't successful. Denight didn't return messages seeking comment.

Based on alleged accounts of people on the trip and DFS' protest, there may have been two different occasions when gifts were given to certain members of the delegation.

Sen. Tina Muña Barnes, chairwoman of the legislative committee on tourism, said in a statement she wasn't part of any tour of the Lotte department store. DFS stated the visit to the store was on Sept. 26.

On Sept. 27, as the Guam delegation was at the airport in Seoul waiting to leave for Guam, Barnes went into a Lotte duty free store, where she used her own money to pay for snacks and candy, her office stated.

Before leaving, Barnes and other delegation members received a token gift that the senator didn't even feel worthy of bringing back to Guam, her office stated. Barnes didn't remember what the token gift was, only that it was yellow, her office stated.

Lotte has stated the gifts it gave were of "nominal value," and were given through GVB to all dignitaries from Guam who were part of the Jeju Air inaugural flight.

Lotte didn't know at the time that airport board members were part of the GVB delegation, Cesar Cabot has said.

DFS in its protest stated that the gifts provided were "valuable."

Tolan said yesterday that the board was told not to speak publicly about the matter, and that any comments will come from airport management.

According to the DFS protest, airport board member Martin Gerber, who voted to award the contract to Lotte, was seen having lunch with businessman Tony Sgro before the contract was awarded.

Sgro allegedly is a consultant for Lotte, DFS stated.

Gerber couldn't be reached for comment when contacted at his house yesterday. Sgro did not return a phone call for comment.

DFS is asking the airport to halt the award of the contract to Lotte and allow an investigation by the

U.S. Attorney's Office and other authorities to occur. The U.S. Attorney's Office declined to comment on the matter.

Airport managers yesterday did not return calls or weren't available for comment on the status of the Lotte award.

Sen. Michael San Nicolas, chairman of the legislative committee with oversight over the airport, said it "is always best practice" to suspend the actual award of a contract pending the result of a protest.

Instead of focusing on Lotte's actions, DFS stated that the airport management and board have done what they can to "sanitize the (procurement) process and remove the taint caused by Lotte's actions."

Controversial gifts were sample cosmetics

*Written by Gaynor Dumat-ol Daleno Pacific Daily News
May. 07*

guampdn.com

The gifts that are at the center of ethical questions raised against the Guam airport agency were department store samples of cosmetics, lotion and anti-aging cream, a Guam business leader familiar with what transpired said yesterday.

"It was cosmetics for the ladies -- they had a promotion in their store and they were giving away samples," said Monte Mesa, chairman of the Guam Visitors Bureau board. The sample products were in gift bags that were given to members of a Guam delegation that visited a Lotte department store in South Korea, he said.

Abstention, return

The gifts became an issue after two airport agency board members who were part of the delegation -- Chairman Frank Santos and Lynda Tolan -- abstained from voting on a recent decision to award the duty-free concession contract to Lotte Duty Free. The gifts were later returned to Lotte, the airport agency has stated.

The board members didn't know that Lotte had submitted a bid for the multimillion-dollar duty-free concession contract at the Guam international airport, the agency has stated in a previous press release.

The airport agency hasn't disclosed what the gifts were.

Token gift

After DFS Group lost the bid to Lotte, DFS filed a procurement protest on April 23. The protest mentions the airport board members' receipt of the gifts as one of the reasons why it believes the decision to award the contract to Lotte should be reversed.

Sen. Tina Muna Barnes, chairwoman of the legislative committee on tourism, said in a statement through her office Wednesday she was not part of any tour to the Lotte department store, but was part of the delegation.

Before leaving Seoul, Barnes did receive, along with other delegation members, a token gift that the senator didn't even feel worthy of bringing back to Guam, her office stated. She didn't remember what the token gift was, only that it was yellow, her office stated.

Lotte has stated that the gift was of nominal value.

DFS' protest contends the airport board members received gifts that were valuable.

Airport concession contract on hold

Written by Gaynor Dumat-ol Daleno Pacific Daily News
May. 07

guampdn.com

The Guam International Airport Authority suspended its plan to award the duty-free retail concession contract to newcomer Lotte Duty Free.

Executive Manager Chuck Ada announced the airport's decision at a board meeting yesterday afternoon.

He said the agency's receipt of a protest halts the procurement process until the issue is resolved.

Current concessionaire DFS Group filed a protest on April 23. The protest alleges attempts by the airport agency to "paper over" and "sanitize" what DFS characterized as ethical concerns stemming from Lotte's alleged connections with public officials and community figures on Guam. DFS also alleges in the protest that Lotte gave gifts to a Guam delegation that visited Seoul in April, and two airport board members were part of the delegation.

At stake is the exclusive right to sell luxury goods, liquor, cigarettes and other goods at the Guam international airport for five to 10 years. The minimum bid requirement was \$6 million a year in lease payments to the airport agency.

DFS' contract with the Guam airport expired in January. It continues to operate on a monthly lease until a new duty-free concessionaire is selected.

Challenge to DFS

Former Guam Visitors Bureau board Chairman Monte Mesa said DFS Group should show proof of its allegation that Mesa may have helped Lotte gain an edge.

"I challenge them to produce a document showing I have a contractual service" with Lotte, Mesa said.

DFS' protest states that Mesa "was providing consulting services to Lotte or assisting it in obtaining consulting services from third parties in connection with the "request for Proposals)."

He said as then-chairman of GVB and resident of Guam, he did encourage Lotte, as he did other potential international investors, to invest in Guam.

In addition to entering the duty-free retail business on Guam, South Korea-based Lotte Group's Lotte Hotels has entered into an agreement to renovate and manage the former Aurora Villa Resort & Spa.

DFS has stated it conducted an investigation that allegedly showed two airport board members were among Guam delegation members who received what DFS called "shopping cards" at the Lotte department store.

DFS' protest also alleges that Mesa encouraged a Guam delegation, including two airport authority board members, "to choose whatever you want" when the delegation was invited to the Lotte department store in Seoul. The trip, in September last year, was to mark Jeju Air's inaugural Seoul-

Guam flight.

Mesa said his comment was taken out of context. Mesa said he remarked to other members of the delegation that the discount cards were applicable to anything in the store. The cards were not gift cards; they were simply discount cards, Mesa said.

Airport board members Frank Santos and Linda Tolan have abstained from voting on the decision to award the contract to Lotte. They received gifts from Lotte which they later returned. They found out after the fact that Lotte was a bidder for the duty free concession contract, airport management has stated.

DFS also named attorney Eduardo "Champ" Calvo, who's on the GVB board, as having a conflict because he's the brother of a Lotte consultant.

Calvo denied any conflict or participation in the procurement.

"Even though I do not believe that I have a conflict of interest, I had no involvement in the procurement process for the GIAA duty free concession.

"As for the various allegations and concerns raised in DFS' protest letter, I understand that GIAA will address those through -- and in connection with -- the formal protest process," Calvo said.

Bidders were required to have at least \$25 million in gross sales every year for five years.

Mesa said the airport was expected to follow business practice "101." The bidder that may have offered the best financial benefit to the airport agency and the local economy likely was selected.

The details about how the four competitors were ranked, and how much Lotte's offer is, haven't been released pending final award of the contract.

DFS Group said in a press release the cloud over the procurement process could tarnish the island's image to international investors.

Mesa's response to that was: "Are you kidding me? That's self-serving, in my opinion."

Mesa said it was DFS that was trying to influence the process by asking Guam Delegate Madeleine Bordallo to write a letter late last year calling for fairness and transparency to the airport's procurement process.

Mesa said he does not recall Bordallo, as Guam's member of Congress, writing a similar letter related to other local government procurement issues.

"If you really value your Guam investment, you should have put more money on the table," Mesa said, referring to DFS.

Steve Park, the CEO of the Lotte Duty Free Guam, said the company "will cooperate in any way possible during this protest."

"Lotte Duty Free has no reason to believe that GIAA's original decision will change, and we look

forward to working with GIAA to deliver on our ambitious plans and build a truly world-class retail facility at Guam Airport," Park said.



Lotte Duty Free Guam speaks out about DFS protest

Posted: Apr 25, 2013 3:25 PM HKT

Updated: Apr 25, 2013 4:35 PM HKT

by Jolene Toves

Guam - Lotte Duty Free Guam is speaking out about a protest filed by DFS Guam regarding the airport's highly lucrative retail concessionaire contract. Lotte won the bid over several other potential bidders.

"I am confident that the airport under the guidance of their legal team followed religiously the procurement process under Guam law and I'm confident that the process will be appealed," said Lotte DFS transition director Gerry Perez. He and CEO Steve Park say they respect DFS Group's right to protest the airport board's decision to award the multimillion dollar retail concession contract to their company.

As we reported DFS Group chairman and CEO Philippe Schaus and COO Michael Schriver believe there were "unusual delays" with completing the award process and expressed concerns over the regularity and transparency associated with the process. In a press release, the two said the process took four months longer than anticipated due to several postponements acted by the GIAA on the grounds of procedural issues.

In an interview earlier this week with KUAM News, GIAA executive director Chuck Ada confirmed there were delays early on as a result of concerns about gifts that were given to board members, concerns about a congressional delegate's letter -as far as parity in procurement - and concerns that were raised from the legislature on whether the airport had the ability to engage in a ten-year contract. Ada said those were all concerns for the board during the initial part of the procurement.

Perez, who is a former president of DFS Guam, said he was disappointed with some of the accusations. "I respect DFS an awful lot," he noted. "They are a good, quality company but their president and CEO Michael Shriver in Hong Kong made some statements and allegations that really were quite disappointing to me coming from a company that I respect. His comments basically cast aspersions and impede the integrity of the airport board and the management and evaluation committee the Guam procurement process."

With negotiations now at a standstill, Perez argues the only one benefitting from the delay is DFS, which holds the current concessionaire contract and remains on a month-to-month contract with GIAA. Perez however says despite the setback, Lotte will move forward in preparation for the transition, assembling a merchant team, operating and logistics team and an information technology team. Perez adds Lotte has ambitious plans to build a "truly world class retail facility" at the airport.

He says they will turn around the declining sales the airport has been experiencing. Their retail concept would make Guam heritage and culture the centerpiece, which would differentiate GIAA from any other airport. "We are very excited actually about the retail concept we brought in because it would completely renovate the airport and the centerpiece of our concept is to intensify a sense of place about Guam," he explained.

Lotte is one of the fastest growing retail companies in Asia with over \$65 billion in revenues worldwide. Perez says that Lotte is in the position to generate substantial marketing dollars for Guam.

DFS meanwhile has not responded to KUAM's request for interviews.

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DFS0060



Negotiations for airport contract stymied

Posted: Apr 24, 2013 3:15 PM HKT

Updated: Apr 24, 2013 4:41 PM HKT

by Mindy Aquon

Guam - Negotiations for a multimillion dollar retail concessionaire contract at the Guam International Airport have been grounded as a protest was officially filed on Tuesday, raising concerns about the way the agency handled the procurement. Believing there were irregularities with the procurement process, DFS Group officially filed a protest with the Guam International Airport Authority over the awarding of the highly lucrative specialty retail concessionaire bid.

Earlier this month the airport board voted to award the concessions to Lotte DFS Guam. The decision came after a nearly six-month long process. DFS Group Chairman and CEO Philippe Schaus and COO Michael Schriver believe there were "unusual delays" with completing the award process and expressed concerns over the regularity and transparency associated with the process. In a press release, the two said the process took four months longer than anticipated due to several postponements acted by the GIAA on the grounds of procedural issues.

Schriver expressed concerns with the regularity and transparency of the process adding that DFS Group has enjoyed its shares of wins and losses in more than 50 years, but the experience with the retail concessionaire contract is "unprecedented". Schriver says the company has heard concerns since October of last year and believes that Guam's reputation as a place to invest for business may be tarnished by what he referred to as unusual proceedings.

He stated, "Through this protest, we seek to ensure that the bid process be fair and transparent, and that all the rules and laws governing the process be strictly adhered to. The value of transparency and an investment process that is free from undue influence is of paramount importance." DFS Group has been maintaining the contract at the airport for the last decade and have been on a month-to-month contract pending the award of the new ten year concessionaire contract.

GIAA executive manager Chuck Ada said, "We do respect any of the unsuccessful bidders to protest this award as we understand that there is tens of millions to gain and tens of millions to lose throughout the life of the contract, which is why we took the extra precautionary measures throughout the procurement process which unfortunately delayed the anticipated timelines for the award."

Ada stresses that the airport made every effort to protect the integrity of the procurement process and the agency is working to address all the items outlined in the protest. "It's unfortunate that the people's airport will continue to lose out on an increase in revenues until this process is resolved and a contract is executed," he noted.

As we reported, the protest means that negotiations with winning bidder, Lotte Guam DFS, have ceased until the matter has been resolved. As for DFS's claims that the procurement took too long, Ada responded, "There were concerns once the invitation to bid was closed. Concerns with gifts that were given to the board members, congressional delegate's letter as far as parity in procurement and the legislature's concern with regard to the airport's ability to engage a ten-year contract, those were all concerns for us during the initial part of the procurement."

Ada says the airport did not allow evaluators to engage in the evaluation process until those items were first addressed resulting in the delay of the award. Additionally, the airport took it a step further by randomly assigning letters to each of the company's so that evaluators wouldn't know which company submitted which bid. It's a point of contention also included in DFS

Group's protest.

The airport will work on a response to the protest and based on that decision, DFS Group could then take their concerns to the public auditor and eventually to court if they aren't satisfied along the way.

Lotte's attorney, Cesar Cabot, told KUAM News that Lotte DFS believes that the airport has executed the concession retail RFP in a fair and impartial manner. Cabot adds the airport has exerted great effort in ensuring that the procurement evaluation process was conducted in strict accordance with Guam procurement laws.

In the end, he says, "We are confident that the airport's decision shall be upheld as fair, unbiased and in the best interest of Guam."

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Transcript of "DUTY FREE KK ER 20121211"

Source: PNC News at <http://www.youtube.com/watch?v=AsbjctUWnNk>

Published on December 11, 2012

The letter is dated last Friday, December 7th, from the Congresswoman to acting Guam International Airport Board Authority Chairman, Frank Santos.

The subject is the ongoing procurement battle for the award for a new contract for the airport's duty free concession. It's a 5 year contract with a 5-year renewal option and four companies are bidding for the multi-million dollar concession including DFS which holds the current contract that expires on January 20th. They are facing tough competition from two Korean firms Lotte Duty Free and Shilla Duty Free as well as the Australian firm JR Duty Free.

In her letter over this procurement, the Congresswoman writes: [Congresswoman Madeleine Bordallo]

"As the selection process continues, I want to express my views that the contracting process should be fair and transparent."

And

"It is critical that the process ensure a level playing field for all eligible bidders so that our community receives the maximum benefit from this contract."

And Congresswoman Bordallo warns:

"GIAA's process and decision-making may affect its standing in the community and its ability to obtain federal investments from the U.S. Department of Transportation if the process is deemed to be anything but fair and open."

Concluding with:

"The financial stability and commitment to growth of our visitor industry may be impacted by this decision..."

And

"It is important to get this decision right the first time through a fair and level playing field."

Question by PNC reporter: "Do you have any concerns with regards to the openness or transparency of the selection process so far to your knowledge?"

Response of Senator Tom Ada (D) 31st Guam Legislature:

"Yeah. I have to put my trust and confidence in the people who are on the evaluation team and on the board members who are -- will make the ultimate decision as to who the contract should be awarded to."

Senator Tom Ada chairs the committee which has oversight over the airport and while he has no concerns about the manner in which GIAA has been handling the bidding process for the duty free concession, he is concerned about the length of the contract the airport is planning to award.

Senator Ada: "This contract is for a term of five years renewable for another five. Now with many of the autonomous agencies that comes with the oversight of my committee, the Guam Power Authority, Guam Waterworks, the Port Authority, their – they are enabling act only allows them to enter up to five years contract. Anything beyond that needs to come down the legislature for authorization."

The Congresswoman's letter to the airport follows reports by PNC news that two GIAA board members Linda Tolan and Frank Santos met in September with Lotte officials in Seoul and received gift bags from the company which they subsequently returned.

Question by PNC reporter: "Do you have any comment that you can share with us with reference to a story that we reported on about a month ago of two board members who received and then returned gifts from one of the bidders, Lotte in Korea?"

Senator Ada: "Well I -- I really would rather not comment on that."

That trip to Korea was organized by the Guam Visitor's Bureau, whose Chairman, Monte Mesa, earlier rejected any suggestion that the meetings in Seoul were arranged meetings with Lotte officials. However, the GVB Chairman is mentioned in an email obtained by PNC News which is from Hyunji Jung of Lotte Duty Free's Business Development Team to a Guam based businessman under consideration for Lotte's local bid team.

The email reads in part:

"Mr. Monte Mesa recommended you as a consultant who is an expert in Guam and bidding for airport concession...After we have your resume we can discuss the scope of work together."

Mesa acknowledged to PNC News today that he had been contacted by Lotte to recommend local business people for their concession bid and he did recommend some names to them. But he categorically stated that he had no contractual relationship with Lotte.

"No, I am not employed by Lotte," said Mesa.

Mesa declined to say who he did recommend to Lotte, explaining that they were not selected for the bid team on the airport concession. However, he did go on to explain that:

"Just like any other business that is good for Guam [they] Lotte, asked for recommendations and I gave them recommendations."

Adding:

"The other bidders also hired consultants for their Guam teams."

There is nothing wrong with people teaming up with other people who may have similar business objectives,” said Mesa.

“It’s about creating jobs for Guam,” he said.

Kevin Kerrigan, PNC News.

Transcript of "LOTTE CR ER 20121115 desktop"

Source: PNC News at <http://www.youtube.com/watch?v=Ihzsx2IMd2w>

Published on November 15, 2012

Sen. Tom Ada: Obviously when anything appears to be improper, especially in a procurement activity, one needs to be concerned. Now, in this particular place the procurement that's in question is for the master concession up at the airport facility which will control all the retail activities for that facility.

Reporter: Senator Tom Ada is talking about concerns involving the contract for retail services at the A.B. Won Pat International Airport. The Korean conglomerate known as the Lotte Group is bidding for a lucrative contract to take over these concession and retail services at the airport. These services are currently provided by DFS but the contract ends on January 20th and seven other companies are bidding for it. The airport board will ultimately decide who is awarded this highly coveted contract and back in September airport board members were given gifts by the Lotte Group, one of the companies bidding for this contract. It happened when airport board members took a trip to Korea led by the Guam Visitors Bureau to celebrate Jeju Air's inaugural flight to Guam. During this trip, GVB board chairman Monte Mesa and GVB deputy general manager Nate Denight presented gift bags from the Lotte Group that were ultimately returned by airport board members Frank Santos and Linda Tolan. Santos and Tolan felt it was inappropriate to receive gifts from a bidder on an airport contract that they would soon be deciding upon. Tolan told PNC News that the gift bag which she received from Denight was filled with cosmetics and lotions that were under \$250. But she also said "We're allowed to receive gifts under \$250, but not from a bidder on an airport contract." Santos told PNC that his Lotte gift bag was given to him by Mesa. He told PNC, "When I found out it was a gift from Lotte, I gave it back to Monte, I said I don't want anything to do with that. It's a conflict of interest." Mesa spoke to PNC over the phone today, saying, "That's what GVB does. It's customary that we present gifts, and they present gifts back." Mesa says the gift giving was just a part of the trip in which GVB meets with various businesses in order to market the island and create interest in Guam as a tourist destination. Mesa adds that nobody was forced to go on the trip and that everyone went voluntarily. He says that GVB always give gifts to businesses that it meets with on its trips and these businesses often give gifts back. Nevertheless these actions may leave a lot of room for the companies who are bidding on the airport contract to file a protest.

