

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



FAX

To:	Ms. Pilar Laguaña President & CEO Guam Visitors Bureau 401 Pale San Vitores Road Tumon, Guam 96913 Phone: (671) 646-5278 Fax: (671) 646-3917/646-8861 Thomas J. Fisher, Esq. (Attorney for GVB) Fisher & Associates 167 East Marine Corp. Drive Hagåtña, Guam 96910 Phone: (671) 472-1131 Fax: (671) 472-2886	From:	Anthony Camacho Hearing Officer Office of Public Accountability
		Pages:	5 (including cover page)
CC:	Mr. Luis E. Bustamante President Appellant: JJ Global Services 215 Rojas Street, Suite 126 Harmon Industrial Park Tamuning, Guam 96913 Tel: (671) 632-1179 Fax: (671) 632-3550 Vanessa L. Williams, Esq. (Attorney for Appellant JJ Global) Law Office of Vanessa L. Williams, P.C. 414 West Soledad Avenue GCIC Bldg., Suite 500 Hagåtña, Guam 96910 Tel: (671) 477-1389 Email: VLW@vlwilliamslaw.com Mitchell F. Thompson, Esq. (Attorney for Interested Party Landscape Management Systems, Inc.) Thompson Thompson & Alcantara 238 Archbishop Flores Street, Suite 801 Hagåtña, Guam 96910 Tel: (671) 472-2089 Fax: (671) 477-5206	Date:	March 25, 2019
		Phone: Fax:	(671) 475-0390 x. 208 (671) 472-7951

Re: OPA-PA-19-001 Decision and Order RE Appellant's Motion for Order to Supplement Procurement Record and Motion for Discovery

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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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6 IN THE APPEAL OF,
7 JJ GLOBAL SERVICES,
8 Appellant

9
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11 } APPEAL NO: OPA-PA-19-001
12 }
13 } DECISION AND ORDER RE
14 } APPELLANT'S MOTION FOR ORDER
15 } TO SUPPLEMENT PROCUREMENT
16 } RECORD AND MOTION FOR
17 } DISCOVERY

18
19 To: **Purchasing Agency:**
20 Guam Visitor's Bureau
21 C/O Thomas J. Fisher, Esq.
22 Fisher & Associates
23 167 East Marine Corps Drive
24 Hagåtña, Guam, 96910
25 Facsimile: (671) 472-2886

26
27 **Appellant:**
28 JJ Global Services
C/O Vanessa L. Williams, Esq.
Law Office of Vanessa L. Williams P.C.
414 W. Soledad Ave., Suite 500
Hagåtña, Guam, 96910
Email: VLW@vlwilliamsllaw.com

Interested Party:
Landscape Management Systems, Inc.
C/O Mitchell F. Thompson, Esq.
Thompson Thompson & Alcantara
238 Archbishop Flores Street, Suite 801
Hagåtña, Guam, 96910
Facsimile: (671) 477-5206

29
30 **THIS MATTER**, came before the Hearing Officer for Procurement Appeals on March 5,
31 2019 for a hearing on the Appellant's Motion for Order to Supplement Procurement Record;
32 Motion for Discovery that was filed in this matter on February 6, 2019. Keiko Bustamante was
33 present on behalf of the Appellant and he was represented by the Appellant's Counsel of Record,

1 Vanessa L. Williams, Esq. Pilar Laguana appeared on behalf of the Purchasing Agency and she
2 was represented by the Purchasing Agency's Counsel of Record, Thomas J. Fisher, Esq. Robert
3 Salas appeared on behalf of the Interested Party and he was represented by the Interested Party's
4 Counsel of Record, Mitchell F. Thompson, Esq.
5

6 **BACKGROUND**

7 The Purchasing Agency filed the Procurement Record in this matter on January 11, 2019.
8 The Appellant alleges that said record does not include a log of all communications between the
9 government employees and any member of the public, potential bidder, vendor, or manufacturer
10 which is in any way related to the procurement, and that said record does not include documents
11 relating to the Appellant's bid submitted in response to the IFB from the Guam Power Authority
12 (GPA), the Guam Waterworks Authority (GWA), the Department of Parks and Recreation of the
13 Government of Guam (DPR), and the Guam International Airport Authority (GIAA).
14 Appellant's Motion at 2. The Appellant moves the OPA to compel the Purchasing Agency to
15 produce these documents. Alternatively, the Appellant moves the OPA to require the production
16 of those documents and any witnesses concerning them. *Id.*, at 1. The Purchasing Agency
17 contends that it has submitted the entire procurement record and the log of communications the
18 Appellant demands do not exist. Purchasing Agency's Opposition at 1 and 3.
19

