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RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: Feb 13, 2019
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FILE NO OPA-PA: 19-001

8 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
9 **FOR THE TERRITORY OF GUAM**

10 IN THE APPEAL OF JJ GLOBAL) OPA-PA 19-001
11 SERVICES)
12) **OPPOSITION TO A MOTION FOR**
13) **INJUNCTIVE RELIEF AND A STAY**
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26 *****OPPOSITION****

27 **COMES NOW** the Guam Visitors Bureau (GVB) and Opposes a Motion
28 for Injunctive Relief and a Stay.


29 JJ Global submitted as part of their appeal a false and fraudulent
30 acknowledgement of receipt of a notice of non-responsibility. *Compare Appeal*
31 *at attachment B and Agency Procurement record at p. 176.* They did this in order
32 to establish the timeliness of their agency protest and then the Office of Public
33 Accountability's jurisdiction over the Appeal. This action was criminal in nature
34 and may lead to JJ Global's debarment from participation in future government
35 contracts. *See 5 Guam Code Ann. §5426(g).*

1 JJ Global now seeks an injunction of contract performance stating that
2 without this drastic remedy it will suffer irreparable harm and that it will likely
3 succeed on the merits. As to the latter proposition, JJ Global is not likely to
4 succeed on the merits. Other agencies of the Government of Guam have found its
5 performance to be deficient and it has committed fraud in this Appeal. JJ Global
6 is not responsible and the Guam Visitors Bureau will not do business with it. The
7 Agency is granted discretion in making a determination of non-responsibility.
8 Contracting officers are “generally given wide discretion in making responsibility
9 determinations and in determining the amount of information that is required to
10 make a responsibility determination” *Impresa Construzioni Geom. Domenico*
11 *Garufi v. United States*, 238 F.3d 1324, 1334–35 (Fed. Cir. 2001). Additionally,
12 JJ Global has the burden of establishing it is, in fact, responsible. “If the protester
13 fails to demonstrate that a procurement statute, regulation, or procedure has been
14 violated, the court's review of the award decision focuses on whether the decision
15 was arbitrary, capricious, or an abuse of discretion.” *United Enter. & Assocs. v.*
16 *United States*, 70 Fed. Cl. 1, 16 (2006).

17 JJ Global states that absent an injunction it will suffer irreparable injury; an
18 injury for which there is no adequate remedy at law. *See Motion at p. 6 citing*
19 *Shin v. Fujita Kanko Guam Inc.*, 2007 WL 4348300 (Guam 2007). The fact of the
20 matter is that Guam has a comprehensive scheme regulating Guam procurement
21 and affords all relief the Legislature has deemed appropriate. *See Chapter 5, 5*
22 *Guam Code Annotated and 5 Guam Code Ann., Chapter 5, Article 9. See also*
23 *Weed v. Bachner Co. Inc.*, 230 P.3d 697, 703 (Alaska 2010), “The bid protest
24 process is comprehensive, and reflects the legislature's scheme for redressing
25 injury in the procurement process.”

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WHEREFORE the Guam Visitors Bureau prays this Office Deny the Appellant's motion.


Thomas J. Fisher
Attorney for Guam
Visitors Bureau