Sen. Tom Ada: "This is a, you know, a large amount of money that's going to be involved. The fact that there's this appearance of impropriety certainly would cause one concern. In particular, because then there are other bidders that's involved in this process who have also put in a lot of work in preparing their proposals. And if for any reason that they, you know, they do not prevail, to me it seems like it's just another protest, ripe for a protest in the making and it's just going

to delay this whole process again as we have seen in many cases in Guam's procurement. So, yes, we should be concerned."

VIDEO 3.DOCX

Transcript of “LOTTE AIR KK ER 20121109”

Source: PNC News at <http://www.youtube.com/watch?v=hFHCx66ezns>

Published on November 9, 2012

The concession for retail services at the Guam International Airport is up for bid. The competition for the lucrative contract is fierce. DFS currently holds the concession but their contract is up next January. An RFP has already been issued and among those bidding for the rights: JR Duty Free of Australia, DFS of course seeks a renewal, and two Korean chaebols – Shilla and Lotte. Lotte is the focus of concern from at least two airport authority board members who say that they met with Lotte officials in Seoul and received gift bags from the company which they later returned as inappropriate since they will soon decide whether Lotte or one of the other bidders will win the 5-year contract with the 5-year renewal option. It will be worth millions to the winner.

It happened during this trip – the inaugural flight of Korean discount airliner Jeju Air from Seoul to Guam, which arrived on September 26th. A number of Guam dignitaries made the trip to and back from Seoul including the governor, GVB board members and managers, and airport board members, among them GIAA Board Members Linda Toland and Frank Santos.

In a telephone interview, Linda Toland told PNC that she received a gift bag full of cosmetics, lotions and creams. The total value, she said, was under \$250. “It’s permissible for board members to receive such gifts under that amount,” she said. “But not from a bidder on an airport contract.”

Toland said she was given the bag by GVB Deputy General Manager Nathan Denight. When she realized the gift bag came from Lotte she gave it back, telling us:

“I called Nathan and said I’m returning this to you. I said this is a conflict of interest.”

Santos said much the same thing saying he received a similar gift back from GVB Board Chairman Monte Mesa. He told us:

“When I found out it was a gift from Lotte, I gave it back to Monte. I said I don’t want anything to do with that. It’s a conflict of interest.”

Both Santos and Toland initially agreed to a TV interview but later cancelled.

Airport executive director Chuck Ada:

“Right now, as it’s a procurement process, we must ensure that we protect the integrity of that process and ensure that the airport complies with all applicable laws so, you know, unfortunately we have to refrain from commenting on any parts of the open procurement process. But rest assured any concerns that are brought up, you know, will be addressed accordingly.”

Before the trip to Seoul ever occurred, e-mails from GVB Deputy General Manager Nathan DeNight to other GVB employees encouraged contact with Lotte. In one e-mail to two other visitor bureau employees, dated September 18, Denight wrote:

“John Calvo, brother of GVB Board Member Champ Calvo, Mid/Pac Guam Owner, has connections with Lotte in Korea and may be able to secure us a great room rate in Seoul. He also may set up a meeting in the afternoon with the Lotte group. I have cc’d him on this email. Please work with him on this.”

The reply from one of the GVB employees:

“Nate, we’ve gotten confirmation rooms at Westin Chosun already with Brian Pak. To cancel now will be a concern. Also, as you know, Lotte is bidding for the Guam airport duty free concession and may pose a conflict as a government agency at this time, especially for the Governor.”

GVB General Manager Joanne Comacho concurred and later John Calvo responded as well writing in an email:

“Nathan, This is getting too complicated. I’ll let them know the group is not available to meet.”

Yet both Santos and Toland confirmed meetings with representatives from Lotte went ahead anyway at one of the company stores in Seoul and at Lotte’s Seoul airport concession. GVB Board Chairman Monte Mesa told PNC News today that a visit to the Lotte store, right next to the Seoul Westin where they were all staying, was on the agenda along with a stop at the airport Lotte but he rejected any suggestion that meetings were arranged for airport board members, telling us:

“The airport board members came with our group to do some shopping and see the retail environment in Seoul. How airport officials conduct themselves is their business. It is GVB’s mission to promote Guam and encourage businesses to come to Guam. From my perspective, there was no conflict of interest that occurred during the trip,” said Mesa.

Kevin Kerrigan, PNC News

101511139.1

Transcript of "GIAA CONCERNS desktop"

Source: PNC News at <http://www.youtube.com/watch?v=Ow9xkQnwKAM>

Published on Dec 19, 2012

Sen. Tom
Ada: The Airport seems to be interpreting exclusive in terms of what kind of merchandise can be sold by the successful bidder. My interpretation of the law is that exclusive in this case would be, that vendor will have... can be the only one to utilize the retail space of up to 25,000 square feet that will be made available to them for the next 10 years. It's 10 years of exclusive use of up to 25,000 square feet of retail space. [Video ENDS]

101511178.1

**PAGES DFS0071-DFS0073
DELIBERATELY OMMITTED**

Island of Guam, Government of Guam
Department of Land Management

File for record as Instrument No.

849750

For the Year 13, Month 03, Day 29, Time 1:42

Recording Fee 75 Receipt No 34978

Deputy Recorder

Jane Yonanki

SPACE ABOVE FOR RECORDER'S USE ONLY

MEMORANDUM OF LEASE AGREEMENT

TUMON BAY RESORT & SPA LLC, ("Landlord"), agrees to Lease to LOTTE HOTEL GUAM, LLC, ("Tenant") pursuant to a Master Lease Agreement dated March 26, 2013 (hereafter referred to as "Lease"), certain real property in Tumon, Guam, more particularly described as follows:

PARCEL ONE

Lot Number 5052-1, Tamuning (formerly of Dededo), Guam, Estate Number 16237, Suburban, as said Lot is described in that Court Distribution of Lots 5052 and 5064, as shown on Drawing Number LCJ67T45, as L.M. Check Number 027 FY 68, dated 29 September 67 and recorded on 30 April 69 under Instrument No. 89955 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 4,240.41± square meters.

Certificate of Title Number: 85454 - Guam Resorts, Inc.

PARCEL TWO

Lot Number 5052-2NEW-5, Tamuning (formerly of Dededo), Guam, Suburban, as said Lot is described in that Consolidation Survey Map of Lot 5052-2 and Lot 5052-3 into Lot 5052-2NEW and Lot Parceling Survey Map of Lot 5052-2NEW and Lot 5064, as shown on Drawing Number VPO-2010-110, as L.M. Check Number 052 FY 2011, dated 09 February 2011 and recorded on 09 February 2011 under Instrument No. 817621 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 17,454± square meters.

Last Certificate of Title Number:

25341 - Guam Resorts, Inc., a Guam corporation (as to Basic Lot 5052-2; Estate Number 16238). 25343 - Guam Resorts, Inc., a Guam corporation (as to Basic Lot 5052-3; Estate Number 16239).

PARCEL THREE

Lot Number 5052-2NEW-4, Tamuning (formerly of Dededo), Guam, Suburban, as said Lot is described in that Consolidation Survey Map of Lot 5052-2 and Lot 5052-3 into Lot 5052-2NEW and Lot Parceling Survey Map of Lot 5052-2NEW and Lot 5064, as shown on Drawing Number VPO-2010-110, as L.M. Check Number 052 FY 2011, dated 09 February 2011 and recorded on 09 February 2011 under Instrument No. 817621 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 6,168± square meters.

Last Certificate of Title Number:

25341 - Guam Resorts, Inc., a Guam corporation (as to Basic Lot 5052-2; Estate Number 16238). 25343 - Guam Resorts, Inc., a Guam corporation (as to Basic Lot 5052-3; Estate Number 16239).

PARCEL FOUR

Whatever right, title and interest Landlord has or may have in Lot Number 5052-2NEW-1R/W, Tamuning (formerly of Dededo), Guam, Suburban, as said Lot is described in that Consolidation Survey Map of Lot 5052-2 and Lot 5052-3 into Lot 5052- 2NEW and Lot Parceling Survey Map of Lot 5052-2NEW and Lot 5064, as shown on Drawing Number VPO-2010-110, as L.M. Check Number 052 FY 2011, dated 09 February 2011 and recorded on 09 February 2011 under Instrument No. 817621 at Land Management.

For informational purposes only, the above referenced map

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indicates the property contains an area of 3,564± square meters.

Last Certificate of Title Number:

25341 - Guam Resorts, Inc., a Guam corporation (as to Basic Lot 5052-2; Estate Number 16238). 25343 - Guam Resorts, Inc., a Guam corporation (as to Basic Lot 5052-3; Estate Number 16239).

PARCEL FIVE

Whatever right, title and interest Landlord has or may have in Lot Number 5064-1RW, Tamuning, (formerly of Dededo), Guam, Suburban, as said Lot is described in that Consolidation Survey Map of Lot 5052-2 and Lot 5052-3 into Lot 5052-2NEW and Lot Parceling Survey Map of Lot 5052-2NEW and Lot 5064, as shown on Drawing Number VPO-2010-110, as L.M. Check Number 052 FY 2011, dated 09 February 2011 and recorded on 09 February 2011 under Instrument No. 817621 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 381± square meters.

Last Certificate of Title Number: 85455 - Guam Resorts, Inc. (as to Basic Lot 5064; Estate Number 3872).

PARCEL SIX

Lot Number 5064-R2, Tamuning (formerly of Dededo), Guam, Suburban, as said Lot is described in that Consolidation Survey Map of Lot 5052-2 and Lot 5052-3 into Lot 5052-2NEW and Lot Parceling Survey Map of Lot 5052-2NEW and Lot 5064, as shown on Drawing Number VPO-2010-110, as L.M. Check Number 052 FY 2011, dated 09 February 2011 and recorded on 09 February 2011 under Instrument No. 817621 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 11,069± square meters.

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Last Certificate of Title Number: 85455 - Guam Resorts, Inc.
(as to Basic Lot 5064; Estate Number 3872).

(Parcels one to six collectively referred to herein as "Leased Properties").

1. Term of Lease. Unless sooner terminated in accordance with the provisions of the Lease, the term of the Lease shall be as follows:

1.1. Initial Term. The initial term of the Lease shall be for a period of twenty (20) years, commencing on the Premises Re-Opening Date (as hereinafter defined) and expiring on the twentieth anniversary thereof (the "Initial Term").

1.2. First Option Term. Upon the same terms applicable to the Initial Term or terms otherwise mutually agreed to by the Parties, Tenant may extend the Lease for an additional period of five (5) years ("First Option Term") by providing notice of such extension not later than one hundred eighty (180) days prior to the expiration of the Initial Term.

1.3. Second Option Term. Upon the same terms applicable to the First Option Term or terms otherwise mutually agreed to by the Parties, Tenant may further extend this Lease for an additional period of five (5) years following the First Option Term ("Second Option Term") by providing notice of such extension not later than one hundred eighty (180) days prior to the expiration of the First Option Term.

2. Delivery Of Possession; Closure of Premises; Premises Re-Opening Date

2.1. Delivery of Possession. Landlord shall deliver possession of the

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Leased Properties and Tenant shall be deemed to have possession of the Leased Properties on August 1, 2013, unless otherwise agreed by the Parties in writing (the "Delivery Date").

2.2. Re-Branding Work. It is contemplated that the hotel facilities currently existing upon the Premises (the "Hotel") shall be temporarily closed for business on or prior to the Delivery Date for a period of time reasonably required for Tenant to perform the renovation and other transition work necessary to improve the Hotel to meet the quality level compatible with Tenant's standards (the "Re-Branding Work"), which time period shall last at least until November 30, 2013 or such longer time period as the Parties may mutually agree. The Parties shall conduct the Re-Branding Work in accordance with the terms set forth in the Lease, and shall use their best efforts to complete such Re-Branding Work and re-open the Hotel for business under the Tenant brand by December 1, 2013 or such other date agreed by the Parties in writing. For the purposes of this Lease, the actual date upon which the Hotel is re-opened and commences its operation under the Tenant brand shall be referred to as the "Premises Re-Opening Date".

3. Security Deposit.

3.1. Security Deposit. Within 10 Business Days from the date of execution of the Lease, Tenant shall remit to Landlord a security deposit in the amount of Four Million Five Hundred Thousand Dollars (\$4,500,000.00) (the "Security Deposit") to secure the faithful performance of all of Tenant's other obligations under the Lease. If Tenant fails to pay any Rent or other charges due under the Lease or any damage is caused to the Premises due to a fault solely attributable to Tenant or any of its agents,

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employees or representatives, Landlord may, subject to any grace period set forth in this Lease, use all or any portion of the deposit to satisfy the Rent arrearage or to repair such damages to the Premises, with a prior written notice to Tenant.

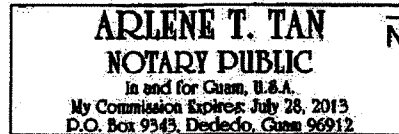
3.2. Maintenance and Return of Security Deposit. Landlord shall maintain the Security Deposit in a bank account opened with a bank mutually agreed by the Parties which shall be separate and apart from Landlord's general funds, and shall not commingle the Security Deposit with other deposits, and Landlord shall, throughout the term of the Lease and any extension thereto, maintain books showing the existing balance of Tenant's Security Deposit and any applications and replenishment thereof. Upon the expiration or termination of the Lease, the full amount of Security Deposit *minus* any portion thereof that is used by Landlord due to Tenant's fault pursuant to Section 3.1 (the "Security Deposit Return Amount") shall be returned to Tenant (or, if directed by Tenant, the last assignee, if any, of Tenant's interest under the Lease) within thirty (30) days after Tenant has vacated the Premises, provided that Landlord may retain the Security Deposit until such time as any amount due from Tenant under this Lease has been paid in full, and provided further, Landlord may apply Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of the Security Deposit towards its share of the Re-Branding Work, so long as such funds are replenished and the Security Deposit is restored to Four Million Five Hundred Thousand Dollars (\$4,500,000.00) within five (5) years of the Re-Opening Date. For the avoidance of doubt, Landlord shall be required to replenish the foregoing Two Million Five Hundred Thousand Dollars (\$2,500,000.00) or any portion thereof (as applicable) so that it may remit to Tenant the entire amount of the Security Deposit

GUAM)
) ss.:
CITY OF TAMUNING)

On this 26 day of March, 2013, before me, a notary public in and for Guam, personally appeared Mr. Neng Yi Liao, duly authorized representative of TUMON BAY RESORT & SPA LLC, known to me to be the person whose name is subscribed to the foregoing Articles of Organization, and acknowledged to me that he executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

)SEAL(



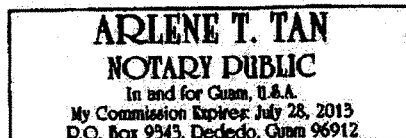
NOTARY PUBLIC

GUAM)
) ss.:
CITY OF TAMUNING)

On this 26 day of March, 2013, before me, a notary public in and for Guam, personally appeared Mr. Jae Hong Park, duly authorized representative of HOTEL LOTTE CO., LTD., known to me to be the person whose name is subscribed to the foregoing Articles of Organization, and acknowledged to me that he executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

)SEAL(



NOTARY PUBLIC



Felix Reyes <felix.reyes@visitguam.org>

Jeju Air Inaugural Flight

5 messages

Felix Reyes <felix.reyes@visitguam.org>
To: Oscar Miyashita <oscar.miyashita@gmail.com>
Cc: Mark Manglona <mark.manglona@visitguam.org>

Wed, Aug 29, 2012 at 5:34 PM

Oscar,
Since you are unable to make the Jeju Air Inaugural flight, who do you recommend from the KMC?

Here's the tentative list I got approved by Joann:

Governor
First Lady
Governor Staff
Monte
Me (Felix)
GIAA Executive Manager
Miss Guam
Tony Muna (GVB PIO)
Sen. Tina Barnes
KMC (1)

Total only 10 pax.

Other option is to cancel the KMC and send the GIAA guy like Peter Roy to make 10 pax.

Of course, we would have to pay for the one-way ticket from Guam to Seoul and one night hotel and one day per diem.

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

Like us on Facebook

Oscar Miyashita <oscar.miyashita@gmail.com>
To: Felix Reyes <felix.reyes@visitguam.org>

Wed, Aug 29, 2012 at 8:11 PM

I think one more person from GIAA would be fine

Kind regards,

N. Oscar Miyashita, CPA CCPS
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913

DFS0081

001269

Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com
[Quoted text hidden]

Oscar Miyashita <oscar.miyashita@gmail.com>
To: Felix Reyes <felix.reyes@visitguam.org>

Wed, Aug 29, 2012 at 8:20 PM

I think a GIAA director (chair or vice chair) would be more appropriate.

Kind regards,

N. Oscar Miyashita, CPA CCPS
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913
Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com

On Aug 29, 2012, at 5:34 PM, Felix Reyes <felix.reyes@visitguam.org> wrote:

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: Oscar Miyashita <oscar.miyashita@gmail.com>

Thu, Aug 30, 2012 at 10:00 AM

Agreed.

I'm preparing the motion for travel and may have to go electronic to meet next week's BOD meeting.
We're paying for the one-way air, one night hotel, and one day per diem only for the GVB and Governor's delegates.

I meet with the GIAA today or tomorrow to request they pay for their delegates.

Felix/

[Quoted text hidden]

Oscar Miyashita <oscar.miyashita@gmail.com>
To: Felix Reyes <felix.reyes@visitguam.org>

Thu, Aug 30, 2012 at 2:34 PM

Yes please.

thanks and
Kind regards,

N. Oscar Miyashita, CPA, CCPS, AIF®
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913
Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com

[Quoted text hidden]



Felix Reyes <felix.reyes@visitguam.org>

Jeju inaugural flight

14 messages

Jon Nathan Denight <nathan.denight@visitguam.org> Tue, Sep 18, 2012 at 10:25 AM
To: Henry Lee <hlee@tlkmarketing.net>, Felix Reyes <felix.reyes@visitguam.org>, Mark Manglona <mark.manglona@visitguam.org>
Cc: jtcalvo@midpacguam.com, Joann Camacho <joann.camacho@visitguam.org>

Hafa Adai Felix and Henry,

John Calvo (brother of GVB Board Member Champ Calvo/Mid Pac Guam Owner) has connections with Lotte in Korea and may be able to secure us a great room rate in Seoul. He also may set up a meeting in the afternoon with the Lotte group. I have cc'd him on this email. Pls work with him on this.