20 **DISCUSSION**

21 **The Purchasing Agency Must Produce the Log of Communications**

22 The Log of Communications is a mandatory part of the Procurement Record. The
23 Purchasing Agency must maintain a complete record of the IFB. 5 G.C.A. §5249 and 2 G.A.R.,
24 Div. 4, Chap. 3, §3129. A complete procurement record requires a log of all communications
25 between government employees and any member of the public, potential bidder, vendor or
26 manufacturer which is in any way related to the procurement. 5 G.C.A. §5249(b) and 2 G.A.R.,
27 Div. 4, Chap. 3, §3129(2). This log is important because it increases the level of governmental
28 transparency by summarizing and recording both the "hard document" correspondence, and the

1 quieter, low profile (non-digital or print) types of communication such as telephone calls and in
2 person meetings between the purchasing agency and the public, bidders, offerors, and potential
3 vendors, and manufacturers. A well-kept log allows the public to quickly and conveniently
4 understand what occurred between the purchasing and public in a procurement solicitation. This
5 type of “big picture” understanding is very important because it promotes three underlying
6 policies of Guam’s Procurement Laws and Regulations which are to provide for increased public
7 confidence in the procedures followed in public procurement, to provide safeguards for the
8 maintenance of a procurement system of quality and integrity, and to require public access to all
9 aspects of procurement. 5 G.C.A. §5001(b)(3)(7) and (8), and 2 G.A.R., Div. 4, Chap. 1,
10 §1102(2)(6) and (7). Hence, the log of communications required by 5 G.C.A. §5249(b) and 2
11 G.A.R., Div. 4, Chap. 3, §3129(2) is not only necessary to have a complete procurement record
12 but is also a very important part of the record for the policy reasons cited above.

13 A review of the procurement record filed in this matter confirms that Purchasing
14 Agency’s admission that it did not create the required and important log of communications.¹
15 Further, the Hearing Officer has the power to require the parties to produce for examination
16 those documents under their control and fix the time limits for submission of written documents
17 in a matter pending before the Hearing Officer. 2 G.A.R., Div. 4, Chap. 12, §12109(c) and (g).
18 Accordingly, the Purchasing shall supplement the Procurement Record in this matter by
19 producing the log of communications required by 5 G.C.A. §5249(b) and 2 G.A.R., Div. 4,
20 Chap. 3, §3129(2) and by serving the same on the Appellant and Interested Party no later than
21 5:00 p.m. on March 26, 2019. Further, said log shall contain any communications between the
22 Purchasing Agency or its employees from GPA, GWA, DPR, and GIAA concerning the IFB if
23 such communications occurred.

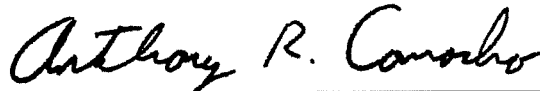
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27 ¹ The Procurement Record does include a one page “Bid Submission Log” but this
28 log is not neither comprehensive nor is it a log of all communications
concerning the IFB required by 5 G.C.A. §5249(b) and 2 G.A.R., Div. 4, Chap.
3, §3129(2).

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CONCLUSION

Based on the foregoing, the Hearing Officer hereby GRANTS the Appellant's Motion for an Order to Supplement the Procurement Record.

SO ORDERED this 25th day of March, 2019 by:



ANTHONY R. CAMACHO, ESQ.
Hearing Officer

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Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-19-001Decision and Order RE Appellant's Motion for Order to Supplement Procurement Record and Motion for Discovery

1 message

Jerrick Hernandez <jhernandez@guamopa.com>

Mon, Mar 25, 2019 at 2:51 PM

To: Vanessa Williams <vlw@vlwilliamsllaw.com>

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Regards,

Jerrick J.J.G. Hernandez, CGAP, CICA

Auditor

Office of Public Accountability – Guam

www.opaguam.org

Tel. (671) 475-0390 ext. 208

Fax (671) 472-7951

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