

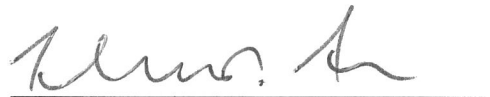
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FISHER & ASSOCIATES
Suite 101 De La Corte Building
167 East Marine Corp. Drive
Hagåtña, Guam 96910
Telephone: (671) 472-1131
Facsimile: (671) 472-2886
Counsel for Guam Visitors Bureau

BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY
HAGÁTÑA, GUAM

IN THE APPEAL OF) OPA-PA-16-003
)
TLK MARKETING CO., LTD.) NOTICE
)
Appellant)
)
)

COMES NOW the Guam Visitors Bureau and provides additional documents pursuant to the Office of Public Accountability's Order issued 15 June 2016.



Thomas J. Fisher
Legal Counsel, Guam Visitors Bureau

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: 07.05.16
TIME: 1:25 AM PM BY: JFB
FILE NO OPA-PA: 16.003



July 01, 2016

The Honorable Elizabeth Barrett-Anderson
Attorney General of Guam
Office of the Attorney General of Guam
590 S. Marine Corps Dr., Ste. 706
Tamuning, Guam 96913

Dear Madam Attorney General,

On or about 30 September 2013, the Guam Visitors Bureau (GVB) entered into a contract with TLK Marketing Co., Ltd. (TLK) for Tourism Destination Marketing Services in the Republic of Korea. On 25 November 2015 the GVB issued a Request for Proposals (GVB RFP 2016-006) to continue these services. TLK submitted a proposal in that solicitation and was determined to be the second highest ranked offeror. TLK objected to the result of the solicitation, filed a protest, and the matter is now on appeal before the Office of Public Accountability (OPA-PA-16-003 and 005).

In the course of the protest and appeal (as well as before), GVB came into possession of information that TLK had disregarded certain contract requirements and had made misrepresentations, which caused GVB to pay over money that was unearned. As a result, I believe there is probable cause to find that TLK's actions constitute a serious breach of contract as well as civil and criminal fraud. Accordingly, I am considering suspending and debaring TLK from participation in Government of Guam procurements in accordance with 5 Guam Code Ann. §5426 and 2 Guam Admin. R. & Reg. §9102.

As you know, both statute and regulation instruct the head of a purchasing agency to consult with the Attorney General prior to initiating action to suspend or debar. *See 5 Guam Code Ann. §5426(a)*, "After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Chief Procurement Officer, the Director of Public Works or the head of a purchasing agency, after consultation with the using agency and the Attorney General, shall have authority to debar a person for cause from consideration for award of contracts" *and see also 2 Guam Admin. R & Reg. §9102*. Accordingly, I write to arrange a time and place to meet and consult with you or your designee prior to taking agency action. Thank you for your attention in this matter and I look forward to your response at your earliest convenience.

Senseramente',

JON NATHAN DENIGHT
President & CEO
Guam Visitors Bureau



MEMORANDUM
July 01, 2016

To: File

From: Chief Procurement Officer

RE: Certain Determinations Made Pursuant to 2 Guam Admin. R. & Reg. §3114(m)

In my capacity as chief procurement officer for the Guam Visitors Bureau, I provide the following information:

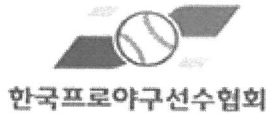
1. The following evaluation factors stated in request for Proposals GVB RFP 2016-006 were applied to determine the best qualified offeror;
 - Executive Summary and Commitment (35 points)
 - Staff Qualifications and Past Performance (35 points)
 - Organizational Structure and Chart (15 points)
 - References (10 points)
 - Primary Point of Contact (5 points)

2. Principal elements of the negotiations including the significant considerations relating to price and the other terms of the contract;
 - Establishment of a monthly retainer fee
 - Establishment of reimbursable office expenses
 - Meeting requirements of scope of services in return for compensation
 - Establishing an understanding of agency expectations

I have caused this Memorandum to be included in the procurement file for this solicitation.