Si Yu'os Ma'åse'

Jon Nathan Denight
Deputy General Manager

GUAM VISITORS BUREAU | SETBISION BISITAN GUAHAN
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

Felix Reyes <felix.reyes@visitguam.org> Tue, Sep 18, 2012 at 11:07 AM
To: Jon Nathan Denight <nathan.denight@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

Nate, we've gotten confirmations fr rooms @ Westin Chosun already with Brian Pak. To cancel now will be a concern. Also, as you know, Lotte is bidding for the Guam airport duty free concession n may pose a conflict as a govt agency at this time, especially for the Governor.

Sent from my pugua iPhone 4
[Quoted text hidden]

Joann Camacho <joann.camacho@visitguam.org> Tue, Sep 18, 2012 at 11:20 AM
To: Felix Reyes <felix.reyes@visitguam.org>, Jon Nathan Denight <nathan.denight@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>

Agree. Stick to the Westin. Thanks

[Quoted text hidden]
[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org> Tue, Sep 18, 2012 at 12:12 PM
To: Oscar Miyashita <oscar.miyashita@gmail.com>

[Quoted text hidden]
FYI..

DFS0084

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Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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Jon Nathan Denight <nathan.denight@visitguam.org>

Tue, Sep 18, 2012 at 1:57 PM

To: Felix Reyes <felix.reyes@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

Thank you for the response Felix. Sure, let's stay with Westin. As for the meeting with Lotte, they are a huge company that may also be interested in investing in hotels, theme parks and other developments for Guam, as well as a partner with JTB. The Gov is not involved with airport procurement and I see no problem with him meeting with the Lotte Group to encourage investment into Guam, just as he would do for other potential investors into Guam, also understanding that he couldn't discuss the airport rfp during the meeting.
Si Yu'os Ma'åse'

Jon Nathan Denight
Deputy General Manager

GUAM VISITORS BUREAU | SETBISION BISITAN GUAHAN
401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 18, 2012 at 2:15 PM

To: Jon Nathan Denight <nathan.denight@visitguam.org>

Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>

[Quoted text hidden]

>Sure. In fact we were going to invite them to the Gov's trade mission next year.

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

Like us on Facebook

John T. Calvo <jtcalvo@midpacguam.com>

Tue, Sep 18, 2012 at 2:36 PM

To: Jon Nathan Denight <nathan.denight@visitguam.org>

Cc: Felix Reyes <felix.reyes@visitguam.org>, Henry Lee <hlee@tlkmarketing.net>, Mark Manglona

DFS0085

001275

<mark.manglona@visitguam.org>, Joann Camacho <joann.camacho@visitguam.org>

Nathan

This is getting too complicated. I'll let them know the group is not available to meet.

Thanks

John

Sent from my iPhone

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: Oscar Miyashita <oscar.miyashita@gmail.com>

Tue, Sep 18, 2012 at 3:04 PM

----- Forwarded message -----

From: John T. Calvo

Date: Tuesday, September 18, 2012

Subject: Jeju inaugural flight

[Quoted text hidden]

FYI

—
Felix Sablan Reyes
Marketing Officer II

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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Oscar Miyashita <oscar.miyashita@gmail.com>
To: Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 18, 2012 at 5:12 PM

I agree with you Felix san - should not change.

Kind regards,

N. Oscar Miyashita, CPA, CCPS, AIF®
Suite 100 Ernst and Young Building
231 Ypao Road
Tamuning, Guam 96913
Office: 1 671 648 5995
Mobile: 1 671 687 9595
Email: oscar.miyashita@gmail.com

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: "Takano, Tak (tlmm)" <tlmm3895@ite.net>

Mon, Oct 1, 2012 at 1:54 PM

Tak, thanks for today.
See below communications tracking fyi.
Felix/

----- Forwarded message -----

From: **Jon Nathan Denight** <nathan.denight@visitguam.org>
Date: Tue, Sep 18, 2012 at 10:25 AM
Subject: Jeju inaugural flight
[Quoted text hidden]

—
Felix Sablan Reyes
Marketing Officer II

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felix.reyes@visitguam.org | www.visitguam.org

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Tak Takano <tlmm3895@ite.net>
Reply-To: tlmm3895@ite.net
To: Felix Reyes <felix.reyes@visitguam.org>

Mon, Oct 1, 2012 at 2:04 PM

Felix,
Thank you very much to spend a time with me during lunch today. Also, thank you very much for the information.
Did he sent you any further messages after you pointed out that that could be potential conflict of interest? I believe that he further pushed, right?
Thank you.
Tak
[Quoted text hidden]
[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: tlmm3895@ite.net

Mon, Oct 1, 2012 at 2:06 PM

Second time he called me long distance from JATA.
[Quoted text hidden]

Tak Takano <tlmm3895@ite.net>
Reply-To: tlmm3895@ite.net
To: Felix Reyes <felix.reyes@visitguam.org>

Mon, Oct 1, 2012 at 2:12 PM

Felix,
Thank you.
Tak

DFS0087

001277

[Quoted text hidden]

[Quoted text hidden]

Felix Reyes <felix.reyes@visitguam.org>
To: efesar05@yahoo.com

Tue, Nov 13, 2012 at 8:18 PM

Sent from my pugua iPhone 4

Begin forwarded message:

From: Jon Nathan Denight <nathan.denight@visitguam.org>
Date: September 18, 2012, 13:57:04 GMT+10:00
To: Felix Reyes <felix.reyes@visitguam.org>
Cc: Henry Lee <hlee@tlkmarketing.net>, Mark Manglona <mark.manglona@visitguam.org>, "jtcalvo@midpacguam.com" <jtcalvo@midpacguam.com>, Joann Camacho <joann.camacho@visitguam.org>
Subject: Re: Jeju inaugural flight

[Quoted text hidden]



Felix Reyes <felix.reyes@visitguam.org>

Jeju Air Inaugural Flight to Guam from Seoul

26 messages

Felix Reyes <felix.reyes@visitguam.org>

Thu, Aug 30, 2012 at 2:03 PM

To: Franklin Arriola <franklin.arriola@guam.gov>

Cc: Elaine Gogue <elaine.gogue@guam.gov>, Mark Manglona <mark.manglona@visitguam.org>

Hafa Adai Chelu' Frank!
How are things brother?

GVB would like to invite the Governor and First Lady (and one Security) to leave Guam on Wednesday, September 26 to Seoul, Korea.

We overnight in Seoul then depart Korea the next morning around 10am for Guam on the inaugural flight of Jeju Air.

The evening in Seoul may include a reception with Jeju Air's management.

There will also be a ribbon cutting ceremony at the Incheon Airport, Seoul - at the gate for the inaugural flight.

Jeju Air's senior management will join the flight to Guam.

Upon arrival to Guam, the flight will be (tentative) greeted by the traditional water salute by GIAA's fire trucks, a shell lei greeting to all passengers, and a cultural dance group at the arrival gate.

Jeju Air is Korea's third largest airline and is an LCC (Low Cost Carrier) so their Boeing aircraft all have a single class.

Their entry into the Korea-Guam market joins Korean Air and Jin Air and has exponentially increased interest and travel potential to Guam from Korea and may open up scheduled flights from Korea's second largest city of Busan as well.

The Governor's and First Lady's presence will strongly convey our appreciation to their efforts and in support of helping our tourism economy sustain.

I've already talked to Elaine Gogue, cc'd here, and she has indicated the Governor's schedule is open during the above noted dates.

Jeju Air is asking for the Guam delegation names by tomorrow so I'll have to advise them a tentative list.

Also invited to the trip is Senator Barnes, Monte Mesa, a Miss Guam (World or Universe), and the GIAA.

Thanks and I look forward to your reply.

—
Felix Sablan Reyes
Marketing Officer II

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001442



Felix Reyes <felix.reyes@visitguam.org>

Governors visit

1 message

Henry Lee <hlee@tlkmarketing.net>

Wed, Sep 12, 2012 at 12:19 PM

To: Felix Reyes <freyes@visitguam.org>, Mark Manglona <mark.manglona@visitguam.org>

Cc: Youngki Kim <ykkim@tlkmarketing.net>, Ann Dong <ann@tlkmarketing.net>

Dear Felix,

Just want to confirm Sept 26 schedule.

11:00 am press conference at Westin for Governors visit to Seoul.

Same press that we brought them during the Japan triple disasters interview with Governors at that time for clean & safe campaign.

We will also invite trade media for interview.

It will reach out to 25 mill readership.

12:00 noon lunch with KE Sr magmas at Hamiri Korean cuisine.

6:30 pm Dinner with Juju magmas at Alraehong Korean Chinese cuisine.

open to invite 8 person from Juju team.

Anything else pls let us know.

PS: Pals give our warmest regards to Jesse and Ruby and Miss Guam and kids for coming to BITF.

Deserve to receive awards we got. Thank you again for all the support Felix.

Best regards,

Henry Lee

Representative

GUAM VISITORS BUREAU, KOREA OFFICE

#616, Koryo Bldg., 24, Sinmunro 1-ga, Jongro-gu, Seoul, Korea 110-796 | (822) 765-6161

hlee@tlkmarketing.net | <http://www.welcometoguam.co.kr>



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[Visit our Cafe <http://cafe.naver.com/guamgogo.cafe>](http://cafe.naver.com/guamgogo.cafe)

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Subject: Re: Motion

Date: Tuesday, September 4, 2012 8:06:10 AM Chamorro Standard Time

From: Nathan Taimanglo <nathan.taimanglo@asctrust.com>

To: Felix Reyes <felix.reyes@visitguam.org>, Oscar Miyashita <oscar.miyashita@gmail.com>, Bart Jackson <bart.bgpacific@gmail.com>, kyanagisawa@picguam.com <kyanagisawa@picguam.com>, Takano, Tak (tlmm) <tlmm3895@lte.net>, Kwanju Park <sportsman60@hotmail.com>, Hyong Yi <hyong.yi@outriggerguam.com>, Chung, Terry <terry.chung@dfs.com>, 이종복 (LEE JONG BOK) <jblee@jinair.com>, Rolenda Faasuamalie (GIAA Marketing Administrator) <rolenda@guamairport.net>, sophia.chu@hyatt.com <sophia.chu@hyatt.com>, Cathleen Moore-Linn <cmoore@ugvam.uog.edu>, thomasson@hanumconsulting.com <thomasson@hanumconsulting.com>, man_soo.hyun@hyatt.com <man_soo.hyun@hyatt.com>, Jennifer Chae <jennifer.chae@nikkoguam.com>, dongsinc@hotmail.com <dongsinc@hotmail.com>, Jennifer C. Camacho <jenniferc@carsplusguam.com>, jeremy2000@hotmail.com <jeremy2000@hotmail.com>, Michael Perrin <hertzgm@triplejguam.com>, dhyushin@koreanair.com <dhyushin@koreanair.com>, Tae Oh <tae@baldyga.com>, Jenny <salesone@holidayresortguam.com>, soo.oftana@marriott.com <soo.oftana@marriott.com>, jain.kang@hilton.com <jain.kang@hilton.com>

CC: Mark Manglona <mark.manglona@visitguam.org>

Motion to approve.

Best,
Nathan

Nathan Taimanglo
Marketing Manager
nathan.taimanglo@asctrust.com
ASC Trust Corporation, Guam Office
120 Father Dueñas Avenue, Capitol Plaza Bldg., Ste. 110, Hagåtña, Guam 96910
Phone: (671) 477-2724 * Fax: (671) 477-2729 * www.asctrust.com

From: Felix Reyes <felix.reyes@visitguam.org>
Date: Monday, September 3, 2012 8:57 AM
To: Oscar Miyashita <oscar.miyashita@gmail.com>, Bart Jackson <bart.bgpacific@gmail.com>, <kyanagisawa@picguam.com>, "Takano, Tak (tlmm)" <tlmm3895@lte.net>, Kwanju Park <sportsman60@hotmail.com>, Hyong Yi <hyong.yi@outriggerguam.com>, "Chung, Terry" <terry.chung@dfs.com>, "이종복 (LEE JONG BOK)" <jblee@jinair.com>, "Rolenda Faasuamalie (GIAA Marketing Administrator)" <rolenda@guamairport.net>, <sophia.chu@hyatt.com>, Cathleen Moore-Linn <cmoore@ugvam.uog.edu>, <thomasson@hanumconsulting.com>, <man_soo.hyun@hyatt.com>, Jennifer Chae <jennifer.chae@nikkoguam.com>, <dongsinc@hotmail.com>, "Jennifer C. Camacho" <jenniferc@carsplusguam.com>, <jeremy2000@hotmail.com>, Michael Perrin <hertzgm@triplejguam.com>, Nathan Taimanglo <nathan.taimanglo@asctrust.com>, <dhyushin@koreanair.com>, Tae Oh <tae@baldyga.com>, Jenny <salesone@holidayresortguam.com>, <soo.oftana@marriott.com>, <jain.kang@hilton.com>
Cc: Mark Manglona <mark.manglona@visitguam.org>
Subject: Motion

Hafa Adai KMC Members!

Please kindly review the attached motion for travel to Seoul, Korea for a select group of delegates, including the Governor, First Lady, a couple of Senators, the GVB Board Chairman, a GVB marketing staff and the Miss Guam World to participate in the Jeju Air Inaugural flight ceremonies in Korea. The group will then fly back on the Inaugural flight itself. This motion has been reviewed by KMC Chairman Oscar Miyashita and supports the intent. Please advise your vote via return email by 3pm, Tuesday, September 4. KMC Chairman Oscar Miyashita will be off-island and is unable to make this important trip, however, he has indicated his full support. He regrets being unable to join since he was invited by Jeju Air.

Please reply via return Email by 3pm, tomorrow (Tuesday), September 4, 2012 so we can present the motion to the GVB Board of Directors meeting this Thursday.

—
Felix Sabian Reyes
Marketing Officer II

GUAM VISITORS BUREAU

401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
felix.reyes@visitguam.org | www.visitguam.org

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Korea Market Motion

Motion to approve travel for the Governor, First Lady, Senator Barnes, Senator Pangelinan, Chairman Mesa, a Miss Guam, Korea Marketing Officer (total 7 pax) to travel to Seoul, Korea on Wednesday, September 26 to participate at the Jeju Air Inaugural Ribbon Cutting Ceremony and related events and fly back to Guam on the Inaugural flight on Thursday, September 27, 2012. Cost is approximately \$6,392.85 from the FY2012 Korea Sales Marketing Development Acct# SMD023 or SMD 019.

Airfare (7 pax)	\$3,500.00
Per Diem - Lodging for Governor and Senators (3 pax x 1-day)	\$908.70
Per Diem - Lodging for Chairman Mesa (1 pax x 1-day)	\$291.25
Per Diem - Lodging for First Lady & GVB staff (2 pax x 1-day)	\$466.00
M&IE - Governor and Senators (3 pax x 1-day)	\$491.40
M&IE - Chairman Mesa (1 pax x 1-day)	\$157.50
M&IE - First Lady, MG & GVB Staff (3 pax x 1-day)	\$378.00
Professional Fees - MG (\$100 x 2 days)	\$200.00
Total	\$6,392.85

Background: Jeju Air has entered the Korea-Guam route with an inaugural flight scheduled to depart Incheon Airport, Seoul, Korea on Thursday, September 27. GVB was invited to participate in the inaugural ceremony at the Incheon Airport, including the ribbon cutting ceremony and to fly on the inaugural flight.

To show appreciation to Jeju Air's entry to the Guam market, GVB would like to send the above noted protocol delegation to participate in their inaugural flight ceremonies.

Issue: Board approved for travel required.

Subject: Jeju Air Inaugural Welcome Reception
Date: Monday, September 24, 2012 4:47:36 PM Chamorro Standard Time
From: Felix Reyes <felix.reyes@visitguam.org>
To: Monte Mesa <monte@guam.net>, mbaldyga@baldyga.com <mbaldyga@baldyga.com>, EAC/HAC <ecris64@teleguam.net>, Fortino, Carissa <carissa.fortino@dfs.com>, Kloppenburg Ent/ Bruce E. Kloppenburg' <bek@keiguam.com>, agatmayoroffice@hotmail.com <agatmayoroffice@hotmail.com>, tcarriola@yahoo.com <tcarriola@yahoo.com>, judyflores@guam.net <judyflores@guam.net>, Oscar Miyashita <oscar.miyashita@gmail.com>, Champ Calvo <ecalvo@calvofisher.com>, Nathan Taimanglo <nathan.taimanglo@asctrust.com>, Rizk Saad <rizkcsaad@gmail.com>, Jennifer C. Camacho <jenniferc@carsplusguam.com>
CC: Meriza Peredo <janel.perez@visitguam.org>

Hafa Adai GVB Board Members!

You are cordially invited to join us at the Jeju Air Inaugural Flight Welcome Reception, Thursday, September 27, 2012 from 6:00 p.m. (Show) and 6:30 p.m. (Dinner) at Sea Grill Restaurant, Tumon.

Jeju Air's inaugural flight from Incheon (Seoul), Korea arrives at around 4:00 p.m. on the same day with their CEO, COO, and other Jeju Air executives and your presence will enhance our expression of our appreciation for their entering the Korea-Guam route with 7 regular scheduled flights per week and an additional 4 extra flights per week.

Please advise via return email as soon as able so I can confirm your attendance.

Chairman Montem Oscar and Champ - I already have your responses.

Thank you!

