

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



FAX

To:	Ms. Emily G. Gumataotao Supply Management Administrator University of Guam UOG Station Mangilao, Guam 96923 Phone: (671) 735-2925 Fax: (671) 735-3010 Email: eggumataotao@triton.uog.edu ; uog.bids@triton.uog.edu	From:	Benjamin J.F. Cruz Public Auditor Office of Public Accountability
	Mr. Anthony R. Camacho, Esq. Legal Counsel University of Guam UOG Station Mangilao, Guam 96923 Email: arcamacho@triton.uog.edu	Pages:	10 (including cover page)
CC:	Mr. Sedfrey Linsangan President Guam Pacific Enterprise, Inc. Phone: (671) 649-6994/7/8 Email: guampacific@gmail.com	Date:	October 20, 2021
		Phone: Fax:	(671) 475-0390 x. 204 (671) 472-7951

Re: OPA-PA-21-011 Notice of Receipt of Appeal

- For Review**
 Please Comment
 Please Reply
 Please Recycle

Comments:

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

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



OFFICE OF PUBLIC ACCOUNTABILITY

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

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

October 20, 2021

Ms. Emily G. Gumataotao
Supply Management Administrator
University of Guam
UOG Station
Mangilao, Guam 96923

VIA FACSIMILE: (671) 735-3010

Re: Notice of Receipt of Appeal – OPA-PA-21-011

Dear Ms. Gumataotao,

Please be advised that Guam Pacific Enterprises Inc. (hereinafter referred to as “GBE INC” filed an appeal with the Office of Public Accountability (OPA) on October 19, 2021, regarding the University of Guam’s (UOG) procurement award for UOG Bid B21-10 for Air Purifier system and Replacement Filter. OPA has assigned this appeal case number OPA-PA-21-011.

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

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

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Wednesday, October 27, 2021**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Thursday, November 4, 2021**, ten work days following receipt of this notice.

When filing all other required documents with our office, please provide one original and one copy to OPA (electronic filings will be acceptable), and serve a copy to GBE INC. Although the Guam Procurement Law and Regulations require only one copy of the procurement record, OPA respectfully asks that UOG provide one original and one electronic file of the said record, which

will be distributed as follows: Copy-1: Master File; and Copy-2: Public Auditor and/or Hearing Officer.

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

Sincerely,

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

Benjamin J.F. Cruz
Public Auditor

Enclosure: First Seven Pages of the Notice of Appeal – OPA-PA-21-011

Cc: Sedfrey M. Linsangan, GPE Inc. President



**Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL**

PART I- To be completed by OPA

In the Appeal of)
) **NOTICE OF APPEAL**
Guam Pacific Enterprises Inc.)
(Name of Company), APPELLANT) Docket No. OPA-PA _____
)

PART II- Appellant Information

Name: Guam Pacific Enterprises Inc.
Mailing Address: P.O. Box 23128 Barrigada
Guam 96921
Business Address: #202 Harmon Industrial
Park, Guam
Email Address: guam.pacific@gmail.com
Daytime Contact No: 649-6997-8-4
Fax No.: 649-6988

PART III- Appeal Information

- A) Purchasing Agency: University of Guam
- B) Identification/Number of Procurement, Solicitation, or Contract: LOG Bid No. B21-10
- C) Decision being appealed was made on Oct. 18 (date) by:
____ Chief Procurement Officer ____ Director of Public Works Head of Purchasing Agency

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

- D) Appeal is made from:
(Please select one and attach a copy of the Decision to this form)
- Decision on Protest of Method, Solicitation or Award
 Decision on Debarment or Suspension
 Decision on Contract or Breach of Contract Controversy
(Excluding claims of money owed to or by the government)
Determination on Award not Stayed Pending Protest or Appeal

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

Jand B Modern Tech _____
Wang Bros. LLC _____
Decomo Pacific _____

PART IV- Form and Filing

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;
2. A statement specifying the ruling requested;
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.

