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 238 Archbishop Flores St.  
 Hagåtña, Guam 96910



# FAX

<b>To:</b>	<p><b>Ms. Pilar Laguaña</b>  <b>President &amp; CEO</b>          Guam Visitors Bureau          401 Pale San Vitores Road          Tumon, Guam 96913          Phone: (671) 646-5278          Fax: (671) 646-3917/646-8861</p> <p><b>Thomas J. Fisher, Esq.</b>  <b>(Attorney for GVB)</b>          Fisher &amp; Associates          167 East Marine Corp. Drive          Hagåtña, Guam 96910          Phone: (671) 472-1131          Fax: (671) 472-2886</p>	<b>From:</b>	<p><b>Anthony Camacho</b>  <b>Hearing Officer</b>          Office of Public Accountability</p>
		<b>Pages:</b>	13 (including cover page)
<b>CC:</b>	<p><b>Mr. Luis E. Bustamante</b>  <b>President</b>          Appellant: JJ Global Services          215 Rojas Street, Suite 126          Harmon Industrial Park          Tamuning, Guam 96913          Tel: (671) 632-1179          Fax: (671) 632-3550</p> <p><b>Vanessa L. Williams, Esq.</b>  <b>(Attorney for Appellant JJ Global)</b>          Law Office of Vanessa L. Williams, P.C.          414 West Soledad Avenue          GCIC Bldg., Suite 500          Hagåtña, Guam 96910          Tel: (671) 477-1389          Email: VLW@vlwilliamslaw.com</p> <p><b>Mitchell F. Thompson, Esq.</b>  <b>(Attorney for Interested Party Landscape Management Systems, Inc.)</b>          Thompson Thompson &amp; Alcantara          238 Archbishop Flores Street, Suite 801          Hagåtña, Guam 96910          Tel: (671) 472-2089          Fax: (671) 477-5206</p>	<b>Date:</b>	May 8, 2019
		<b>Phone:</b> <b>Fax:</b>	(671) 475-0390 x. 208 (671) 472-7951

**Re:** OPA-PA-19-001 Decision

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Thank you,  
 Jerrick Hernandez, Auditor  
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**BEFORE THE PUBLIC AUDITOR  
PROCUREMENT APPEALS  
TERRITORY OF GUAM**

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IN THE APPEAL OF,  
  
JJ GLOBAL SERVICES,  
  
Appellant

) APPEAL NO: OPA-PA-19-001  
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) DECISION  
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**I. INTRODUCTION**

This is the Decision of the Office of Public Accountability (OPA) for appeal number OPA-PA-19-001. Appellant JJ GLOBAL SERVICES (Hereafter Referred to as "JJ GLOBAL") filed its appeal on January 2, 2019 regarding the GUAM VISITORS BUREAU, GOVERNMENT OF GUAM's (Hereafter Referred to as "GVB") December 18, 2018 Decision denying JJ GLOBAL's November 19, 2018 protest of GVB's finding that JJ GLOBAL was a non-responsible bidder for GVB-IFB-2018-001 (Tumon Landscape Maintenance) (Hereafter Referred to as the "IFB"). The OPA holds that: (1) JJ GLOBAL's November 19, 2018 Protest was timely; (2) GVB's October 31, 2018 Notice of Non-Responsibility is arbitrary; and (3) GVB's suspicious, unequal, and singular scrutiny of JJ GLOBAL's Project Reference List violates 5 G.C.A. §5001(b)(4) and 2 G.A.R., Div. 4, Chap. 1, §1102(3). Accordingly, JJ GLOBAL's appeal in OPA-PA-19-001 is hereby GRANTED in part, and DENIED, in part.

**II. FINDINGS OF FACT**

OPA, in reaching this Decision, has considered and incorporates herein the procurement

1 record and all documents submitted by the parties, and all arguments made during the formal  
2 hearing held from March 27-28, 2019, and the Remedies Briefs filed by the parties on April 2,  
3 2019. Based on the aforementioned record in this matter, the OPA makes the following findings  
4 of fact:  
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6 1. On or about July 23, 2018, GVB issued the IFB.<sup>1</sup>

7 2. The IFB stated, in relevant part, that the bidders must submit a project reference list.<sup>2</sup>

8 3. On or about August 20, 2018, three bidders submitted bids in response to the IFB.<sup>3</sup>

9 CANTON CONSTRUCTION submitted a bid for \$1,179,710, LMS GUAM submitted a bid for  
10 \$238,000, and JJ GLOBAL submitted a bid for \$197,258.78.<sup>4</sup>

11 4. JJ GLOBAL's bid contained, in relevant part, a project reference list containing nine  
12 references.<sup>5</sup>

13 5. Between August 20-30, 2019, GVB, despite some difficulty concerning inaccurate  
14 email addresses and telephone numbers, contacted the references listed in JJ GLOBAL's project  
15 reference list by phone and email.<sup>6</sup>

16 6. On August 30, 2019, GVB issued a Bid Analysis and Administrative Review which  
17 found, in relevant part, that there were discrepancies in JJ GLOBAL's reference list concerning  
18 the contact information provided by JJ GLOBAL and some negative feedback from some of JJ  
19 GLOBAL's references contacted by GVB.<sup>7</sup>

20 7. On October 31, 2018, GVB awarded the IFB Contract to LMS Guam.<sup>8</sup>

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24 <sup>1</sup> Excerpt from the *Guam Daily Post* dated July 23, 2018, Procurement Record  
filed on January 11, 2019 at 54.