Felix Sablan Reyes
Marketing Officer II

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felix.reyes@visitguam.org | www.visitguam.org

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Venue	INCHEON, SEOUL KOREA TO GUAM	GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
Hotel	Westin Chosun Hotel, Seoul	G	F	S	M	N	G	F	M	H	Y	A	P
	87 Sogong-Dong, Jung-gu Seoul, 100-070	O	I	E	O	A	I	E	I	E	K	N	A
	Tel: 82-2-771-0500	V	R	N	N	T	A	L	S	N	N	U	L
	Room rate: 300,000 Korean Won (Approx. US\$267), all taxes included	E	S	T	H	A	I	S	R	K			
GVB Korea Office	Mr. Henry Lee - (Mobile: 82-10-3701-6124)	R	T	B	E	A		X		Y	I	D	
	Mr. YK Kim - (Mobile: 82-10-5238-6314)	N	A	N					G		M	O	S
	MS. Ann Dong - (Mobile: 82-10-9276-3023)	O	L	R	M			R	U	L	N	A	
		R	A	N	E	D		E	A	E	G	N	
		D	E	S	E			Y	M	E			T
Delegation	Edward J. Baza Calvo, Governor of Guam	C	Y	S	A	N		E					O
	Christine Calvo, First Lady of Guam	A						S	W				S
	Tina Rose Muña Barnes, Senator, 31st Guam Legislature	L				G		O					
	Monte Mesa, GVB Chairman	V				H		R					
	J. Nathan Denight, GVB Deputy General Manager (671-686-4823)	O				T		L					
	Felixberto S. Reyes, GVB Korea Marketing Officer II (671-483-1904)							D					
	Jeneva Bosko, Miss Guam World (671-777-6382)												
	Francisco Santos, GIAA Board Vice Chairman												
	Rosalinda Tolian, GIAA Board Member												
	Paul Santos, Governor's Security Detail												
	Wednesday, September 26, 2012	GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS
01:30 a.m.	Check-in to KAL / Guam Airport (Attire: Casual)	X	X	X	X	X	X	X	X				X
03:20 a.m.	Depart Guam for Seoul via KE112	X	X	X	X	X	X	X	X				X
06:55 a.m.	Arrive Seoul, Incheon Airport	X	X	X	X	X	X	X	X				X
	Meet Henry Lee w/charter bus	X	X	X	X	X	X	X	X	X	X		X
	Transfer to Downtown Seoul hotel, early check-in	X	X	X	X	X	X	X	X	X	X		X
	Rest	X	X	X	X	X	X	X	X	X	X		X
10:50 a.m.	Meet at the Westin Chosun Hotel Lobby for Press Conference	X	X	X	X	X	X	X	X	X	X	X	X
11:00 a.m.	Media Interview	X	X	X	X	X	X	X	X	X	X	X	X
	- Same Korean media who visited with the Gov. after the Japan triple disaster	X	X	X	X	X	X	X	X	X	X	X	X
	- Some Korean travel trade media are also being invited - no #'s yet	X	X	X	X	X	X	X	X	X	X	X	X
11:45 a.m.	End media interview - transfer via charter bus to lunch venue	X	X	X	X	X	X	X	X	X	X	X	X
12:00 Noon	Lunch meeting with KOREA AIR (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X
	- Lunch venue: Hamiri Korean Cuisine Restaurant	X	X	X	X	X	X	X	X	X	X	X	X

Afternoon	Free	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
16:00 p.m.	Meeting w/Korea Chamber of Commerce at their office (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Return to hotel, change and freshen up	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
17:30 p.m.	Meet at the Westin Chosun Hotel lobby - transfer to Dinner Reception venue (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
18:00 p.m. - 20:00 p.m.	Dinner reception with Jeju Air Management - Dinner venue: DONGBOSUNG Korean-Chinese Cuisine (GVB Hosted) (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
20:00 p.m.	Return to hotel via charter bus	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Overnight Seoul																		
Thursday, September 27, 2012		GV	FL	TM	MM	ND	GA	FR	MG	HL	YK	AD	PS					
	Early breakfast at Hotel - Unhosted	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
07:00 a.m.	Meet Henry Lee and staff at hotel lobby (Attire: Suit/Tie/Formal)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Transfer to Incheon Airport via charter bus	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
08:15 a.m.	Arrive Incheon Airport	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Check-in to Jeju Air	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
8:45 a.m.	Jeju Air Inaugural Ceremony at Gate	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
10:40 a.m.	Depart Incheon for Guam	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
16:00 p.m.	Arrive Guam	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
18:00 p.m.	Dinner Reception hosted at Sea Grill, Tumon (Attire: Island Casual)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X



Felix Reyes <felix.reyes@visitguam.org>

Jeju Inaugural flight

7 messages

Rolenda Faasumalie <rolenda@guamairport.net>

Tue, Sep 4, 2012 at 10:37 AM

Reply-To: rolenda@guamairport.net

To: felix.reyes@visitguam.org

Cc: Joann Camacho <joann.camacho@visitguam.org>, Chuck Ada - GIAA Executive Manager <chuck.ada@guamairport.net>, "Peter Roy Martinez, Deputy Manager" <peterroy@guamairport.net>, Jean Arriola - GIAA ASM <jeana@guamairport.net>, ruson@guamairport.net

Hafa Adai Felix:

We are looking at one of our Board members to join the Guam delegation for the Jeju Inaugural flight departing Seoul on September 27, 2012. Pls. send me flight details of GVB's GUM-SEL travel and meeting itinerary so that we may arrange GIAA Board travel accordingly. Rochelle Uson of the Board is copied on this email.

Thanks,

Rolenda

A.B. Won Pat Int'l Airport Authority, Guam
P.O. Box 8770, Tamuning, Guam 96931
355 Chalan Pasheru, Tamuning, Guam 96913
TEL (671) 646-0300 FAX (671) 646-8823

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Felix Reyes <felix.reyes@visitguam.org>

Tue, Sep 4, 2012 at 10:50 AM

To: rolenda@guamairport.net

Cc: Joann Camacho <joann.camacho@visitguam.org>, Chuck Ada - GIAA Executive Manager <chuck.ada@guamairport.net>, "Peter Roy Martinez, Deputy Manager" <peterroy@guamairport.net>, Jean Arriola - GIAA ASM <jeana@guamairport.net>, ruson@guamairport.net

Hafa Adai Rolenda!

See attached.

Can you send more than one?

Felix/

[Quoted text hidden]

-

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001346

Felix Sablan Reyes
Marketing Officer II

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401 Pale San Vitores Road | Tumon, Guam 96913 | (671) 646-5278
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 Jeju Air Inaugural 2012 Itinerary.xlsx
18K

Rolenda Faasumalie <rolenda@guamairport.net> Tue, Sep 4, 2012 at 11:21 AM
Reply-To: rolenda@guamairport.net
To: felix.reyes@visitguam.org
Cc: Joann Camacho <joann.camacho@visitguam.org>, Chuck Ada - GIAA Executive Manager
<chuck.ada@guamairport.net>, "Peter Roy Martinez, Deputy Manager" <peterroy@guamairport.net>, Jean Arriola -
GIAA ASM <jeana@guamairport.net>, ruson@guamairport.net

Hafa Adai Felix:

Thank you for the itinerary. A Board poll is being taken. Rochelle will advise us of GIAA Board participation.

Rolenda

From: Felix Reyes [mailto:felix.reyes@visitguam.org]
Sent: Tuesday, September 04, 2012 10:50 AM
To: rolenda@guamairport.net
Cc: Joann Camacho; Chuck Ada - GIAA Executive Manager; Peter Roy Martinez, Deputy Manager; Jean Arriola -
GIAA ASM; ruson@guamairport.net
Subject: Re: Jeju Inaugural flight

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[Quoted text hidden]

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P.O. Box 8770, Tamuning, Guam 96931

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VP	TM	MM	FR	MG	CA
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S	S	M	F	M	C
E	E	O	E	I	H
N	N	N	L	S	A
		T	I	S	R
P	B	E	X		L
A	A			G	E
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VP	TM	MM	FR	MG	CA
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X	X	X	X	X	X
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VP	TM	MM	FR	MG	CA
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May 17, 2013

VIA EMAIL wjblair@kbsjlaw.com

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**RE: Request For Proposal For Specialty Retail Concession – Multiple Concepts
RFP No. GIAA010-FY12**

Hafa Adai Mr. Blair:

Pursuant to 2 GAR Div. 4 § 9101(g), the A.B. Won Pat International Airport Authority (“GIAA” or “the Airport”) hereby delivers its decision on the matters raised in the letters submitted by DFS Guam L.P. (“DFS”) on April 23, 2013, May 2, 2013, and May 7, 2013 (collectively the “Protest”). GIAA denies the Protest and concludes that Lotte Duty Free Guam, LLC (“Lotte”) remains the most qualified proposer under the above-referenced Request for Proposal (the “RFP”).

DFS has held the lucrative specialty retail concession at the Airport exclusively for over 30 years. With this RFP, for the first time DFS faced competition in the bid for the concession. Bearing in mind the importance of this RFP to the Airport, the proposers and the people of Guam, GIAA instituted a competitive proposal process in full compliance with Guam law that was fair to everyone. An independent, knowledgeable and unbiased evaluation committee was appointed to review the proposals and to score them according to well-defined criteria. The evaluation committee relied upon the advice of an independent expert to review and compare the financial pieces of the proposals.

After a thorough vetting of the proposals, the evaluation committee unanimously selected Lotte as the most qualified proposer; DFS was not even ranked second of four. To protect the integrity of the process, GIAA presented the evaluation committee’s rankings with letter designations so that the Board would not be swayed to vote based upon the identity of the proposer or other parties, as opposed to the benefits offered by its proposal. The Board, acting thoughtfully and with due deliberation, voted to adopt the evaluation committee’s recommendation and it likewise found Lotte to be the most qualified proposer.



While GIAA was seeking to implement a fair process, DFS sent letters to GIAA and the Board in an effort to influence and undermine the process. When DFS did file its Protest, it was late, frivolous and found after investigation to be without merit. GIAA concludes that there is no justification to further delay the award of the specialty retail concession to Lotte. It is important that GIAA start realizing the significant benefits of its concession at the Airport without further delay.

I. GENERAL BACKGROUND FACTS

A. Background of the Specialty Retail RFP

DFS has held the specialty retail concession at the Airport exclusively for over 30 years. Until now, DFS has never had to compete for it. In designing the RFP process to which DFS now objects after having learned that it was not selected as the most qualified proposer, GIAA was careful to employ a competitive proposal process that would not only comply with applicable law, but that would result in the most beneficial concession contract possible for the Airport. As described in detail below, GIAA took careful steps to ensure that it evaluated the proposals as objectively and thoroughly as possible so that whoever was ultimately selected at the end of this fair and impartial process truly was the most qualified proposer able to bring maximum value from this concession to the people of Guam.

On July 19, 2012, GIAA issued the RFP for “the development, construction, and operation of a high quality specialty retail concession at GIAA’s Main Passenger Terminal.” The issuance of the RFP was well publicized. The advertisement for the RFP was published in the *Pacific Daily News* on July 19, 23, and 25, 2012, and in the *Marianas Variety* on July 19, 23, and 30, 2012. As a result of the publication of the RFP, GIAA received a number of inquiries from interested retailers around the world.

GIAA offered all interested proposers the opportunity to review the concession facilities and to ask questions regarding the RFP. On August 17, 2012, GIAA held a pre-proposal conference at the Airport. This pre-proposal conference was attended by various international duty free retailers including DFS, Lotte, The Shilla Duty Free, JR/ Duty Free, Nuance and others.

GIAA set the original due date for submitting proposals as September 21, 2012. GIAA subsequently extended the deadline in order to allow proposers to ask questions about the concession, the Airport facilities, and the terms of the proposal. Under the Guam Procurement Law and Regulations, whenever one prospective proposer asks a question, the question and answer must be distributed to all the proposers. After the August 17 pre-proposal conference, many of the proposers asked follow up questions. To ensure that all of the proposers’ questions were answered, GIAA extended the RFP deadline to October 17, 2012. GIAA responded to over one hundred questions, which resulted in an additional 42 pages of RFP addenda (including detailed charts and exhibits) distributed to all interested proposers.

On October 5, 2012, DFS submitted the first in a series of letters complaining about the RFP process, but stopped short of making a formal protest.¹

Of the many proposers who expressed an interest in the RFP, four proposers, including Lotte and DFS, submitted their proposals on or before the October 17, 2012 deadline, setting the stage for a truly competitive specialty retail solicitation that GIAA had not seen in the history of the specialty retail concession.

B. GIAA Instituted an Evaluation Process that Was Fair to All Proposers, and in October 2012 DFS Sent GIAA Letters of “Concern” without Filing a Formal Protest Over the Same Conduct That Is the Subject of its Current Protest

Once the proposals were received, GIAA took affirmative steps to ensure that the proposals were thoroughly reviewed and evaluated by an independent and unbiased committee. On November 1, 2012, the following individuals were appointed to a committee to evaluate the proposals submitted in response to the RFP (hereinafter the “Evaluation Committee”): Pedro R. Martinez, Deputy Executive Manager; Jean M. Arriola, Airport Services Manager; Carlos Bordallo, Comptroller; and Frank Santos, GIAA Business and Financial Consultant. These individuals were appointed to the Evaluation Committee because GIAA had concluded that they had the requisite experience and background in GIAA operations to ensure that the most qualified proposer would be selected following a fair and thorough evaluation process. Within a few days of their appointment, the Evaluation Committee members received copies of the proposals. From receipt of the proposals until submission of their final rankings at the end of March 2013, the Evaluation Committee engaged in a thoughtful and objective review and evaluation of the proposals.

On November 7, 2012, GIAA received a letter dated October 30, 2012 from DFS alleging impropriety on the part of Lotte for giving gifts to GIAA Board members (hereinafter “DFS’s October 30 letter”).² The letter states that DFS learned of “some recent activities . . . which [they] feel may have been in contravention [of] the procedures stipulated under the RFP as well as violative of the spirit of the Guam procurement laws.” Despite DFS’s knowledge of Lotte’s

¹ GIAA notes that in its Protest, DFS complains that Lotte allegedly had direct contact with GIAA Board members, in violation of RFP Section I.I.C (“Single Point of Contact”), which required all proposers to direct communications to Franklin Taitano as GIAA’s single point of contact. As discussed below, DFS repeatedly contacted employees of GIAA in violation of this requirement. Indeed, DFS addressed this October 5, 2012 complaint and its subsequent complaint letters directly to GIAA’s Executive Manager, rather than to Mr. Taitano, as required by the RFP. DFS’s position as the incumbent specialty retail concessionaire does not give it special privileges to contact directly the Executive Manager, Board members, or others at GIAA regarding the RFP.

² We note that this letter constituted a violation of Section I.I.C of the RFP (“Single Point of Contact”), which restricts proposers from communicating with any GIAA Staff, Board member or officials regarding the RFP.

alleged conduct, DFS did not style its letter a “protest”; instead, DFS commended GIAA staff and management on “the professional and thorough manner in which they have handled the bid process” and expressed confidence that they would handle the situation appropriately.

DFS’s October 30 letter described the alleged activities as follows:

- On September 26th a delegation from Guam organized by [the Guam Visitors Bureau] sponsored a trip to Korea to celebrate the inaugural Jeju Air flight to Guam. Two GIAA Board Directors were participants in that delegation.
- The delegation met with high-ranking officials of the Lotte Group.
- In addition to touring the Lotte off-Airport Duty Free and Department stores, GIAA Board Members also extensively toured the Lotte Airport store prior to their departure from Korea.
- Gifts were given by Lotte to GIAA Board Members.

Comparing DFS’s October 30 letter to DFS’s allegations raised in the Protest, it is obvious that the substance of the two complaints is nearly identical; however, DFS did not characterize its October 30 letter as a formal “protest,” which would have halted the process. DFS characterized its October 30 letter as an expression of “concern” rather than a formal “protest”.

During the course of its investigation, GIAA has learned that DFS knew about the facts underlying its Protest no later than October 1, 2012, but did not file its Protest until over six months later, on April 23, 2013. On October 1, Felix Reyes, an employee of the Guam Visitors Bureau (“GVB”) had lunch with Tak Takano, who is DFS Guam’s Vice President of Travel Industry Marketing. Mr. Reyes is a former DFS employee with current close relations with DFS personnel. Mr. Takano recorded his conversation with Mr. Reyes during which they discussed the visit to the Lotte Store during the Korea trip. In that conversation, Mr. Reyes paraphrased the text of a September 18, 2012 email exchange in which GVB’s Nathan Denight suggested that GVB use John Calvo’s contacts with Lotte to get a good room rate at the Lotte Hotel, and Mr. Reyes’ recommendation that they refrain from scheduling a meeting with Lotte due to the pending RFP. Mr. Reyes also recounted that the Delegates visited the Lotte store and received a tour; that the Delegates received 20% discount shopping cards and “gifts”; and that the Delegation was greeted by Lotte staff at the Incheon airport for their departure. Mr. Reyes confirmed, however, that the GIAA RFP was “never” mentioned by Lotte or anyone else during this visit.

Other facts demonstrate that DFS had knowledge of the allegations that form the basis of its Protest over six months before it filed its Protest. On October 9, 2012, during an unrelated

presentation at GIAA, GVB's then-General Manager, Joann Camacho, informed Airport Deputy Executive Manager Peter Roy Martinez that two GIAA Directors received gifts from Lotte while in Korea for the Jeju Air inaugural flight.³ Mr. Martinez later informed GIAA Executive Manager Charles Ada about his conversation with Ms. Camacho, and then telephoned Chairman Santos to ask about the alleged gifts. Chairman Francisco Santos⁴ stated that he had not received any gifts from Lotte. On October 24, 2012 at the GIAA Mag Pro Photoshoot, Mr. Martinez approached Chairman Santos and Director Rosalinda Tolan and informed them that Lotte was one of the participants of the pending specialty retail RFP, and reminded them that any communication with the participants of the RFP may be a violation of the RFP and Guam procurement rules.

After receiving DFS's October 30 letter, GIAA conducted an investigation of the events that transpired during the Korea trip to determine whether a violation of the procurement law had occurred. (For the sake of clarity, GIAA's investigation that took place in November 2012 will be referred to as the "initial investigation"; the initial investigation and the recently concluded investigation will be collectively referred to as "the investigation".) As part of its initial investigation, GIAA interviewed the following people: Mr. Martinez, Chairman Santos, Director Tolan, Mr. Denight, and Mr. Mesa. Mr. Reyes was also asked to be interviewed, but he refused to be interviewed at the time without GVB legal counsel present. Requests made at that time to GVB legal counsel for a narrative from Mr. Reyes of the events that took place during the Korea trip were to no avail. GIAA also reviewed GIAA travel authorizations for Chairman Santos, Director Tolan and Officer Paul Santos (the Governor's security detail), and the Jeju Inaugural flight trip itinerary provided by Mr. Denight.

After completing its initial investigation of the Korea trip, GIAA concluded that none of the involved parties had violated Guam law. However, in response to the concerns raised in the media regarding the events surrounding the trip, as well as in DFS's October 30 letter of concern, in an abundance of caution Chairman Santos and Director Tolan decided to abstain from participation in the GIAA Board approval process related to the RFP. Upon completing its investigation and determining that no ethical violations had occurred during the Korea trip, GIAA proceeded to prepare for presentation of the RFP results to the Board.

³ Ms. Camacho later resigned from her position at GVB and is currently working for DFS and may have already been working as a consultant for DFS or accepted a management position at DFS at the time of this conversation. We note that if Ms. Camacho was already consulting for DFS or retained by DFS, then this communication to an employee at GIAA regarding the RFP constituted a violation of Section I.I.C of the RFP ("Single Point of Contact"), which restricts proposers from communicating with any GIAA Staff, Board member or officials regarding the RFP.

⁴ GIAA Board Director Francisco Santos became the GIAA Board Chairman following the resignation of then-GIAA Board Chairman Michael Ysrael, and therefore he is referred to as "Chairman" Santos throughout, despite the fact that he did not assume the chairmanship until November 27, 2012.

C. The Evaluation Committee, with the Advice of an Expert Aviation Consultant, Thoroughly, Independently and Fairly Vetted the Proposals

The November 2012 investigation into DFS's October 30 letter delayed the process and GIAA did not issue any formal or informal response to DFS's October 30 letter. On November 28, 29 and December 5, 2012, the Evaluation Committee separately interviewed each of the proposers. GIAA's Executive Manager and legal counsel attended the interviews, but they did not participate in the deliberative process of the Evaluation Committee and had no input into the Evaluation Committee's decision.

