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3 Suite 503, Bank of Guam Bldg.  
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Hagåtña, Guam 96910  
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RECEIVED  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
DATE: 1/11/2018  
TIME: 4:00 AM ~~PM~~ BY: MSB  
FILE NO OPA-PA: 17-011

5 Attorneys for Appellant:  
6 PHIL-GETS (GUAM) INTERNATIONAL TRADING CORP.  
7 dba J & B MODERN TECH

8 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

9 IN THE APPEAL OF  
10 PHIL-GETS (GUAM)  
11 INTERNATIONAL TRADING CORP.  
12 dba J & B MODERN TECH,  
13 Appellant.

Appeal No. OPA-PA-17-011

**SUBPOENA DUCES TECUM FOR HEARING**

DATE: January 17, 2018  
TIME: 9:00 a.m.  
PLACE: Office of Public Accountability  
Room 907  
9<sup>th</sup> Floor, DNA Building  
238 Archbishop Flores St.  
Hagåtña, Guam 96910

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17 **TO: CEDRIC CRUZ (AIA)**  
18 **Taniguchi Ruth Makio Architects**  
19 **100 Cliff Business Center**  
**Agana Heights, Guam 96910**

20 **YOU ARE HEREBY COMMANDED** to appear to give testimony for Hearing  
21 in the above-entitled action, to be held at the Office of Public Accountability, Room  
22 907, 9<sup>th</sup> Floor, DNA Building, 238 Archbishop Flores Street, Hagåtña, Guam 96910, on  
23 **January 17, 2018, at 9:00 a.m.**, and to bring your documents, or copies of same, set  
24 forth at page 5, ¶ 1., then and there to testify as a witness in this action. See 2 GAR 4 §§  
25 12108(d) and 12109 and 5 GCA § 9217.

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1 This subpoena is issued on the application of Appellant in this case. For failure  
2 to attend or answer as a witness, you may be deemed guilty of contempt, and liable to  
3 pay all losses and damages sustained thereby by the parties aggrieved.

4 **DEFINITIONS**

5 1. "Documents" means the original and any non-identical copy of all  
6 "writings," "recordings" and "photographs" as those terms are defined in Title 16 of  
7 the Guam Code Annotated including, but not limited to, electronic mail ("email"),  
8 letters, telegrams, cablegrams, telexes, memoranda, notes, notes, records, reports,  
9 studies, calendars, diaries, agenda, minutes, books, pamphlets, periodicals, newspaper  
10 clippings, graphs, index, charts, tabulations, statistical accumulations, ledgers,  
11 financial statements, accounting entries, press release, contracts, affidavits, transcripts,  
12 legal documents, records of meetings and conferences, records of conversations and  
13 telephone calls, still photographs, video tapes, motion pictures, tape recordings,  
14 microfilm punch cards, programs, printouts, lie detector examination records,  
15 recordings made through data processing techniques, and the written information  
16 necessary to understand and use such films and records. Documents and writings  
17 shall include all drafts of documents or writings defined above. Handwritten or other  
18 markings or notations of any kind on any copy of a document or writing render it  
19 nonidentical. Documents and writings must be produced without "masking", "white-  
20 out", reduction, obliteration or alteration of any sort, and in the same form, ponder  
21 and system, including file folders, tabs, and indices, as they were maintained in the  
22 regular course of business prior to this request for production.

23 2. A document "relating to" or that "relates to" any given subject means  
24 any document that in whole or in any part constitutes, contains, embodies, reflects,  
25 identifies, states, refers to, deals with, or is in any way pertinent to that subject,  
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1 including without limitation, documents concerning the preparation of other  
2 documents.

3 3. The words "you," "your," and "yours" refer to CEDRIC CRUZ (AIA),  
4 TANIGUCHI RUTH MAKIO ARCHITECTS, its partners, joint ventures, officers,  
5 directors, employees, predecessors, successors, assigns, agents, attorneys,  
6 representatives, excess insurers, reinsurer and indemnitor, and each of them.

7 4. The term "person" shall refer to all forms of legal entities, including,  
8 without limitation, individuals, unincorporated associations, labor unions,  
9 partnerships, joint ventures, corporations, trusts, estates, or any group or combination  
10 acting as a unit.

11 5. The term "communication" means the act or fact of communication  
12 between or among any persons, including telephone conversations, email, letters,  
13 memoranda, notes, summaries, photographs, audio tapes, video tapes, or other  
14 materials or memorials of communication, meetings or any occasion of joint or mutual  
15 presence, as well as the transfer of any document or writing from one person to  
16 another.