25 <sup>2</sup> IFB, Instructions to Bidders, Paragraph 5.h., Id., at 8.

26 <sup>3</sup> Submission Log dated August 20, 2018, Id., at 119.

27 <sup>4</sup> Bid Analysis and Administrative Review dated August 20, 2018, Id., at 136.

28 <sup>5</sup> JJ GLOBAL's Bid, Project Reference List, Id., at 130.

<sup>6</sup> March 27, 2019 Testimony of Christine Lizama, GVB Management Analyst and  
Contracting Officer, and Doris Ada, GVB Destination Management Specialist.

<sup>7</sup> Bid Analysis and Administrative Review dated August 30, 2018, Procurement  
Record filed on January 11, 2019, at 132 - 136.

<sup>8</sup> Notice of Award dated October 31, 2018, Id., at 137.



1 responsible bidder, and (3) Whether the Automatic Stay was triggered by JJ GLOBAL's Protest.

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4 **A. JJ GLOBAL's Protest was Timely Filed.**

5 GVB and Interested Party LMS GUAM assert that JJ GLOBAL's November 19, 2018  
6 protest was not timely.<sup>13</sup> The Public Auditor shall have the power to review and determine *de*  
7 *novo* any matter properly submitted to him. 5 G.C.A. §5703 and 2 G.A.R., Div. 4, Chap. 12,  
8 §12103(a). For procurement protests, any actual or prospective bidder, offeror, or contractor  
9 who may be aggrieved in connection with the method source selection, solicitation or award of a  
10 contract, may protest to the Chief Procurement Officer, the Director of Public Works, or the head  
11 of a purchasing agency. 5 G.C.A. §5425(a). The protest shall be submitted in writing within  
12 fourteen (14) days after such aggrieved person knows or should know of the facts giving rise  
13 thereto and protests filed after the fourteen (14) day period shall not be considered. *Id.*, and 2  
14 G.A.R., Div. 4, Chap. 9, §9101(c)(1). If the protest is not resolved by mutual agreement, the  
15 Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or the  
16 designee of one of these officers shall promptly issue a decision in writing and such decision  
17 may be appealed by the protestant to the Public Auditor within fifteen (15) days after receipt by  
18 the protestant of the notice of decision. 5 G.C.A. §5425(c) and (e) and 2 G.A.R., Div. 4, Chap.  
19 9, §9101(g). Applying these procurement laws and regulations, for this matter to be properly  
20 before the Public Auditor, the Appellant must have filed its protest no later than fourteen days  
21 after it received the notice of non-responsibility from the Appellant.

22 Here, the GVB's Notice of Non-Responsibility dated October 31, 2018 indicates that the  
23 Appellant received it on November 1, 2018.<sup>14</sup> However, the same document submitted with the  
24 Appellant's appeal that was filed with OPA on January 2, 2019 indicates that it was received by  
25 the Appellant on November 7, 2018.<sup>15</sup> GVB states that it served the Notice of Non-

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27 <sup>13</sup> LMS GUAM's Hearing Brief and GVB's Joinder in LMS GUAM's Hearing Brief  
filed on March 8, 2019 at 1.

28 <sup>14</sup> GVB's Notice of Non-Responsibility dated October 31, 2018, Procurement  
Record filed on January 11, 2019 at 175-176.

<sup>15</sup> JJ GLOBAL's Notice of Appeal dated January 2, 2019, *Id.*, at 314-315.

1 Responsibility on JJ GLOBAL on November 1, 2018.<sup>16</sup> However, JJ GLOBAL states that it  
2 received the notice of non-responsibility on November 7, 2018 and that the person receiving it  
3 for JJ GLOBAL signed one of the Acknowledged Receipt Forms “November 1, 2018” and  
4 another such form “November 7, 2018,” and she stated that the day she signed the receipt forms  
5 was very busy because it was a payday.<sup>17</sup> OPA finds the testimony of Rose Meno to be more  
6 credible than the testimony of the GVB employees. Accordingly, OPA finds that JJ GLOBAL’s  
7 protest was timely because it received the Notice of Non-Responsibility on November 7, 2018,  
8 and filed its protest 12 days later on November 19, 2018, which is within the 14 day period  
9 prescribed by 5 G.C.A. §5425(a) and 2 G.A.R., Div. 4, Chap. 9, §9101(c)(1). OPA will now  
10 determine whether GVB properly found that JJ GLOBAL was a non-responsible bidder.