Following the interviews with the proposers, the Evaluation Committee delved further into the review process.⁵ In late December 2012 and early January 2013, the Evaluation Committee requested that GIAA engage its independent financial consultant, Leigh Fisher, to analyze the financial components of the proposals, particularly the Minimum Annual Guaranteed Rent ("MAG"), percentage rent and capital expenditures. With offices worldwide, Leigh Fisher is a global consulting firm with over 60 years of experience in the aviation industry. Leigh Fisher advises its aviation-sector clients in financial, facilities, operational and environmental planning and analysis and other related matters. In January 2013, GIAA engaged Leigh Fisher to prepare an analysis of the MAG, percentage rent and capital expenditures presented by each of the proposers so that the members of the Evaluation Committee and, eventually, the Board could be comparing the financial aspects of the proposals on an apples-to-apples basis.

In February 2013, discussion took place among GIAA management about whether to have the RFP presented to the Board of Directors at the February meeting. In anticipation of the presentation of the Evaluation Committee ranking results to the GIAA Board of Directors for approval in February, a memorandum was issued to the Board members explaining the possible grounds for potential conflicts of interest and requesting that they disclose any conflicts of interest that would preclude them from taking official action with regard to the RFP. None of the Board members reported any conflicts of interest. The Evaluation Committee likewise submitted acknowledgements that they would keep the RFP process confidential and confirming they were not aware of any conflicts of interest that would preclude them from evaluating the proposals.

It eventually proved unfeasible to bring the Evaluation Committee's recommendation to the Board at the February meeting. First, the Evaluation Committee required further clarification from the proposers and thus was unable to complete its evaluation in time for the February meeting. Second, in January, GIAA had directed its independent consultant, Leigh Fisher, to

⁵ Further unforeseen delays in the procurement process occurred. In December, Senator Ada and Congresswoman Bordallo separately submitted questions to GIAA regarding the RFP process, which required GIAA to consult with outside advisers before responding.

provide an analysis of the financial components of the proposals. While analyzing the financial components of the proposals, Leigh Fisher informed GIAA on several occasions in February and March that additional clarification was necessary to complete its analysis. Accordingly, between February 5 and March 13, 2013, GIAA requested clarification from the proposers regarding certain financial information in their proposals and received the proposers' final responses on March 18. GIAA provided the responses to Leigh Fisher, which finalized its report and submitted it to the Evaluation Committee on March 21, 2013.

Once the Evaluation Committee received the Leigh Fisher report, it was in a position to complete its evaluation of the proposals. Between March 25 and March 27, 2013, the Evaluation Committee scored each of the proposals based on the following criteria:

- Facility Design & Capital Investment (20 points)
- Concepts & Theme and Merchandise & Marketing Plan (20 points)
- Experience, Qualifications, and Financial Capability (20 points)
- Management & Operations Plan (20 points)
- Annual Rent (MAG and Percentage Rent) & Projected Sale (20 points)

Between March 25 and 27, 2013, the Evaluation Committee members submitted their evaluation score sheets to the single point of contact for the RFP, Franklin P. Taitano, for tabulation. Based on a tabulation of the rankings, the Evaluation Committee ranked Proposer A the number one proposer. In fact, each member of the Evaluation Committee individually ranked Proposer A the most qualified so it was unanimous among the members of the Evaluation Committee that Proposer A was the most qualified firm to develop and operate the specialty retail concession at the Airport.

The Evaluation Committee did not rank DFS as second most qualified.

Prior to the March 28, 2013 Board meeting and in anticipation of the RFP being presented to the Board for action, the GIAA Board members who were to take action on the RFP, namely Vice-Chairman Torres and Directors Gerber, Alcorn and Untalan, were each given an opportunity to review the four proposals. All four Directors executed a Non-Disclosure Acknowledgement, acknowledging the requirements under the law to keep the RFP process confidential. Directors Untalan, Gerber and Alcorn reviewed the proposals, but Vice-Chairman Torres declined, deciding instead to place his confidence in the evaluation conducted by the Evaluation Committee. All four Directors were also provided with the analysis conducted by Leigh Fisher and copies of the executive summaries contained in each of the four proposals. Chairman Santos and Director Tolan abstained from the discussion and voting and did not review any of the proposals or the Leigh Fisher report.

D. GIAA Instituted a Procedure for the Board's Consideration and Vote on the Proposals that Maintained the Integrity and Fairness of the Competitive Proposal Process

GIAA continued to take steps to ensure the integrity and fairness of the competitive process, including the designation of letters to render the proposers' rankings anonymous to the Board members. On March 28, 2013, prior to the GIAA Board regular meeting, GIAA's Supply Management Administrator, Franklin P. Taitano, and GIAA legal counsel, Janalynn Cruz Damian, met to assign letter designations to the four proposers who had submitted proposals in response to the RFP. The letter A, B, C, or D was assigned randomly by lottery to each proposer starting with the first proposal received. A memorandum was then prepared and signed by the Supply Management Administrator memorializing the letter designations given to each proposer and this memorandum was included in the procurement record for the RFP.

The Board twice considered the Evaluation Committee's rankings. On March 28, 2013, the GIAA Board held its regular meeting. When the RFP was presented to the GIAA Board, Chairman Santos and Director Tolan announced that they were abstaining from participating in any discussion or vote on the RFP for the aforementioned reasons.⁶ The ranking order was presented to the Board, along with the recommendation of GIAA's Evaluation Committee. When the evaluation results and ranking order were presented, the four proposers were identified in the results and ranking only by their letter designations. During the presentation, it was reported that the Evaluation Committee had completed its evaluation, the proposals had been ranked by the Evaluation Committee, and the rankings had been tabulated. As a result of the tabulation of the rankings, the proposers were ranked as follows:

1. Proposer A
2. Proposer D
3. Proposer C
4. Proposer B

It was stated that based on the tabulation of the Evaluation Committee's ranking of the proposers, Proposer A was ranked number one and was the most qualified firm to perform the required services in accordance with the criteria set forth in the RFP. Also, Proposer A was determined to have met the standards of responsibility and responsiveness outlined in the Guam Procurement Regulations. It was therefore recommended that the GIAA Board approve the ranking of the proposers as determined by the Evaluation Committee, give Proposer A the first opportunity to negotiate the Specialty Retail Concession Agreement, and in the event those

⁶ During the meeting, Director Torres characterized their abstentions using the term "recusals," but Chairman Santos and Director Tolan remained in attendance at the meeting.

negotiations proved unsuccessful, commence negotiations with the next highest ranked proposer – Proposer D.

After this presentation, the non-abstaining Board members asked a number of questions regarding the method and process used to evaluate the proposals. Director Torres stated that he was “recusing” himself from participating in the matter because at the time he was not comfortable with only three directors voting to approve the Evaluation Committee’s rankings of the proposals⁷ or with the letter designations given to each of the proposers. Accordingly, the GIAA Board tabled the matter pending further clarification from GIAA legal counsel regarding the propriety of using letter designations in connection with the Board approval process.

DFS continued its practice of complaining to GIAA about the competitive proposal process without making a formal “protest.” On April 11, 2013, DFS submitted another letter of concern addressed to GIAA Board Directors Lucy Alcorn, Martin Gerber, Jess Torres, and Edward Untalan.⁸ The letter contained more detailed allegations of the same conduct alleged in DFS’s October 30, 2012 letter. In the April 11 letter, DFS expressed its view that GIAA and its legal counsel had not done enough to address DFS’s concerns, but that “the process of the RFP must continue to move forward.” The letter did not state that it should be treated as a protest regarding the Korea trip, and the letter did not express any concerns regarding the anonymous letter designation process, even though DFS representatives and its counsel were present at the March 28 Board meeting.

All of the voting Board members, and Acting Chairman Torres, satisfied themselves that the confidential letter-designation process was a way to ensure the integrity of the evaluation and voting process. On April 12, 2013, the GIAA Board held a special meeting where the evaluation results were presented again, along with the ranking order of the proposals prepared by the Evaluation Committee and its recommendation to proceed with negotiations with Proposer A. Directors Santos and Tolan again stated that they were abstaining from participating in any discussion or vote on the RFP. As vice-chairman, Director Torres again chaired the agenda item relating to the RFP. The non-abstaining Board members, constituting a quorum and by unanimous vote, approved the ranking of the proposers as determined by the Evaluation Committee and approved the recommendation of the Executive Manager to award the contract to

⁷ As acting chairman, Director Torres could not vote on the matter unless his vote would affect the result (e.g. in the event of a tie vote or of his vote in the negative resulting in a tie). DFS also points to Director Torres’ comments during the meeting that the anonymous proposer process made him “queasy” and it appeared to be a “magical process” as proof that the process was improper. However, at the following meeting Director Torres chaired the meeting and expressed no such concerns.

⁸ We note that this DFS letter addressed to these Board members constituted a violation of Section II.C of the RFP (“Single Point of Contact”), which restricts proposers from communicating with any GIAA Staff, Board member or officials regarding the RFP.

Proposer A and to give Proposer A the first opportunity to negotiate the Specialty Retail Concession Agreement. The GIAA Board also approved the recommendation that in the event that the negotiations with Proposer A proved to be unsuccessful, GIAA should commence negotiations with the next highest ranked proposer, Proposer D. (Proposer D is not DFS.) After GIAA Board approval, it was announced that Proposer A was Lotte.

On April 19, 2013, DFS made a request for information from GIAA under the Sunshine Reform Act of 1999, 5 G.C.A. Sections 10101, *et seq.* (the “Sunshine Act”), seeking the Evaluation Committee’s score sheets. On April 23, 2013, DFS submitted its first Protest letter to GIAA, demanding that Lotte’s proposal be disqualified, deemed nonresponsive, or put on hold and that Lotte should be deemed not to be a responsible proposer. On April 25, 2013, GIAA responded to DFS’s Sunshine Act request. On May 2, 2013, DFS submitted “supplemental information” in support of its Protest. On May 2, 2013, GIAA requested that DFS provide documents and the identities of witnesses in support of its Protest. On May 7 and May 8, 2013, DFS responded and provided GIAA with documents and the identities of witnesses it claims support its Protest.

II. ANALYSIS

A. **GIAA Denies the Protest Because DFS Lacks Standing to Assert a Protest Because DFS Is Not A Party “Aggrieved” By GIAA’s Ranking of Lotte As The Most Qualified Proposer**

In order to pursue a protest, DFS must have standing. When standing is at issue, “the relevant inquiry is whether, assuming justiciability of the claim, the plaintiff has shown an injury to himself that is likely to be redressed by a favorable decision.” *Simon v. E. Kentucky Welfare Rights Org.*, 426 U.S. 26, 38 (1976). Under Title 5, Section 5425 of the Guam Code Annotated, “[a]ny actual or prospective bidder, offeror, or contractor who may be aggrieved in connection with the method of source selection, solicitation or award of a contract, may protest to ... the head of the purchasing agency.” Therefore, in order to protest GIAA’s selection of Lotte, DFS must be an “aggrieved person.” 5 GCA § 5425(a).

A disappointed bidder is an aggrieved person with standing to challenge the results of a competitive bidding process only if it can show that it would likely have received the contract but for the alleged conduct. *See e.g. I.C.S. Illinois, Inc. v. Waste Mgmt. of Illinois, Inc.*, 403 Ill. App. 3d 211, 225 (2010) (collecting cases) (“We agree with the conclusion reached in these cases that a plaintiff cannot establish standing to challenge the result of a bidding competition without establishing that he would have been successful but for defendants’ conduct”); *Steelgard, Inc. v. Jannsen*, 171 Cal. App. 3d 79, 93 (1985) (protesting party lacked standing because it presented no evidence that it would have been the low bidder if its protest was successful).

A similar result is found under the federal Tucker Act, 28 U.S.C. §1491, even though the Tucker Act confers standing on any “Interested Party” and does not require that a party be “aggrieved.”

Under the Tucker Act, the Federal Circuit has consistently held that a disappointed bidder has no standing to sue unless it can show that “there was a substantial chance that [it] would receive an award—that it was within the zone of active consideration.” *CACI, Inc.–Fed. v. United States*, 719 F.2d 1567, 1574–75 (Fed. Cir. 1983) (quoting *Morgan Business Assocs., Inc. v. United States*, 619 F.2d 892, 896 (Fed. Cir. 1980)); see also *Three S Consulting v. U.S.*, 104 Fed. Cl. 510, 519 (2012) (“To demonstrate prejudice in post-award bid protests... plaintiff must show that but for the error, it would have had a substantial chance of securing the contract [quotation omitted].”); cf. *TRW Envtl. Safety Sys., Inc.*, 18 Cl. Ct. 33, 69 (1989) (finding that procurement defects adversely affected plaintiff’s chances of selection and therefore that it had established prejudice).

Under the present circumstances, DFS does not have standing to bring a protest because DFS has not established that it is an “aggrieved party.” DFS was not ranked as the second most qualified proposer. Therefore, DFS has presented no evidence that, but for the conduct alleged in its protest, DFS would have been selected as the most qualified proposer or that it had a substantial chance of being selected. GIAA is obligated under the Guam Procurement Act to select the most qualified Proposer. 18 GCA § 5211(g).

It is undisputed that Lotte was unanimously ranked as the number one out of four proposers. It is also undisputed that the Evaluation Committee did not find DFS to be the second most qualified Proposer. GIAA’s investigation has not uncovered any irregularities in the evaluation process. Accordingly, even if DFS’s challenge to GIAA’s decision were upheld, DFS is not an “aggrieved person” because it has not shown – and cannot show – that it would have been the successful Proposer but for Lotte’s alleged conduct, or that it would have had a substantial chance of procuring the contract. GIAA denies DFS’s Protest because DFS lacks standing to bring this Protest.

B. GIAA Denies the Protest Because DFS Waived its Right to Protest by Making its Protest More than Fourteen Days After it Knew the Facts, or Should have Known of the Facts, Giving Rise to Its Protest

DFS asserts several grounds for its protest arising from alleged conduct occurring in September 2012 and March 2013, but it did not submit a formal letter of protest to GIAA until April 23, 2013 – after GIAA had already announced Lotte as the winning proposer. In order to protest GIAA’s selection of Lotte’s proposal, DFS must comply with the requirements of the Guam Procurement Act, which DFS did not do.

A protestor waives its right to protest if it does not file a protest within “fourteen (14) days after such aggrieved person knows or should know of the facts giving rise thereto.” 5 GCA § 5425(a). Protests are required to be submitted in the form prescribed in 2 G.A.R. § 9109(c)(3). “Protests filed after the 14 day period shall not be considered.” 2 G.A.R. § 9109(b)(1); cf. *MCM Const., Inc. v. City & Cnty. of San Francisco*, 66 Cal. App. 4th 359, 381-83 (1998) (“[I]f the contractor

does not immediately lodge a protest in writing to the public entity, the bid protest right may be waived”). It is fundamentally unfair to the other bidders to allow a protestor to wait and “see which way the wind was blowing” before submitting a protest. *See e.g. Apple v. Jewish Hosp. & Medical Ctr.*, 829 F.2d 326, 334 (2d Cir. 1987) (noting that a “movant may not hold back and wait, hedging its bets against the eventual outcome”); *Phillips v. Amoco Oil Co.*, 799 F.2d 1464, 1472 (11th Cir. 1986) (“Counsel, knowing the facts claimed to support a § 455(a) recusal for appearance of partiality may not lie in wait, raising the recusal issue only after learning of the court’s ruling on the merits”).

Here, while DFS now contends in its April 23, 2013 letter that its Protest was a continuation of an earlier protest, DFS did not submit anything that complied with 2 G.A.R. § 9109(c)(3) before April 23, 2013, and DFS was careful not to use the word “protest” in any of its earlier correspondence, instead characterizing its correspondence as “letters of concern.” DFS also never requested an automatic stay; on the contrary, in its April 11, 2013 letter, DFS insisted, “the process of the RFP must continue to move forward.” Therefore, DFS’s protest letter of April 23, 2013 is deemed to be DFS’s first notice of protest. This Protest was filed past the statutory deadline and cannot be considered.

On April 23, 2013, DFS submitted 12 Alleged Facts that provide the basis for its Protest. Facts 1-9 concern alleged conduct that took place in September 2012. It is undisputed that DFS was aware of each of the underlying conduct giving rise to Alleged Facts 1-9 no later than October 1, 2012, when one of its Vice Presidents, Tak Takano, recorded a statement by Felix Reyes regarding the Korea trip and the visit to the Lotte Store and its duty free shops at Incheon Airport. This recorded statement formed the basis of DFS’s October 30 letter to the Executive Manager of GIAA to “raise concerns” about the same conduct. Alleged Facts 10-12 concern the anonymous letter designation procedure used to present the ranking results to the Board. It is undisputed that DFS was aware that GIAA intended to use the anonymous letter designation procedure no later than March 28, 2013, when it was announced during a public meeting of GIAA Board of Directors, which DFS representatives and legal counsel attended. DFS knew of the letter-designation process for 26 days before it filed its Protest.

Therefore, DFS did not submit a protest in conformity with the requirements of the Guam Procurement Act and related regulations. DFS waited until April 23, 2013 to submit its Protest, over six months after it learned about the Korea trip and 26 days after it learned about GIAA’s use of the letter-designation procedure to conceal the identities of the proposers during the Board’s vote on the Evaluation Committee’s recommendation. It is undisputed that all twelve of its Alleged Facts submitted as the basis of DFS’s Protest were known to DFS more than 14 days

before DFS submitted its Protest. DFS thereby waived its right to bring its Protest and its Protest is untimely and is denied on that basis.⁹

C. GIAA Denies the Protest Because GIAA Has Deemed Lotte to be a Responsible Proposer and DFS Has Not Met its Burden of Proof to the Contrary

GIAA is justified in denying DFS's Protest on the ground described above. However, for the sake of completeness, GIAA also considered and investigated DFS's other allegations. The majority of DFS's Protest involves a trip by government officials to commemorate the inaugural flight of an airline that had established new service to Guam. These diplomatic efforts to increase tourism and investment in Guam are often attended by the Governor and other highly placed officials.

To find that Lotte is not a responsible Proposer, DFS would need to establish that during the Korea trip Lotte engaged in improper conduct in an attempt to influence the award of the concession agreement to Lotte. For the reasons set forth below, GIAA finds that Lotte did not engage in any improper conduct in an attempt to influence the award of the contract and that Lotte did not submit a false affidavit in connection with its RFP.

