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**BEFORE THE PUBLIC AUDITOR**

**PROCUREMENT APPEALS**

IN THE APPEAL OF: ) DOCKET NO. OPA-PA-19-001

JJ GLOBAL SERVICES,

Appellant,

and

GUAM VISITORS BUREAU,

Purchasing Agency.

**REPLY BRIEF IN SUPPORT OF  
TO MOTION TO SUPPLEMENT  
PROCUREMENT RECORD**

**BACKGROUND**

On January 2, 2019 JJ Global filed its appeal with the Office of the Public Accountability requesting relief. On January 11, 2019, GVB filed the Procurement Record. On February 6, 2019, JJ Global filed a Motion for Order to Supplement Procurement Record. On February 13, 2019, GVB filed their Opposition. JJ Global now submits this reply to the opposition.

**REPLY**

GVB admits there is no log of communication between GVB and potential bidders or the public. This is a violation of 5 GCA § 5249(b) which requires, “a log of all communications between government employees and any member of the public, potential bidder, vendor or manufacturer which is in any way related to the procurement.” It has been mentioned by GVB time and time again that it had communicated with several Government of Guam entities regarding JJ Global’s performance on contract, to wit: the Guam Power Authority, the Guam

1 Waterworks Authority, the Guam International Airport Authority, and the Department of Parks  
2 and Recreation.

3 GCA § 5250 provides that, “no procurement award shall be made unless the responsible  
4 procurement officer certifies in writing under penalty of perjury that he has maintained the record  
5 required by § 5249 of this Chapter and that it is complete and available for public inspection.” In  
6 the least, the OPA should require the Procurement Officer to submit a statement under penalty of  
7 perjury that the missing documents, record or file was not maintained, kept or, if appropriate,  
8 destroyed.

9 The Superior Court of Guam has held that the OPA’s failure to address these missing  
10 documents is reversible error. *TLK Marketing, Co., Ltd. v. Guam Visitors Bureau, Office of*  
11 *Public Accountability, and HIC, Inc.*, Superior Court of Guam Civil Case No. CV0914-16, pp.  
12 10-12, Nov. 10, 2018. The Court concluded:

13  
14 The OPA is required by law to substantively engage in issues before  
15 it, and prepare a written decision detailing the evidence it relied  
16 upon in rendering that decision. 2 GAR § 12110(a). The OPA had  
17 previously determined that it had insufficient evidence before it to  
18 determine whether GVB had complied with the procurement  
19 record requirements, and ordered GVB to supplement the record or  
20 admit to having failed to maintain a complete record. (ER at 66).  
21 Months before its final decision, the OPA was supplied with  
22 evidence that GVB’s procurement record was grossly incomplete—  
23 missing logs of communications required by 1 statute, 5 GCA §  
24 5249(b), and a Memorandum of Evaluation and Negotiation  
required by Guam Administrative Rules and Regulations, 2 GAR §  
3114(m). (TLK’s SER at 2). The absence of these documents could  
have potentially resulted in the cancellation of the RFP, and the issue  
was 15 clearly before the OPA. 5 GCA § 5250; *Teleguam Holdings*,  
2018 Guam 5 ¶ 41. Therefore, the OPA’s failure to address this  
important issue renders its decision arbitrary, capricious, and ‘7 18  
contrary to law. See *Teleguam Holdings*, 2018 Guam 5 ¶ 25.

25 *Id.* at 12.

26 For the foregoing reasons, the OPA should order the procurement officer to submit a  
27 statement under penalty of perjury that the missing documents, record or file was not maintained,  
28 kept or, if appropriate, destroyed.

1 Respectfully submitted this 20<sup>th</sup> day of February, 2019.  
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3 **LAW OFFICE OF VANESSA L. WILLIAMS, P.C.**  
4 *Attorney for Appellant JJ Global*

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