JON NATHAN DENIGHT
President & CEO
Chief Procurement Officer
Guam Visitors Bureau

Don Park 박세동
Director 대표이사
Medicastle #901,9f,464-1 Samsan-dong, Bupyeong-gu,
Incheon, 403-090 Korea
Tel. 032-507-4162 / Fax. 032-507-4164
Email: psduj@daum.co.kr



pilar.laguana@visitguam.org <pilar.laguana@visitguam.org>

Sat, Mar 5, 2016 at 8:40 AM

To: Gina Kono <gina.kono@visitguam.org>

Cc: Jon Nathan Denight <nathan.denight@visitguam.org>, Gabryel Franquez <gabryel.franquez@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>

Hi Gina,

For the procurement record, have an official notice of selection announcement put on GVB stationary bearing the signature of our GM. Letters to all other bidders should also be formalized.

Also, we need to discuss our check list of transitional work asap. Proceed to generate our check list and send to me.

Thanks and enjoy your long weekend.

Pilar

Sent from my BlackBerry 10 smartphone.

From: 박세동 <psduj@hanmail.net>

Sent: Friday, March 4, 2016 6:53 PM

To: gina.kono@visitguam.org

Cc: 윤호석; Anna Kim; Colleen Cabedo; Pilar Laguana; Jon Nathan Denight; Christine Lizama

Subject: RE: GVB RFP 2016-006

[Quoted text hidden]

pilar.laguana@visitguam.org <pilar.laguana@visitguam.org>

Sat, Mar 5, 2016 at 8:50 AM

To: Gina Kono <gina.kono@visitguam.org>

Cc: Jon Nathan Denight <nathan.denight@visitguam.org>, Gabryel Franquez <gabryel.franquez@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>

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Sent from my BlackBerry 10 smartphone.

From: 박세동 <psduj@hanmail.net>
Sent: Friday, March 4, 2016 6:53 PM
To: gina.kono@visitguam.org
Cc: 윤호석; Anna Kim; Colleen Cabedo; Pilar Laguana; Jon Nathan Denight; Christine Lizama
Subject: RE: GVB RFP 2016-006

[Quoted text hidden]

pilar.laguana@visitguam.org <pilar.laguana@visitguam.org> Sat, Mar 5, 2016 at 3:14 PM
To: Gina Kono <gina.kono@visitguam.org>
Cc: Jon Nathan Denight <nathan.denight@visitguam.org>, Gabryel Franquez <gabryel.franquez@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>

[Quoted text hidden]

Gina Kono <gina.kono@visitguam.org> Tue, Mar 8, 2016 at 6:21 PM
Reply-To: gina.kono@visitguam.org
To: "pilar.laguana@visitguam.org" <pilar.laguana@visitguam.org>
Cc: Jon Nathan Denight <nathan.denight@visitguam.org>, Gabryel Franquez <gabryel.franquez@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>

Hi Pilar,

A memo indicating the rating results was given to the GM was given last week before he left to Routes Asia. I believe he did sign the memo approving the evaluation committee's ratings of the 4 offerors.

I have discussed with Chris on the next steps that need to be taken once we finalize the negotiations. She acknowledged that she will produce the letter of award, letter to the other offerors, and work on the contract.

I have started a check list for the handover so we can review when you return. We will need to give TLK a 30 days notice to terminate our contract. So, if we gave him the notice on March 15 next week, that will mean that the new contract with HIC will commence on April 15, I believe. I will need to check with Chris and Rose to be sure.

This is all for now.

PS - At the KMC today, no one asked about the RFP, however, Chairman reported on the status noting that GVB was now in the negotiation stage of the process with the highest rated company. Simone of Outrigger asked some questions about the RFP process so Bart gave a brief overview of the RFP process. So, I think Henry now knows that he was not the highest rated offeror. He was on the phone when Bart was talking about the RFP.

Senseramente' (Sincerely),

Gina Kono
Marketing Officer II, Marketing Department

GUAM VISITORS BUREAU

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



Like us on Facebook

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Gina Kono <gina.kono@visitguam.org>

Tue, Mar 8, 2016 at 6:51 PM

Reply-To: gina.kono@visitguam.org

To: "Pilar. laguana@visitguam.org" <pilar.laguana@visitguam.org>

Cc: Jon Nathan Denight <nathan.denight@visitguam.org>, Gabryel Franquez <gabryel.franquez@visitguam.org>, Colleen Cabedo <colleen.cabedo@visitguam.org>

Hi Pilar,

Attached is the check list that we started for the Korea rep. Let me know if I need to send it to you in a different format.

Senseramente' (Sincerely),

Gina Kono

Marketing Officer II, Marketing Department

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gina.kono@visitguam.org | www.visitguam.org



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 **GVB Korea Handover List As of 3082016.xlsx**
11K