1. The Guam Visitors Bureau Organized The Korea Trip to Commemorate the Inaugural Flight of Jeju Air

In about September 2011, the Guam Visitors Bureau ("GVB") began meeting with representatives from various South Korean airlines including Jeju Air, Eastar Jet, and T'Way Airlines, to explore their interest in establishing service between South Korea and Guam. Jeju Air ultimately decided to add a route between Seoul and Guam and scheduled its inaugural flight to Guam for September 27, 2012. In or about June 2012 – prior to GIAA's issuance of the RFP – GVB and Jeju Air began making plans to commemorate Jeju Air's inaugural flight to Guam. On September 3, the GVB Board voted to approve the expenditures for the commemoration trip from Seoul to Guam, which included travel costs for the Governor, First Lady, Senator Tina Muna Barnes, GVB Chairman Monte Mesa, GVB Deputy General Manager Nathan Denight, a Miss Guam, and a GVB Korea Marketing Officer.

Before September 10, 2012, GVB extended an invitation to members of the GIAA Board of Directors to join the delegation on board the Jeju Air inaugural flight scheduled to land at the A.B. Won Pat International Airport and attend the Korea trip, including a ribbon-cutting ceremony to be attended by the Governor and First Lady. Like other similar trips, it was hoped

⁹ In DFS's most recent correspondence, it seeks to re-characterize its earlier letters as being part of an ongoing protest. These after-the-fact characterizations cannot change the fact that DFS should have filed a formal protest within 14 days after it learned of the facts giving rise to its Protest. It did not.

by GVB that this trip could help promote Guam to foreign investors. GIAA Board Chairman Santos and Director Lynda Tolan volunteered to participate.

It is significant that none of the members of the RFP Evaluation Committee were invited on the trip. The trip would have occurred whether any GIAA Board members attended or not, because the purpose of the trip was to celebrate Jeju Airline's inaugural flight to Guam and to generally promote Guam to the Korean visitor market and potential Korean investors in Guam. The trip had nothing to do with the RFP and none of the remaining Delegates had any involvement whatsoever in the RFP process. The trip was organized by GVB and the primary Guam Delegate was the Governor.

Because Korea is seen as a growing and important segment of Guam's visitor industry and a source of overseas investment in Guam, members of GVB staff sought to take advantage of this trip to Seoul to increase their connections to Korean businesses. GVB's Deputy General Manager, Nathan Denight, knew that members of the Guam business community, including John Calvo of Mid Pacific Distributors Inc. ("Mid-Pac") had contacts with Korean businesses that own and build resort hotels. In an email dated September 18, 2012 from Mr. Denight to GVB employee Felix Reyes, and copied to John Calvo and GVB General Manager Joann Camacho (among others), Mr. Denight suggested that GVB contact "John Calvo (brother of GVB Board Member Champ Calvo/Mid Pac Guam Owner)" who "has connections with Lotte in Korea and may be able to secure us a great room rate in Seoul." Mr. Reyes responded that the Delegation's rooms at the Westin Chosun have been confirmed, and wrote that because "Lotte is bidding for the Guam airport duty free concession," arranging a meeting "may pose a conflict as a [government] agency at this time, especially for the Governor."

Mr. Denight, in response to the information that GIAA was currently engaged in an RFP for the duty free concession at the Airport agreed to forego seeking a discount at the Lotte hotel, and to stay at the Westin Chosun. Mr. Denight explained that his reason for seeking the meeting with Lotte was part of GVB's efforts to encourage investment in Guam, especially "hotels, theme parks and other developments for Guam." Mr. Denight did not give as a reason the pending GIAA specialty retail RFP. In response to these emails, Mid-Pac's John Calvo responded "Nathan[,] This is getting too complicated. I'll let [Lotte] know the group is not available to meet." The proposed Lotte meeting was not made part of GVB's final trip itinerary.

On September 26-27, 2012, a delegation from Guam participated in the Korea trip. The delegation consisted of: the Governor and First Lady, Mr. Denight, GVB Board Chairman Monte Mesa, Senator Tina Muna Barnes, Mr. Reyes, Miss Guam World Jeneva Bosco, Chairman Santos, and Director Tolan (referred to herein collectively as the "Delegation" or the

“Delegates”).¹⁰ Upon their arrival in Korea on September 26, 2012, the Delegates proceeded to the Westin Chosun Hotel, where the Delegates stayed during their trip.

GIAA calls attention to the fact that none of the members of the Evaluation Committee were included in the Delegation.

When evaluating the facts as disclosed by GIAA’s investigation, GIAA has considered the allegations of DFS’s Protest in order to determine whether the facts uncovered by GIAA’s investigation are supported or controverted with documentary evidence or the statement of a credible witness. In its Protest, DFS alleges “facts established by DFS’ own internal investigation” as the bases for its Protest. These alleged facts are set forth in DFS’s April 23, 2013 letter in paragraphs numbered 1 through 12 (each an “Alleged Fact” and collectively, “Alleged Facts”). GIAA has reviewed DFS’s May 2 and May 7 letters and finds that these letters do not make any additional contentions of fact that were not identified in, or embraced within, DFS’s April 23, 2013 letter to GIAA. Where DFS alleged facts challenging Lotte’s status as the most qualified proposer, GIAA found that DFS’s allegations were not supported by the evidence.

In Alleged Fact No. 1 DFS contends, in part, “Two members of the GIAA board of directors, Chairman Francisco Santos and member Rosalinda Tolan, were members of a delegation sponsored by the GVB which participated in the inaugural Guam flight of Jeju Air which took place on September 27, 2012. The delegation included a number of other persons highly influential in the Guam tourism industry.” GIAA’s investigation supports this portion of Alleged Fact No. 1. DFS further contends in Alleged Fact No. 1, “The date [of the trip] is significant given that Lotte’s proposal in response to the RFP was due on October 17, 2012.”

GIAA’s investigation supports DFS’ contention that the Korea trip occurred on September 26-27, 2012, which was before the proposers’ responses to the RFP were due as a result of the submission deadline being extended from September 21, 2012 for reasons unrelated to the Korea trip, but GIAA’s investigation did not uncover any connection between the date of this GVB-organized trip to celebrate the inaugural flight of Jeju Air from Seoul to Guam and the deadline for RFP responses, and DFS has not provided any such evidence. In fact, GIAA’s investigation has confirmed that the date of the inaugural flight, September 27, 2012, was determined by Jeju Air. This latter portion of DFS’s Alleged Fact No. 1 regarding the date of the trip as being “significant” is speculation and innuendo, unsupported by any evidence.

¹⁰ The Governor was also accompanied by a security detail.

2. The Delegation Visited the Lotte Hotel and Store in Seoul During the Korea Trip, but Never Discussed the GIAA or the RFP

DFS's main complaint, about which it has been aware since at least October 1, 2012, arises out of the events that took place on September 26. That day, after arriving in Seoul, checking into their hotel rooms and attending a business development event, the Delegates attended a lunch meeting with representatives of Korea Airlines. GVB had rented the services of a chartered bus or van to transport the Delegates to meetings during their stay. During the bus ride from this lunch to the Westin Chosun, it appears that Director Tolan suggested to Mr. Reyes that the Delegation go shopping during their free time after lunch. Versions of how they arrived to go shopping differ in immaterial ways. According to Mr. Denight, he suggested that the Delegation go to the Lotte Department Store, because it was within walking distance of the Westin. According to Mr. Mesa, the bus took them to the Westin and they asked the bus driver for a nearby location to go shopping. The driver suggested the Lotte Department Store, which was on the same block as the Westin. The bus driver offered to drive anyone who wanted to go. Mr. Henry Lee, GVB's agent in Seoul, got off the bus at the Westin. The bus driver drove most or all of the remaining Delegates to the Lotte Hotel, which was connected to the Lotte Department Store. Mr. Denight stated that he called one of his contacts at Lotte and told him that the Governor and his delegation would be coming to the Lotte Hotel and the Lotte Department Store. Mr. Denight said he made this phone call because the Governor was traveling with a security detail and he wanted to warn the hotel and store that there would be security present. Both Mr. Mesa and Mr. Denight stated that they believed this trip to the Lotte Hotel and Department Store would "kill two birds with one stone" because the GVB representatives wanted to visit and inspect the Lotte Hotel and some of the Delegates wanted to go shopping.

DFS contends in Alleged Fact No. 2, in part, "During their stay in Seoul on September 26, 2012, arrangements were made for the GVB delegation to tour the main downtown store of Lotte where they were personally greeted by the President of Lotte." GIAA's investigation confirmed that "during their stay," but not before their stay, in Seoul on September 26, 2012, "arrangements were made" by Mr. Denight for the GVB Delegation to tour the Lotte Hotel and the main downtown Lotte Store, which is connected to the Lotte Hotel. This tour was not on the published agenda of the Delegation, but was it was added by GVB on the afternoon of September 26 to accommodate some of the Delegates' desire to shop. It appears that the president of the Lotte Department Store did, at some point, greet the Governor and the Delegation at the store.

DFS contends in Alleged Fact No. 2, in part, "This meeting was suggested because John Calvo, brother of GVB Board member Eduardo 'Champ' Calvo, had 'connections' with Lotte, and he sought to set up 'a meeting' with the Lotte group." GIAA's investigation uncovered no support for this contention, other than the fact that in an email dated September 18, 2012, Mr. Denight suggested setting up a meeting with Lotte representatives, but as discussed above from the

contemporaneous email record, Mr. John Calvo concluded, "Nathan[,] This is getting too complicated. I'll let [Lotte] know the group is not available to meet." GIAA's investigation did not uncover any facts supporting the allegation that John Calvo set up a meeting with the Lotte Group, and DFS has not provided any such facts. Indeed, the proposed Lotte meeting was not made part of GVB's trip itinerary.

DFS contends in Alleged Fact No. 2, in part that, "GVB staff, including GVB Korea Marketing Officer Felixberto S. Reyes, expressed concern about the propriety of the meeting in light of the fact that GIAA had put out the RFP and Lotte was known to be an interested proposer." As discussed above, GIAA's investigation revealed that Mr. Reyes stated in a September 18 email to Mr. Denight that meeting with Lotte during the trip "may pose a conflict as a [government] agency at this time, especially for the Governor." Although, a visit to the Lotte's store was included in the Governor's travel itinerary, no such visit was included in GVB's final itinerary.¹¹

DFS contends in Alleged Fact No. 2, in part that, "DFS is also aware of facts indicating that GVB Board Chairman Monte Mesa was at the same time providing consulting services to Lotte or assisting it in obtaining consulting services from third parties in connection with the RFP." GIAA's investigation has revealed that Mr. Mesa was not providing consulting services to Lotte at the time, but he did provide Lotte with names of other people on Guam who might be able to consult for Lotte. Mr. Mesa also informed GIAA that he assisted other proposers in much the same way by providing names of other people on Guam who might be able to be a part of their local teams. Mr. Mesa apparently made such referrals as an ordinary business practice accommodation with no financial interest or connection with any of the proposers.

DFS contends in Alleged Fact No. 3, in part, "During one of the 'free' periods on the delegation's agenda, they were driven to the Lotte department store, where they were met by Lotte staff and escorted to the duty free area on the top floors of the store building. They were personally greeted there by the President of Lotte." GIAA's investigation revealed that most of the Delegates were bused to the Lotte Hotel from the nearby Westin Chosun. Upon arriving at the hotel, they viewed the lobby and were greeted by a representative of the Lotte Department Store. The Delegates went from the hotel to the adjacent department store. The Delegation was accompanied by a Lotte representative while they were shopping. At one point during the visit, the president and the managing director of the business development division of Lotte Duty Free greeted the group. However, Chairman Santos and Director Tolan were not introduced to the president or managing director.

¹¹ It is highly significant that GIAA enjoys the status of a public corporation and autonomous instrumentality. As an autonomous entity, GIAA exercises independence in its concession solicitations and is not required to obtain approvals from the Governor on the final concessionaire. Accordingly, the Governor and GVB have absolutely no involvement in any GIAA concession or procurement matters and they had no say in the procedures or outcome of the specialty retail RFP that is the subject of DFS's Protest.

GIAA has uncovered no evidence that Lotte was aware that the Delegation included GIAA Board members or that there was any discussion of the RFP with Lotte at any time during the Korea trip. GIAA's investigation included interviews of most of the Delegates. No witness has stated that the Airport, the RFP or the specialty retail concession was discussed during this visit to the Lotte Hotel and Department Store. Even Mr. Reyes, who has current close relations with DFS and who on October 1, 2012 gave a recorded statement to a DFS officer, Tak Takano, about the Korea trip, stated that there was "never" any discussion of GIAA or the RFP during the trip. Lotte, through its counsel, has denied that the Lotte representatives knew that there were GIAA Board members in the Delegation and has denied that the RFP or the specialty retail concession was discussed during this visit to the Lotte Hotel and Department Store. This latter statement by Lotte's counsel is consistent with the recollections of all of the witnesses interviewed.

DFS contends in Alleged Fact No. 3, in part, "Shopping cards were provided by Lotte to the members of the delegation, including the GIAA directors." GIAA's investigation revealed that shopping cards offering a twenty percent (20%) discount for purchases made on that day were made available to the Delegates. Chairman Santos and Director Tolan do not recall any shopping cards being distributed. Ms. Bosco recalls Lotte staff distributing flyers, which she declined to accept because she did not understand what they were because they were written in Korean. Mr. Mesa and Mr. Reyes have described these shopping cards as ones similar to shopping cards DFS routinely distributes to customers at its stores in Guam.

DFS has also contended that "valuable Coach products" were given by Lotte to Delegation members, including GIAA board members." (DFS Supplemental Information Letter, dated May 2, 2013 at p. 5.). GIAA's investigation has uncovered no evidence that "valuable Coach products" were given to any Delegates, including the GIAA Board members, nor has DFS provided any such evidence, although it is true that two members of the Delegation did shop at the Coach section of the Lotte Store.

GIAA's investigation revealed that while in the Coach section of the Lotte Department Store, Chairman Santos attempted to purchase a purse for his wife. Upon handing his credit card to the Lotte cashier, he was informed by the cashier that Mr. Mesa "will take care of it." Chairman Santos did not purchase the purse and left the store empty handed. According to Mr. Mesa, he informed Chairman Santos that he would pay for the purse because he was also purchasing an item at the same time, and he understood that Chairman Santos would reimburse him later. Mr. Mesa arranged with Lotte to have the purchased items delivered to the Incheon Airport at the time of the Delegates' departure so that they would not have to carry them and so that Mr. Mesa could investigate whether the same items were cheaper if purchased at the Incheon Airport. According to Mr. Mesa, he delivered the purchased purse to Chairman Santos prior to boarding the return flight to Guam at the Incheon Airport. According to Chairman Santos, Mr. Mesa handed him a bag containing a purse as he boarded the plane, but he did not realize at the time that Mr. Mesa had purchased the purse. Later when he returned to Guam, Chairman Santos was

incorrectly informed that the bag he received from Mr. Mesa was a gift from Lotte. On October 24, 2012, after speaking to Mr. Martinez and being reminded about the pending RFP, Chairman Santos returned the bag with the purse to Mr. Mesa who, in turn, attempted to return the purse to Lotte for a refund.

DFS contends in Alleged Fact No. 3, in part, “Mr. Reyes has also informed us that the delegation members were told by GVB Chairman Mesa to ‘choose whatever you want.’” GIAA’s investigation confirms that Mr. Mesa stated something to the effect of “choose whatever you want.” According to Mr. Mesa, he stated that the Delegates should “choose whatever you want”, and by that he meant that the shopping cards were applicable to anything in the store purchased that day. To take advantage of the discount, a Delegate had to buy something. Ms. Bosco recalls that Mr. Mesa said something to the effect of “choose whatever you want and I’ll pay for it,” but she understood that he was joking.

The trip to the Lotte Hotel and Store lasted about 45 minutes to an hour. When Mr. Mesa returned to the hotel, he received a message that gift bags were being delivered by Lotte for the female members of the Delegation. Neither the gift bags nor the contents carry the Lotte logo. No gift bags were distributed to the male members of the Delegation. Later that evening at the Westin Chosun, Director Tolan encountered Mr. Mesa, who told her he had a gift bag for her, which he would have delivered to her room. Mr. Mesa did not inform Director Tolan that the gift bag was from Lotte. According to Director Tolan, she later found a gift bag of lotions and face creams in her hotel room, which she believed was given by Jeju Air. Apart from Director Tolan, Mr. Mesa had gift bags delivered to the First Lady, Senator Muna-Barnes, and Ms. Bosco. Ms. Bosco recalls that Mr. Reyes distributed the gift bags on the bus on the way to the Incheon airport for the return flight to Guam.

3. Some of the Delegates May Have Visited a Lotte Store During Transit Through Incheon Airport on the Return From the Korea Trip

DFS contends in Alleged Fact No. 4, in part, “On September 27, when the Delegation arrived at Incheon Airport to return to Guam, they were again met by Lotte staff who accompanied them as they checked in and then took them to the Lotte airport duty free store, where they were given gifts. It is also possible that merchandise they had picked out the day before at the Seoul store may have been delivered to them at the airport.” GIAA’s investigation supports the latter part of Alleged Fact No. 4, namely, that “merchandise they [the members of the delegation] had picked out the day before at the Seoul store may have been delivered to them at the airport.” According to Mr. Mesa, he arranged with Lotte to have the items purchased from Coach delivered to the Incheon Airport in time for the Delegates’ departure.

GIAA’s investigation has not uncovered any evidence that Lotte staff took the Delegates to the Lotte airport duty free store, gave them a tour of the store or gave them gifts, and DFS has not

provided any such evidence. Mr. Reyes and Mr. Lee indicated that they believe the Lotte staff met the Delegates at Incheon Airport and took them to the Lotte airport duty free store; however, the Delegates interviewed stated that they were not met at the Incheon Airport by Lotte staff or assisted by Lotte staff, they were not given a tour of the Lotte airport duty free store by Lotte staff, and they were not given gifts at the Lotte airport duty free store.

GIAA's investigation reveals that Chairman Santos did not visit any of the duty free stores at the Incheon airport. Chairman Santos recalls that after checking in and clearing security, he went straight to the gate and waited there with the Governor. GIAA's investigation also reveals that on the way to the gate, Ms. Bosco, stopped by one of the duty free shops to buy snacks. Ms. Bosco recalls that when she entered the store the employees greeted her and followed her around but she thought that "was part of their job description." Additionally, Director Tolan and Senator Barnes also stopped by one of the duty free shops prior to boarding to buy snacks and ginseng. Director Tolan does not recall having any interaction with the duty free store employees apart from the cashier.

The Delegates returned to Guam on September 27, 2012 on the Jeju Air inaugural flight. The fact that they may have received gifts during the Korea trip became public in early November 2012.

DFS contends in Alleged Fact No. 5, "After the fact of these gifts became public, Chairman Santos and Director Tolan, each recognizing the improper appearances their acceptance of the gifts from Lotte had created, reportedly returned the gifts to GVB. They each thereafter recused themselves from participating in the approval of the recommendations of GIAA's evaluation committee as to the ranking of the proposers. To date, there has also been no confirmation that the purportedly returned gifts were, in fact, returned." GIAA's investigation revealed that when Director Tolan learned during a conversation with Mr. Martinez on October 24, 2012 that Lotte was reportedly the source of the gift bag, she returned the gift back to Mr. Denight that day and thereafter abstained from participating in the discussion and vote on the RFP. GIAA has confirmed that the gift bag was, in fact, returned to GVB. Chairman Santos returned the purse to Mr. Mesa and Chairman Santos likewise abstained from participating in the discussion and voting on the RFP. Mr. Mesa informed GIAA that he attempted to return the purse to Lotte for a refund.