17 **INSTRUCTIONS**

18 1. Under 2 GAR 4 §§ 12108(d) and 12109 and 5 GCA § 9217, you are  
19 required to produce the documents as they are kept in the usual course of business or  
20 to organize and label them to correspond with the categories of this request.  
21 Accordingly, whenever a document or group of documents is taken out of a file folder,  
22 file drawer, file box, or notebook, before the same is produced, you are requested to  
23 attach thereto a copy of the label on the file folder, file drawer, file box, or notebook  
24 from which the document or group of documents was removed.

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1           2.     For each document responsive to this request that is withheld under a  
2 claim of privilege or work-product immunity, provide a statement under oath by a  
3 person having knowledge setting forth as to each document or portion withheld:

4                 (a)     The number and subject of each paragraph of this request that  
5 seeks its production;

6                 (b)     The name and title of the author(s);

7                 (c)     The name and title of each person to whom the document was  
8 addressed;

9                 (d)     The name and title of each person to whom a copy of the  
10 document was sent;

11                (e)     The date of the document;

12                (f)     The number of pages;

13                (g)     A brief description of the nature and subject matter of the  
14 document;

15                (h)     The identity of each person to whom the document, its contents,  
16 or any portion thereof is known or has been disclosed;

17                (i)     The exact location of the original and each copy as of the date of  
18 receipt of this request; and

19                (j)     If the document is withheld on any ground other than privilege,  
20 each basis that you contend justifies its withholding.

21                For purposes of this instruction persons shall be identified by giving  
22 their title and business address both at the time the document was generated by or  
23 made available to them and at the present, as well as their name and present home  
24 address, to the extent known.

25           3.     If you are aware of any document otherwise responsive to these  
26 requests, which document is no longer in your custody or control, identify the name  
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1 and title of the author, the name and title of the addressee, the date of the document,  
2 the subject matter of the document, the last date on which the document was in your  
3 control, the person(s) or entity, if any, now in control of the document, all persons who  
4 have knowledge of the circumstances surrounding its disposition, and state what  
5 knowledge each such person has.

6 4. Reference to the singular includes the plural and reference to the plural  
7 includes the singular.

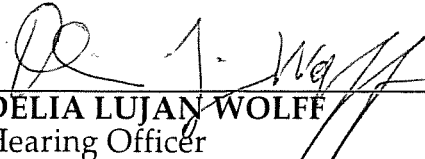
8 **YOU ARE FURTHER COMMANDED** to produce the following records and  
9 documents on **January 17, 2018 at 9:00 a.m.** at the Office of Public Accountability,  
10 Room 907, 9<sup>th</sup> Floor, DNA Building, 238 Archbishop Flores Street, Hagåtña, Guam  
11 96910:

12 1. All of your reports, statements, and opinions between you and the  
13 Guam Community College regarding Bid Invitation No. GCC-FB-17-015 from 2017  
14 and through to the present, including but not limited to, Bid Evaluation dated August  
15 4, 2017, to Ms. Mary Okada, attached hereto as Exhibit "A."

16 See 2 GAR 4 §§ 12108(d) and 12109 and 5 GCA § 9217.

17 For failure to produce without adequate excuse you may be deemed guilty of  
18 contempt, and liable to pay all losses and damages sustained thereby by the parties  
19 aggrieved.

20 **SO ORDERED** this 11<sup>th</sup> day of January, 2018.

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24 **DELIA LUJAN-WOLFF**  
Hearing Officer

# Exhibit "A"

August 4, 2017

Mary Okada, Ed D. President  
Guam Community College  
P.O.Box 23069  
Barrigada, Guam 96921

Attn: Joleen Evangelista, GCC Materials Management

Subj: GCC Forensic DNA Lab GCC-FB-17-015 Bid Evaluation

Buenas Dr. Okada,

TMRA has reviewed the bids for the GCC Forensic DNA Lab project submitted on June 28, 2017 and are providing our findings herewith. Please note that Bid Evaluation Notes and a Bid Cost Evaluation are attached to this letter. The Bid Cost Evaluation is a confidential document.

**I. BACKGROUND:**

The project is the construction of the GCC Forensic DNA Laboratory facility. The bid documents were released for tender on June 7, 2017, and a mandatory pre-bid conference was held on June 13, 2017. Bidder inquiries were received and answered through amendments issued to all the prospective bidders. A total of four amendments were issued during the bid period for the project. Two bids were submitted on the June 28<sup>th</sup> deadline by J&B Modern Tech for a total bid price of \$4,394,450.00 dollars, and by ProPacific Builder Corporation for a total bid price of \$3,863,714.00 dollars.