PART V- Declaration Re Court Action

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

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

Submitted this 19 day of Oct., 2021.

By: 
APPELLANT

or

By: _____
Appellant's Duly Authorized Representative
(Address)
(Phone No.)



**Appendix D: Hearing Request/Waiver Form
PROCUREMENT APPEAL**

In the Appeal of)
)
)
)
)
(Name of Company), APPELLANT)
Guam Pacific Ent. Inc.)

**HEARING
REQUEST/WAIVER**

Docket No. OPA-PA _____

Please select one:

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

Submitted this 19 day of Oct., 2021

By: (Please select one)

APPELLANT

Chief Procurement Officer

Director of Public Works

Head of Purchasing Agency

[Signature]
Signature

Sedfrey M. Linsangan
Print Name

Concise Statement

Bid was held on May 20, 2021. It was awarded to Docom@ on June 7, 2021. Then the Bid Status was made on July 1, 2021. But it was not emailed to my company. I was following up in June, July and August many times but no response about the status of the Bid. On Sept. 2, 2021, Ms. Gemataotao emailed me that it was an oversight on her part. I disagree, since everyday that you open your computer the Draft is showing on Red Words.

Please see Exhibits 1-6.

My main argument is Docomas offer is not designed, not compliance to the Intention and Background of the Bid for classrooms, offices, auditoriums

and other indoor spaces located in the College of Liberal Arts and Social Science. Please see Exhibit 7, catalog or and specs of Aura Air that specifies that it's only use or purpose is for home only. Please see Exhibit 8, our offer which is designed and ideal for use in offices, classrooms, conference rooms, daycares, restaurants, bathrooms, boats and locker rooms.

VOG did not adhere to several Guam Procurement laws. (Please Exhibit 9) The author of the bid are Ms. Emily Gumataog and Mr. John Del Castillo that are not Engineers, Architects, Designer and Draftsman for public contracts.

(Violation of Section 5266 Chapter 5, 56CA)

That is the reason why they select the

wrong product or purifier that does not served the purpose because they are not qualified to prepare and evaluate the bid. If the right people author the bid then there will be no protest.

Then, the other violation is the Buy American Act. Aura Air is made in Israel not in USA. I will reply to this issue within 7 days together with the \$25.00 fee. Please see review for Aura Air that indicated Trading Air Pollution for Noise Pollution in your home. (Exhibit 10)

I am requesting that the ruling provides that VOG procurement erred in the administration of Bid process consistent with the Guam Procurement laws. That VOG should take out or dismantle the wrong purifiers because it is a health hazards to

Students and workers and the public.

If UOG has still the funds to buy the right purifiers then they can solicit through the Daily RFQ without resorting to time consuming Bids because we are still in Emergency. If they do not have the funds then it is better not to have the wrong purifiers.

I am also requesting that all procurement staff of UOG undergo training or work session in order to improve their skills and knowledge on rules, laws governing procurement.

Dated: Oct. 19, 2021

Respectfully Submitted
by ~~~~~

Setfrey M Linsangan
Pro Se



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-21-011 Notice of Receipt of Appeal

Jerrick Hernandez <jhernandez@guamopa.com>

Wed, Oct 20, 2021 at 10:42 AM

To: "Gumataotao, Emily" <eggumataotao@triton.uog.edu>, uog.bids@triton.uog.edu, "Camacho, Anthony" <arcamacho@triton.uog.edu>

Cc: GPE INC <guampacific@gmail.com>

Hafa Adai,

Please see attached Notice of Receipt of Appeal for OPA-PA-21-011. This email will serve as an official notice in lieu of a transmittal via Fax.

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

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Regards,

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

Auditor

Office of Public Accountability – Guam

www.opaguam.org

Tel. (671) 475-0390 ext. 204

Fax (671) 472-7951

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**21-011 Notice of Receipt of Appeal.pdf**

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