DFS contends in Alleged Fact No. 6 in part that, "[T]he value of the gifts provided to GIAA directors exceeded \$25." GIAA's investigation revealed that only Director Tolan received a gift bag from GVB, and Director Tolan returned it upon learning that Lotte was the source of the gift bag. An inventory of one of the gift bags indicates that the value of the contents is around \$200.

DFS contends in Alleged Fact No. 7 that, "Following the GIAA meeting at which Chairman Santos and Director Tolan announced their decisions to recuse themselves, Lotte's Guam legal counsel, Cesar Cabot, publicly admitted that Lotte provided gifts to the GVB delegation, but claimed that Lotte was not aware of the fact that GIAA board members were part of the GVB

delegation.” GIAA’s investigation confirms that Chairman Santos and Director Tolan announced their decisions to abstain from engaging in discussions regarding the RFP or voting on the RFP during the March 28, 2013 Board meeting. GIAA’s investigation concluded that Lotte provided gift bags to GVB and that GVB in turn provided the gift bags to all of the female members of the Delegation, including Director Tolan, and that discount cards were made available to the Delegates while they were at the Lotte Department Store. However, GIAA’s investigation uncovered no evidence that Chairman Santos or Director Tolan were aware of the discount cards or used them, or that Director Tolan was aware that the gift bag she received came from Lotte. And, as stated above, GIAA further found no evidence that Lotte was aware that GIAA Board members were part of the Delegation. DFS has not provided any evidence that contradicts the facts uncovered by GIAA’s investigation.

4. Lotte Did Not Communicate with Members of GIAA’s Board in Regard to the RFP in Alleged Violation of the Single Point of Contact Restriction in the RFP

The RFP provides in relevant part:

From the date this RFP is issued until final award, **Proposers shall not communicate with any GIAA staff, Board Members or officials regarding this RFP**, except for the single point of contact for this RFP. Any unauthorized contact may disqualify the Proposer from further consideration.

See RFP at Section II.C. (“Single Point of Contact”) at p.3 (emphasis in original). The language of Part II.C of the RFP expressly provides that this section applies only to communications *regarding* the RFP. “Regarding” means “concerning,” “in reference to,” or “with respect to.” *Webster’s Dictionary* (2011). In other words, there must be some nexus between the communications at issue and the RFP.

GIAA’s investigation concluded that none of the Lotte representatives ever mentioned or discussed the RFP during the Korea trip. Both Director Tolan and Chairman Santos stated that they did not discuss the RFP with anyone at Lotte during the trip. DFS’s principal witness, Felix Reyes, confirmed in an interview recorded by Mr. Takano on October 1, 2012 that the GIAA RFP was “never” discussed during the Korea trip. As for DFS’s allegation that “Lotte took them to the Lotte airport duty free store, where [the Delegates] were given gifts,” GIAA’s investigation does not support this contention. Director Santos stated he spent most, if not all, of his time at the terminal gate and did not visit the Lotte airport store. Director Tolan stated that although she visited the Lotte store at Incheon Airport to purchase ginseng and cookies, her visit was last-minute, spontaneous, and hurried.

Without any facts to support DFS's contention that Lotte communicated with the Directors regarding the RFP, there is no evidence to establish a violation of the single point of contact restriction in the RFP.

5. Lotte Did Not Communicate with Members of the Government of Guam in connection with the RFP in Alleged Violation of Guam's Procurement Law

Based upon GIAA's investigation, no evidence was uncovered establishing that Lotte violated Guam's Procurement Law. Title 5, Chapter 5 of the Guam Code Annotated governs the rules on the procurement process, including the proper ethical standards of conduct. *See* 5 GCA §5001 *et seq.* (2005). Sections 5030 and 5601 set forth, respectively, definitions applicable to the Chapter, including a definition of "employee"¹² and "gratuity."¹³ 5 GCA §§ 5030, 5601 (2005). Subsection 5630(a) describes the gratuity statute, which requires a showing that something of value was offered, given, or promised to a government employee (as to the giver), or sought, demanded, accepted, or agreed to be accepted by a government employee (as to the recipient), "in connection with" a "decision, approval, disapproval, [or] recommendation . . . pertaining to . . . any solicitation or proposal."¹⁴ 5 GCA § 5630(a).

Like Part II.C of the RFP, a breach of § 5630(a) requires that something of value be offered "in connection with" the RFP. *See In the Appeal of Latte Treatment Center, Inc.*, OPA-PA-08-008

¹² Employee is defined as "an individual drawing a salary from a governmental body, whether elected or not, and any noncompensated individual performing personal services for any governmental body." 5 GCA § 5030.

¹³ Gratuity is a "payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received," and may include any tangible benefit in the nature of a gift. 5 GCA § 5601(f) (2005); *see also* 2 GAR § 11101(6) (2005). Nominal value is "actual worth or actual cost, whichever is greater, which does not exceed \$25 individually or cumulatively. 2 GAR § 11101(6).

¹⁴ Section 5630(a) reads in its entirety:

(a) Gratuities. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract; or to any solicitation or proposal therefor.

5 GCA § 5630(a).

(noting that a breach of the ethical standard of conduct requires a connection between the alleged transaction and the RFP). GIAA's investigation does not support a finding of any ethical violation by Lotte.

To show that Lotte violated the gratuity statute 5 GCA § 5630(a), DFS must show that Lotte gave the gifts and discounts "in connection" with the award of the RFP. 5 GCA § 5630(a). The GVB-organized trip was planned to celebrate the inaugural flight of Jeju Air from Seoul to Guam and the GVB planned the trip without any connection to the RFP process. Mr. Denight contacted Lotte to inform it that the Delegation, including the Governor and First Lady of Guam, were intending to visit the store. The Lotte representatives did not mention or refer to the RFP during the tour of the store. Lotte gave the gift bags to GVB, which, in turn, distributed the gift bags to all of the female members of the Delegation. Chairman Santos and Director Tolan were not singled out.

Based upon its investigation, GIAA has found no evidence that any Lotte representative communicated with either Chairman Santos or Director Tolan about the RFP during the Korea trip or gave them anything of value "in connection with" the RFP. Accordingly, Lotte did not violate the ethical standards set forth in Section 5630(a).

6. Lotte Did Not Supply a False Affidavit in Support of Its Proposal

DFS contends in Alleged Fact No. 8, "As part of its proposal, Lotte was required to submit various affidavits. One of those affidavits required Lotte to attest, under penalty of perjury, that neither Lotte, nor any of its officers, representatives, agents, subcontractors or employees had offered, given or agreed to give any Government of Guam employee any payment, gift, or other gratuity in connection with its proposal. The giving of gifts by Lotte, and the circumstances surrounding those gifts, indicate that Lotte's sworn affidavit was false." As stated above, GIAA's investigation reveals no evidence that the gift bags distributed to the female Delegation members or the discount cards made available at the Lotte store were given in connection with Lotte's proposal. Indeed, at the time of the Korea trip, the proposal submission deadline had not yet passed. Further, there is no evidence that during the trip, and in particular during the visit to the Lotte store, that the RFP was discussed; witnesses have confirmed that neither Director Santos nor Director Tolan were introduced to any employee representatives; and there is no evidence that Lotte knew that GIAA Board members were part of the Delegation. Accordingly, there is no evidence supporting DFS Alleged Fact No. 8, and DFS has not provided any such evidence.

7. GIAA Finds that the Shopping Cards and Gift Bags Were Not Gratuities or Favors to Guam in Violation of Guam's Procurement Law

DFS contends in Alleged Fact No. 9:

Similarly, Lotte was required to swear, under penalty of perjury, that neither it nor any of its officers, representatives, agents, subcontractors or employees had knowingly influenced any government of Guam employee to breach any of the ethical standards set forth in 5 GCA, Chapter 5, Article 11. 5 GCA 5630(d) provides that:

It shall be a breach of ethical standards for any person who is or may become a contractor, a subcontractor under a contract to the prime contractor or higher tier contractor, or any person associated therewith, to offer, give or agree to give any employee or agent of the Territory or for any employee or agent of the Territory to solicit or accept from any such person or entity or agent thereof, a favor or gratuity on behalf of the Territory whether or not such favor or gratuity may be considered a reimbursable expense of the Territory, during the pendency of any matter related to procurement, including contract performance warranty periods. [italics supplied]

The giving of valuable gifts and other gratuities to government officials during the pendency of the RFP falls squarely within this proscription of Section 5630(d), notwithstanding Lotte's sworn affidavit to the contrary.

DFS cites to 5 GCA § 5630(d) to support its contention that Lotte has breached the ethical standards and provided a false affidavit in support of its proposal. However, based upon its independent analysis, GIAA has found no evidence establishing that Lotte violated the “favors to the Territory” statute found at § 5630(d). In interpreting § 5630(d), it is a cardinal rule that “the plain language of [the] statute must be the starting point. When the plain reading of a statute is ‘clear on its face’ and yields to an unambiguous definition, [courts] will not look past that plain reading.” (*Guam Resorts, Inc. v. G.C. Corp.*, 2012 Guam 13 ¶ 7.)

Based on a plain reading of §5630(d), a breach requires a showing that a potential or existing contractor “offer[ed], g[a]ve, or agree[d] to give any employee or agent of the Territory . . . a favor or gratuity *on behalf of the Territory* whether or not such favor or gratuity may be considered a reimbursable expense of the Territory, during the pendency of any matter related to

procurement. . . .” (5 G.C.A. § 5630(d) (emphasis added).) While DFS ignores its significance, GIAA believes that the crux of the provision centers on the phrase “on behalf of.”

Neither the Procurement Law nor the Procurement Regulations provide a definition of “on behalf of.” “When a statute does not define a term, it is appropriate for the reviewing court to ‘start with the assumption that the legislative purpose is expressed by the ordinary meaning of the words used.’” (*Guam Resorts, Inc.*, 2012 Guam 13 ¶ 10 (quoting *Russello v. United States*, 464 U.S. 16, 21 (1983) (internal quotation marks and citations omitted))

The dictionary defines “on behalf of” as “in the interest of; as a representative of,” or “for the benefit of.” *Webster’s Third New Int’l Dictionary* 198 (2002); see also *Madden v. Cowen & Co.*, 576 F.3d 957, 973 (9th Cir. 2009) (relying on *Webster’s* in expounding the meaning of “on behalf of.”).

A plain reading of §5630(d) provides that the statute proscribes circumstances where an existing or potential contractor gives, offers, or agrees to give an employee or agent of the government a favor or gratuity “on behalf of” the government. Section 5630(d) is triggered when the government itself is the beneficiary of the gift, rather than the individual or entity who accepts it on its behalf. Stated another way, the favor or gratuity at issue has to benefit the government.

DFS’s Protest is devoid of evidence that the “gratuity” in the form of shopping cards and gift bags were given by Lotte or accepted by the members of the Delegates “on behalf of the Territory.” DFS seems to suggest that § 5630(d) applies any time a favor or gratuity is given to a public employee so long as such exchange occurs during the pendency of a procurement.

GIAA, however, is unconvinced that § 5630(d) applies in such manner. If DFS’s interpretation of §5630(d) were correct, then § 5630(a) would virtually be meaningless and useless. In other words, a violation of §5630(a), which occurs when a gratuity is given to a public employee “in connection with” an RFP, is also a violation of §5630(d) since such exchange would have also been made “during the pendency of any matter related to procurement.”

“As a rule of statutory construction, a statute should be construed in such a way that ‘no clause, sentence, or word shall be superfluous, void, or insignificant.’” (*Guam Resorts, Inc.*, 2012 Guam 13 ¶ 15.)

GIAA’s interpretation of §5630(d) is supported by the OPA decision *Latte Treatment*, a case factually similar to the present case. (See *In the Appeal of Latte Treatment Center, Inc.*, OPA-PA-08-008.) As discussed above, *Latte Treatment* involved an evaluator of an RFP who was accused of receiving a gratuity in the form of airline tickets and hotel accommodations from a proposer. (*Id.* at 12-13.) The evaluator eventually reimbursed the proposer for hotel accommodations; however, such repayment was not made until after her trip and after the proposer’s payment was publicized by local news. (*Id.* at 13.) In analyzing whether an ethical

violation had occurred, the Office of the Public Auditor (“OPA”) relied on the gratuity statute §5630(a). Notably, in *Latte Treatment*, neither the protestor nor the OPA questioned whether §5630(d) applied to the facts of the case. Section 5630(d) did not apply to *Latte Treatment* and it does not apply here.

Having considered and investigated DFS’s Alleged Facts, GIAA does not find any evidence to conclude that Lotte is not a responsible proposer or that Lotte is not the most qualified proposer.

D. GIAA Denies the Protest Because It Finds That No Irregularities Occurred in the Proposal Process that Allegedly Compromised the Integrity of the Process

DFS contends that GIAA was not authorized to adopt a procedure of designating the proposers with a letter (A, B, C or D) at the public meeting at which the Board voted on the most qualified proposer. To the contrary, Section 3114(h) of Guam’s Procurement laws and regulations, which are applicable to this procurement by virtue of 12 G.C.A. § 1203.1, prohibit the release of the names of the proposers. And, moreover, the use of an anonymous process is customary and standard in other procurement regimes.

1. Guam’s Procurement Regulations Prohibit GIAA From Revealing Information About the Proposals Before an Award Has Been Made

In general Guam government meetings must be open to the public. Under the Open Government Law:

Every meeting of a public agency *shall* be open and public, and any person *shall* be permitted to attend any public agency meeting, *except* as otherwise provided in this Chapter. A member of the public *shall not* be required, as a condition to attendance at a meeting of a public agency, to register his name and other information, to complete a questionnaire or otherwise to fulfill any condition precedent to his attendance.

5 G.C.A. § 8103(a) (2005) (emphasis in original). Because GIAA Board of Directors’ regular meetings fall within § 8103(a) of the Open Government Law, all discussions during such meetings must be open and public, unless properly excluded under the provisions of the Open Government Law governing executive sessions.

Notwithstanding that all meetings by government agencies must be open and public, the Procurement Regulations prohibit the release of certain information regarding a request for proposal prior to award of contract. Section 3114(h) of the Guam Procurement Regulations provides as follows with regard to the receipt and handling of proposals:

(1) Registration. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of two or more procurement officials. A Register of Proposals shall be established which shall include for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The Register of Proposals shall be opened to public inspection only after award of the contract. Proposals of offerors who are not awarded the contract shall not be opened to public inspection.

2 Guam Admin. R. & Regs. § 3114(h)(1) (2005); *see also Education Financing Foundation, OPA-PA-09-007* (Decision and Order Re Purchasing Agency Motion for Protective Order) (ordering that proposals submitted are not open to public inspection prior to award and finding that such non-disclosure is necessary to preserve the integrity of the procurement process while contract negotiations are still pending).

Because the Register of Proposals includes all information regarding the proposals, including the identity of each proposer, and because no award has been made under the RFP, GIAA, as the purchasing agency, must take all necessary precautions to avoid the disclosure of non-public information prior to award, to protect the integrity of the procurement process, and to avoid prejudice to any proposer that may be caused by inadvertent disclosure. The designation of a letter (A, B, C, or D), which was randomly assigned by lottery by GIAA's Supply Management Administrator and legal counsel for identification purposes is an appropriate way to protect the identity of the proposers and to avoid public disclosure of information prohibited from disclosure under 2 GAR § 3114(h)(1).

2. There is No Requirement in Guam's Procurement Laws or Regulations That the Proposers Be Identified to the Board Members and Anonymity is Permitted Under Federal Procurement Law

Research reveals no requirement under Guam's procurement law or regulations that proposers be identified when the Board members vote for the most qualified proposer, and in analogous procurement regimes anonymity is permitted. For example, in federal procurements, purchasing agencies have employed the method of assigning an identifying number to each offeror prior to the submission of offers to protect the offerors' identities from the evaluation team or the selection board prior to award of contract. *See, e.g., Joseph Legat Architects, B-187160, 1977 WL 11752* (Comp. Gen. Dec. 13, 1977); *Alpha Marine Services, LLC, B-292511.4, 2004 WL 937259* (Comp. Gen. Mar. 22, 2004).

In *Joseph Legat Architects*, the U.S. Comptroller General noted that there is no requirement in the applicable statute that the identities of offerors in a negotiated procurement be withheld from an agency's evaluation and selection personnel. *Id.* at 20. Rather, the internal policy was implemented by the Army because "maintaining offerors' anonymity in the selection board proceedings to the extent possible was considered a desirable procedure." *Id.* Nevertheless, even if the members of the evaluation team had knowledge of the offerors' actual identities, it would not mean that the award was improper. *Id.* at 21.

Just as the Army in *Joseph Legat Architects* reasonably believed that identifying offerors by number would give them some level of protection, the letter designation procedure used in this case, while not explicitly required by the Procurement Law and Regulations, similarly protected the proposers as required by 2 GAR § 3114(h)(1).

3. Director Gerber Did Not Have a Conflict of Interest That Precluded Him From Voting on the RFP

DFS alleges that it has received information that the sister of one of the three Directors who voted, Director Martin Gerber, reportedly has a business relationship with Lotte. DFS further contends that if the identity of Lotte had been revealed, as it would have under normal circumstances, Director Gerber would presumably have been obliged to recuse himself. Based on its investigation, GIAA has not uncovered any evidence to support DFS's contention and DFS has not provided any such evidence.

In its Protest, DFS refers to Director Gerber's sister Janet Calvo,¹⁵ who is a realtor on Guam. GIAA has interviewed Director Gerber and Mrs. Calvo and has learned that Mrs. Calvo did not have a business relationship with Lotte and did not receive a commission from Lotte. She did not serve as Lotte's agent in its recent lease of the Aurora Hotel, as DFS implies. Director Gerber also reported that he and the other Directors were informed of the proposers' identities and were requested to disclose any conflicts of interest. Even if GIAA had revealed Lotte's identity at the meeting, Director Gerber would not have been required to recuse himself. The Board therefore possessed a quorum on March 28 and on April 12, rendering its vote lawful.

DFS also alleges that Director Gerber was seen having lunch with Anthony Sgro on Monday, April 15, 2013 at the Chili's Restaurant in Tamuning and that Mr. Sgro is known to be connected with Lotte. DFS asserts that such a contact "was improper and yet another impropriety on the part of Lotte." Director Gerber has informed GIAA that at no time during his lunch with Mr.

¹⁵ DFS has also pointed out that Mrs. Calvo's husband is John Calvo, who DFS refers to as "the person with 'connections to Lotte' who first suggested setting up a meeting with the Lotte group." GIAA has interviewed Mr. Calvo and has learned that he does not have any business relationship with Lotte. Mr. Calvo characterized his "connections" with Lotte as being limited to an introduction he made between Lotte and Tony Sgro after Mr. Calvo himself was introduced to Lotte by Eric Wong (whose company distributes products to Lotte in Singapore).