Both bidders attended the mandatory Pre-Bid Meeting and Site Visit. During the pre-bid meeting, the expectations for the bid and project execution were discussed, including the completion time, liquidated damages, fees, drawings & specifications, bonds, insurance, progress payments, warranty, building permit, mechanic's lien law compliance, and bid submittal documents including the Project Narrative.

**II. COMPLETENESS OF BID**

The required bid submittal components are:

1. Bid Guarantee
2. Certificate of Authority
3. Power of Attorney
4. Major Shareholders Disclosure Affidavit
5. Local Procurement Preference Application
6. Non-Collusion Affidavit
7. Affidavit re No Gratuities or Kickbacks



8. Affidavit re Ethical Standards
9. Affidavit re Contingent Fees
10. Contractor's or Business License
11. Project Narrative
12. CPM Chart
13. Declaration of Compliance with US DOL Wage Determination
14. Amendments Acknowledgements
15. Bid Form

Both bidders provided these required items based on the Bid Abstract.

### III. BID EVALUATION SUMMARY & RECOMMENDATIONS

Both bid submissions have issues, specifically:

#### *J&B Modern Tech*

- The project schedule exceeds the required contract completion time of 540 calendar days.
- The project schedule does not identify required LEED activities.
- Previous work experience does not identify any LEED projects.

#### *ProPacific Builder*

- The written total bid price of \$3,863,714 does not correspond with a tabulation of the costs identified in the Bid Form. The tabulated cost for ProPacific's Base Bid is \$3,903,000 approximately, which exceeds J&B Modern Tech's \$3,880,850 Base Bid. Additionally, it is unclear if the Alternate Bid Items are included within ProPacific's written total bid price. It is noted that J&B Modern Tech's written total bid price includes the Alternate Bid Item costs.
- The project schedule does not identify required LEED activities.

TRMA recommends that clarification of ProPacific's bid is necessary prior to determining further action. ProPacific needs to confirm that their written Bid Sum is correct. ProPacific also needs to confirm that their written total Bid amount covers all of the base bid work identified in the Bid Form, and whether or not it includes the Alternate Bid Items. Should ProPacific confirm that the written total Bid amount is valid, TRMA recommends that GCC award the project to ProPacific.

Should ProPacific's written total bid price be determined invalid, TRMA recommends clarification with J&B Modern Tech regarding their CPM Chart timeframe. J&B Modern Tech needs to confirm that they can complete the project within the required 540-calendar day timeframe. TRMA recommends GCC award the project to J&B Modern Tech if the bidder confirms and accepts the timeframe requirement.



These recommendations are subject to GCC's discretion regarding other important considerations such as project funding availability and the findings from GCC's administrative review of the bids.

**IV. FINDINGS OF GUAM CONTRACTORS LICENSING BOARD AND OSHA**

Both Contractors are in good standing with the Guam Contractors Licensing Board. An inquiry to OSHA from January 2015 through present found no issue for ProPacific and one serious issue for J&B Modern Tech that has been closed.

Please inform TRMA of GCC's intended action on this matter. TRMA's evaluation letter and the Bid Evaluation Notes attachment may be provided to the bidders at GCC's discretion. The Bid Cost Evaluation needs to remain confidential as it contains proprietary data.

Senseramenta,

Taniguchi Ruth Makio Architects

  
Cedric Cruz, APA

Attachments: 170804 Bid Cost Evaluation; 170804 Bid Evaluation Notes

**Joleen Evangelista**

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**From:** Cedric Cruz <CCruz@traguam.com>  
**Sent:** Monday, August 07, 2017 4:13 PM  
**To:** joleen.evangelista@guamcc.edu  
**Cc:** 'Doris Perez'; carmen.kweksantos@guamcc.edu; mary.okada@guamcc.edu  
**Subject:** GCC Forensic DNA Lab GCC-FB-17-015  
**Attachments:** 170804 Bid Cost Evaluation Forensic Lab.pdf; 170804 Bid Evaluation NOTES - J&B MODERNTech.pdf; 170804 Bid Evaluation NOTES - PROPACIFIC.pdf; 170804 BID EVALUATION TRMA.pdf

Buenas Joleen,

Attached for GCC's use is an advanced copy of TRMA's Bid Evaluation for the subject project with attachments. Note that the Bid Cost Evaluation attachment is a confidential document. The hard copies will be delivered tomorrow morning with the copies of the bid submittals that were evaluated.

Senseramente,

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Cedric Cruz, AIA NCARB LEED AP BD+C  
Taniguchi Ruth Makio Architects  
P.O. Box EA  
Hagatna, Guam 96932  
Tel (671) 475-8772  
Fax (671) 472-3381

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GCC PROCUREMENT 000337

GCC AR ~ Tab 9 ~ 0017