Sgro did he discuss the RFP with Mr. Sgro. The single point of contact rule applies to matters relating to the RFP, and since no matters relating to the RFP were discussed during Director Gerber's lunch with Mr. Sgro, there was nothing improper about it.¹⁶ Mr. Gerber has also informed GIAA that he had drinks in Manila with Joann Camacho, known to be employed by DFS and her husband approximately two months before his lunch with Mr. Sgro – and thus before the April 12 vote on the RFP -- but he did not discuss the RFP with Ms. Camacho, either.

GIAA's investigation has not uncovered any evidence that Director Gerber had a conflict of interest and DFS has not provided GIAA any such evidence.

E. GIAA Denies the Protest Because the Board Was Justified in Relying Upon the Recommendations of Its Evaluation Committee and the Report of its Independent Consultant

In exercising its powers, an agency's board may rely on the recommendations of others, provided that such reliance was made honestly and in good faith. For instance, in *Paul Goldman, Inc. v. Burns*, 283 A.2d 673 (R.I. 1971), the Supreme Court of Rhode Island held that although the city adopted a policy of awarding all contracts to the lowest responsible bidder, the city purchasing board acted within its discretion in accepting the slightly higher of two bids for sale of 13 motor vehicles to be used by the police department, though both bids satisfied the advertisement specifications, where the board in good faith accepted the police chief's recommendation that the slightly more expensive vehicles were better suited to his department's use. *Id.* at 676. (“[W]e will not interfere with the award absent a showing that the board acted corruptly or in bad faith, or so unreasonably or arbitrarily as to be guilty of a palpable abuse of discretion”).

Likewise, in *Jefferson County Drainage Dist. No. 6 v. Lower Neches Valley Auth.*, 876 S.W.2d 940, 955-56 (Tex. App. 1994), the Texas Court of Appeals found that a municipal's board of directors did not act arbitrarily or capriciously when they relied on their finance committee's recommendations, financial reports, engineers' reports, joint discussions and meetings with the directors of another, and two opinions by legal counsel in deciding which projects to fund. *Id.* at 956; *see also Monarch Constr. Co. v. Ohio Sch. Facilities Comm.*, 779 N.E.2d 844, 852 (Ohio App. 2002) (noting that school superintendent justifiably relied on the construction manager in recommending that school district, through its school board, accept manager's recommendation that business' bid be accepted and that company be deemed a nonresponsible bidder, and school board was justified in relying on recommendations of its superintendent, and district appropriately, and in accordance with law, through resolutions adopted at open meetings,

¹⁶ GIAA's investigation also revealed that Mr. Sgro requested of John Calvo that Lotte representatives on Guam be allowed to use the videoconferencing facilities at Mid-Pac to hold meetings in advance of submitting its proposal and Mr. Calvo acceded to this request. GIAA finds that Mid-Pac's acquiescence to Lotte's request did not breach the Guam Procurement Law or regulations, or any ethical rules relating to the RFP. Indeed, Mid-Pac has agreed in writing to supply which ever company is awarded the specialty retail concession.

determined company to be nonresponsible bidder and voted to award school construction contract to business).

Here, the non-abstaining GIAA Board members were given an opportunity prior to the March 28, 2013 Board meeting to review all the proposals with identities of the proposers fully disclosed therein, and to review and the analysis conducted by Leigh Fisher, GIAA's independent consultant, on the financial components of the proposals. During the meeting, the Directors were also presented with information on the RFP and the evaluation process and the evaluation criteria used to score each proposal. GIAA Directors could ask, and in fact did ask, questions regarding the evaluation process. Therefore, the Directors' decision based on the recommendation for award was reasonable and proper.

In exercising the power to confirm or reject the ranking results and recommendation of the Evaluation Committee, the Board must not act arbitrarily or capriciously. *See, e.g., Ne. Mississippi Cmty. Coll. Dist. v. Vanderheyden Const. Co.*, 800 F. Supp. 1400, 1404 (N.D. Miss. 1992) ("When a board of directors recommends acceptance of a bid and thereafter rejects it because of a possible threatened lawsuit or the potential of future legal action by another bidder, then the board has acted arbitrarily and capriciously and rescission is ineffective."); *see also Butler v. Federal Way School District No. 210*, 562 P.2d 271, 273 (Wash. App. 1977) (board of directors "arbitrarily and capriciously rejected" plaintiff's "low bid because of a possible threatened lawsuit by Foremost Foods", the second lowest bidder; in second round of bids, complaining bidder Foremost Foods became low bidder.), *overruled on other grounds, Peerless Food Products, Inc. v. State of Washington*, 835 P.2d 1012 (Wash. 1992).

Presenting each proposer by letter for approval in a public meeting allows the Board members to focus on the evaluation process itself and how the evaluators arrived at their rankings, rather than on the identity of the proposers. This not only alleviates the pressure on the Directors for claims of bias or impropriety, but also "ensure[s] the fair and equitable treatment of all persons who deal with the procurement system. . . ." 5 GCA § 5001. Because the non-abstaining Directors relied on the recommendations and rankings of the Evaluation Committee in good faith, GIAA denies the Protest.

F. DFS's Claim that Any Contract Executed by GIAA and Lotte Would be "Voidable" Cannot Form the Basis of a Protest

DFS argues in part that, "Lotte's proposal should be disqualified because any contract between Lotte and GIAA shall be voidable under Section 15207 of 4 GCA, Ch. 15 because the contract would have been entered into in violation of the laws of Guam governing Ethics and Government Employees." Section 15207 does not support DFS's argument.

The right to void a contract with GIAA under Section 15207 is held exclusively by the Territory. *See* 4 GCA § 15207 ("any contract entered into by the Territory in violation of this Chapter, is

voidable by the *Territory*.... [emphasis added]”). GIAA may only void a contract if the Guam Ethics Commission has found that the contract violated Title 4, Chapter 15. *See* 4 GCA § 15401 (granting the Guam Ethics Commission jurisdiction to consider charges of alleged violations of Chapter 15). Section 15207 states that GIAA is required to take into account “the interest of third parties who may be damaged” by “any act to void a contract pursuant to this Section.” GIAA therefore is required to use discretion in voiding contracts under Section 15207. GIAA has no obligation to DFS to exercise its rights under Section 15207, DFS lacks standing to assert that a contract between Lotte and GIAA should be voided under Section 15207 and GIAA finds no reason at this time to exercise its discretion to void any contract eventually executed with Lotte.

III. GIAA Rejects DFS’s Claims That GIAA’s Lawyers Have a Conflict of Interest

In a final attempt to postpone and derail the procurement process and interfere with the award of the specialty retail concessionaire to the proposer unanimously found most qualified, DFS raised in a letter to GIAA dated May 7, 2013, that GIAA’s lawyers, and specifically Eduardo A. “Champ” Calvo and his law firm, Calvo Fisher & Jacob LLP (the “Firm”) have a conflict of interest that precludes them from representing GIAA in the procurement process or in the investigation of DFS’s Protest. Because GIAA has not found any facts to support DFS’s contention, GIAA rejects its claim that Champ Calvo or his Firm have a conflict of interest.

A. Janet Calvo Did Not and Does Not Have a Business Relationship With Lotte

As discussed above, DFS alleges that it has received information that Janet Gerber Calvo, the sister of GIAA Director Martin Gerber, reportedly has a business relationship with Lotte. Based on its investigation, GIAA has not uncovered any evidence to support DFS’s contention and DFS has not provided any such evidence.

GIAA has interviewed Ms. Calvo and has learned that she does not have, and has never had, any business relationship with Lotte. Ms. Calvo is a realtor with Today’s Realty. Sometime in the fall of 2012 Today’s Realty became aware that Lotte was considering purchasing property in Tumon. When Lotte representatives were on Guam in July or August of 2012, one of the Today’s Realty agents, Anthony Godwin, met with Lotte and showed them some properties in Tumon, including a property owned by the Jose family near the Hyatt Regency Guam, and also a property next to the Tumon Sands Plaza. The Tumon Sands property was listed with another Guam agency.

Ms. Calvo sometimes gets involved in projects with her colleague Anthony Godwin, but when Lotte was on Guam to visit properties she was off-island. Ms. Calvo had nothing to do with Mr. Godwin’s showing of properties to Lotte.

Like any other real estate firm on Guam, Today's Realty attempts to enter into agency agreements with companies interested in purchasing Guam property. When Today's provides a service to these companies by showing them properties, Today's tries to obtain compensation through agency agreements. Anthony Godwin asked Lotte to sign an agency agreement with Today's, but Lotte did not agree to sign one and never signed one.

Neither Today's as an agency nor Ms. Calvo individually had anything to do with Lotte's recent lease of the Aurora Hotel property in Tumon. Neither Today's nor Ms. Calvo individually ever showed the Aurora Hotel property to Lotte. Ms. Calvo has never received any commission or any other compensation of any kind from Lotte and she has never had any business relationship with Lotte. She has no prospect of receiving any commission or compensation from Lotte and no prospect of any business relationship with Lotte.

GIAA therefore concludes that there is no connection between Janet Calvo and Lotte and, by implication, Champ Calvo.

B. Neither John Calvo nor Mid Pacific Distributors, Inc. Has a Business Relationship With Lotte

DFS has also pointed out that Mrs. Calvo's brother is John Calvo, an owner and manager of Mid Pacific Distributors, Inc. ("Mid-Pac"), who DFS refers to as "the person with 'connections to Lotte' who first suggested setting up a meeting with the Lotte group." GIAA's investigation did not uncover any existing business relationship between Lotte and Mid-Pac or between Lotte and John Calvo and DFS has not provided any such evidence.

GIAA has interviewed Mr. Calvo and has learned that he does not have any business relationship with Lotte. Mr. Calvo characterized his "connections" with Lotte as being limited to an introduction he made between Lotte and Tony Sgro after Mr. Calvo himself was introduced to Lotte by Eric Wong (whose company distributed products to Lotte in Singapore).

Although Mr. Calvo's company, Mid-Pac, provided a letter to GIAA supporting Lotte's response to the RFP, Mid-Pac did the same for three of the four proposers. Indeed, on August 1, 2012, Lina Chan of DFS wrote Mid-Pac on August 1, 2012, and specifically requested that Mid-Pac write a letter to GIAA supporting its proposal and even instructed Mid-Pac on the contents of the letter.

GIAA is aware that regardless of who successfully bid on the RFP, Mid-Pac intended to supply products to the winner. On February 14, 2013, Pedro R. Martinez, as GIAA's Acting General Manager, wrote a letter to Mid-Pac inquiring whether Mid-Pac was committed to being the exclusive provider of its liquor and tobacco product brands to whichever company became GIAA's specialty retail concessionaire. On February 21, Mid-Pac responded that it was committed to providing its liquor and tobacco products from the brands it represents on an

exclusive basis to whoever was awarded the GIAA specialty retail concession and that Mid-Pac was supplying the existing concessionaire (DFS) on that basis.

GIAA concludes that there is no financial connection between Mid-Pac and Lotte and, by implication, no connection between Lotte and Champ Calvo.

C. The Lotte Store Visit Was Not Arranged in Advance by John Calvo or Nathan Denight

DFS contends, "Arrangements were made for the GVB delegation to visit both the downtown store of Lotte in Seoul, where we understand the GIAA directors were introduced to the Lotte president, and Lotte's shop at the Incheon airport. The downtown store visit was arranged on the urging of John T. Calvo, through Nathan Denight, the GVB Deputy Manager." GIAA's investigation did not uncover any arrangement for the Delegates to visit the Lotte Hotel and Lotte Department Store in Seoul and DFS has not provided any facts to the contrary.

DFS relies heavily upon the September 18 email exchange among GVB's Deputy General Manager, Nathan Denight, GVB employee Felix Reyes, John Calvo and Joann Camacho, discussed above. In the email, John Calvo expressly stated, "Nathan[,] This is getting too complicated. I'll let [Lotte] know the group is not available to meet." The proposed Lotte meeting was not made part of the final Korea trip itinerary.

GIAA's investigation has not uncovered any evidence that the Delegates' trip to the Lotte Department Store was planned in advance, or any evidence that anything occurring on the Korea trip affected or could have affected the outcome of the RFP evaluation process and vote.

D. Champ Calvo and His Firm Do Not Have A Conflict of Interest.

DFS contends that Champ Calvo has a conflict of interest because of his relationship to John Calvo and his ownership interest in Mid-Pac. As described above, GIAA's investigation has not uncovered any personal interest of Champ Calvo in the outcome of the specialty retail RFP. Neither Champ Calvo nor his Firm represents Lotte or any of the other proposers.

As detailed above, Mid-Pac's written letter of offer of support to Lotte is not unique to Lotte: Mid-Pac was approached by three of the four proposers with requests for letters of support, including DFS. Mid-Pac drafted letters of support for all three, but only Lotte picked up its letter.

Mid-Pac (and, by extension, its owners) was indifferent to the winner of the RFP, because regardless of who GIAA chose, Mid-Pac intended to supply the winner with products to sell duty free at the Airport. Mid-Pac's intention was confirmed during the proposal process, when GIAA wrote a letter to Mid-Pac dated February 15, 2013, asking whether it would supply products to

whichever proposer was awarded the specialty retail concession. In a letter dated February 21, 2013, Mid-Pac responded and stated that it would supply its products to whichever proposer was awarded the concession.

Because Champ Calvo does not have a personal interest in the outcome of the RFP, neither Champ Calvo nor his Firm has a conflict of interest. Absent a conflict, there is no prohibition on the participation by Champ Calvo or his Firm in the investigation of DFS's Protest.

E. No Other Reasons Exist to Postpone the Benefits Promised to GIAA and the People of Guam by Lotte's Proposal

GIAA's investigation uncovered no other items of value that were given to any GIAA official originating from anyone affiliated with Lotte, and all GIAA officials conducted themselves in such a manner to foster public confidence in the integrity of GIAA.¹⁷

IV. The Protest Is Frivolous and Was Made Solely to Disrupt the Procurement Process

The Procurement Law authorizes the Public Auditor to assess reasonable attorney's fees in addition to costs against an unsuccessful protester where it is found that the protest was made "fraudulently, frivolously or solely to disrupt the procurement process." 5 G.C.A. § 5425(h)(1). "The Public Auditor shall have the power to assess reasonable costs including reasonable attorney fees incurred by the government, including its autonomous agencies and public corporations, against a protestant upon its finding that the protest was made fraudulently, frivolously or solely to disrupt the procurement process." "Frivolous" mean "groundless, without justification, and without merit." *People of Guam v. Carl T.C. Gutierrez*, Sup. Ct. Case No. CRA 04-0004, Order (May 5, 2005); *see also Harrah's Club v. Van Blitter*, 902 F.2d 774, 777 (9th Cir. 1990) ("A frivolous appeal is defined as one in which the result is obvious, or where the appellants' claims are utterly meritless"). The Regulations enacted pursuant to the Guam Procurement Law also authorize the Executive Manager of GIAA to assess GIAA's reasonable costs against an unsuccessful protester where it is found that the protest was made "fraudulently, frivolously or solely to disrupt the procurement process." 2 G.A.R. § 9101(g)(2).

DFS waited until GIAA announced that Lotte was the most qualified proposer to issue its Protest despite having known of the Alleged Facts supporting its Protest over six months before. As noted above, many of the Alleged Facts were established to be inaccurate during GIAA's initial investigation in November 2012, and DFS's arguments with respect to those Alleged Facts lack merit. Waiting until now to issue its Protest – only after being disappointed in GIAA's decision – has further harmed GIAA by unnecessarily delaying the award of the new concession contract.

¹⁷ GIAA is not aware of any facts giving rise to jurisdiction of the United States Attorney or any reason to postpone an award pending an investigation of the proposal process by the United States Attorney and DFS has not identified any federal laws that it claims were violated. Therefore, there is no justification to delay the award pending any other investigation.

Notably, DFS has not presented any evidence that would call into question GIAA's conclusion that Lotte's proposal is the best offer for GIAA, which in turn makes it the proposal that most benefits the people of Guam. Given these facts, DFS's alleged concerns about the anonymous letter designation and GIAA Board approval appear to be pretext to disrupt the procurement process and delay the award of the new concession contract to Lotte.

Since DFS's Protest is without merit and was made solely to disrupt the procurement process, the Executive Manager hereby exercises the authority to assess GIAA's reasonable costs against DFS. Moreover, if DFS appeals GIAA's decision and the Public Auditor agrees that DFS's protest is frivolous and made "solely to disrupt the procurement process," GIAA intends to request that the Public Auditor exercise its authority to order DFS to pay GIAA's reasonable attorneys' fees and costs.

V. CONCLUSION

DFS's Protest is denied and GIAA deems it was frivolously made and solely to disrupt the procurement process. DFS has held the lucrative specialty retail concession at the Airport exclusively for over 30 years and in past RFPs has been the only retailer to offer a proposal. With this RFP, DFS faced for the first time competition in the bid for the concession.

GIAA implemented an RFP procedure that was scrupulously fair to all of the proposers and designed to ensure that the most qualified Proposer, who will deliver the greatest benefits to the Airport and the People of Guam, was chosen. The procedure implemented by GIAA achieved its purpose. An independent, knowledgeable and unbiased evaluation committee, which relied on the expert advice of a world-wide aviation consulting firm, evaluated the proposals and unanimously selected Lotte as the most qualified proposer. DFS was not even ranked second of four.

To ensure the integrity of the procurement process and to remove any hint of influence by one or more of the proposers, GIAA presented the evaluation committee's rankings with letter designations so that the Board would not be swayed to vote based upon the identity of the proposer, as opposed to the benefits offered by its proposal. The Board, acting thoughtfully and with due deliberation, voted to adopt the evaluation committee's recommendation and it likewise found Lotte to be the most qualified proposer.

GIAA has investigated DFS's Protest and concludes that there is no justification to delay the award of the concession to Lotte so that GIAA will start to realize the significant benefits of its concession at the airport. Unless immediate action is taken, the Airport will lose hundreds of thousands of dollars every month in revenue it could earn from Lotte's proposal.

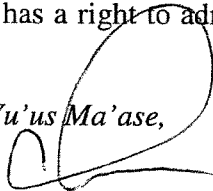
DFS is understandably disappointed in this result, but its disappointment does not justify its filing of a time-barred, frivolous and meritless Protest. DFS shall pay the costs incurred by

Mr. William J. Blair
May 17, 2013
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GIAA based on GIAA's finding that the protest was made frivolously and solely to disrupt the procurement process. *See* 2 G.A.R. § 9101(g)(2). A memorandum of costs will be delivered to DFS within ten (10) days of the date of this letter.

Pursuant to 5 G.C.A. § 5425(c), DFS is advised that it has a right to administrative and judicial review.

Si Yu'us Ma'ase,



Charles H. Ada II
Executive Manager