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12 **B. GVB Notice of Non-Responsibility is Arbitrary and it Violated 5 G.C.A. §5001(b)(4)**  
13 **and 2 G.A.R., Div. 4, Chap. 1, §1102(3).**

14 GVB’s finding of non-responsibility violates Guam Procurement Law and Regulations.  
15 A responsible bidder means a person who has the capability in all respects to perform fully the  
16 contract requirements and the integrity and reliability which will ensure good faith performance.  
17 5 G.C.A. §5201(f) and 2 G.A.R., Div. 4, Chap. 1, §1106(27). A written determination of non-  
18 responsibility of a bidder shall be made in accordance with Guam Procurement Regulations. 5  
19 G.C.A. §5230(a). If a bidder who otherwise would have been awarded a contract is found non-  
20 responsible, a written determination of non-responsibility setting forth the basis of the finding  
21 shall be prepared by the head of the purchasing agency, a copy of the determination shall be sent  
22 promptly to the non-responsible bidder, and the final determination shall be made part of the  
23 procurement file. 2 G.A.R., Div. Chap. 3, §3116(b)(5). Here, GVB complied with this  
24 requirement. As set forth above, on October 31, 2018, GVB President and CEO Jon N. Denight  
25 issued a final determination that found JJ GLOBAL was not a responsible bidder and the

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27 <sup>16</sup> March 27, 2019 Testimony of Lisa Linek, GVB Accounting Manager and Gary  
Aguon, GVB Messenger/Clerk.

28 <sup>17</sup> March 27, 2019 Testimony of Rose Meno, JJ GLOBAL Receptionist.

1 determination was delivered to JJ GLOBAL on November 7, 2018. However, a determination of  
2 non-responsibility is final and conclusive unless it is clearly erroneous, arbitrary, capricious, and  
3 contrary to law. 5 G.C.A. §5245 and 2 G.A.R., Div. 4, Chap. 3, §3125. Hence, OPA must  
4 determine whether GVB's final determination that JJ GLOBAL was erroneous, arbitrary,  
5 capricious, or contrary to law.

6 OPA finds that GVB's final determination that JJ GLOBAL was non-responsible is  
7 arbitrary. Generally, factors to be considered in determining whether the standard of  
8 responsibility has been met include whether a prospective contractor has a satisfactory record of  
9 performance. 2 G.A.R., Div. 4, Chap. 3, §3116(b)(2)(A)(ii). GVB cited this specific regulation  
10 and JJ GLOBAL's record of performance in its final determination of non-responsibility.  
11 Specifically, GVB cited the following record of JJ GLOBAL's past performance in making its  
12 determination of non-responsibility:

13 "GPA: Contract terminated 3 months prior to expiration. Broken bucket trucks  
14 change in contract managers. 2018 – 1<sup>st</sup> Performance rated marginal.  
15 GWA: Work was not satisfactory, and they didn't follow instructions in  
16 accordance with what was required.  
17 GIAA: Performance had discrepancies. Described services in their bid that they  
18 did not provide.  
19 DPR: Not satisfied with their job. They can do better as their finished job is sloppy  
20 and messy."<sup>18</sup>

21 GPA, GWA, GIAA, and DPR constitute four of the nine references that were listed in JJ  
22 GLOBAL's Project Reference List that was submitted with its bid.

23 As for the other five references, GVB states that it did not contact all the references  
24 provided on the list.<sup>19</sup> It appears that one of the references, Guam Beachfront Residences, did  
25 not respond to GVB's inquiry.<sup>20</sup> Based on the handwritten notes on a GVB's copy of JJ  
26 GLOBAL's Project Reference list, it appears that GVB did not contact Guam Facilities  
27 Foundation, Inc., due to their being no telephone or email listing, albeit a handwritten number of

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28 <sup>18</sup> GVB's Notice of Non-Responsibility dated October 31, 2018, Procurement  
Record filed on January 11, 2019 at 175.

<sup>19</sup> March 27, 2019 Testimony of Doris Ada.

<sup>20</sup> GVB Fax Cover Letter to Guam Beachfront Residences dated August 29, 2018,  
Procurement Record filed on January 11, 2019 at 192.

1 unknown meaning appears near this reference.<sup>21</sup> It appears that GVB verified the Guam  
2 Community College reference and it appears that GVB did not attempt to contact Vital Energy,  
3 Inc., and Veolia Water Guam LLC despite having an address for the former and an email address  
4 and phone numbers for the later references.<sup>22</sup> Hence, GVB's determination of non-responsibility  
5 rests solely from its alleged feedback from GPA, GWA, GIAA, and DPR resulting from its  
6 reference check.

7         Prior to making its final determination of non-responsibility, GVB did not attempt to  
8 obtain information from JJ GLOBAL concerning its responsibility or give JJ GLOBAL the  
9 opportunity to refute the allegations of non-satisfactory performance from GPA, GWA, GIAA,  
10 and DPR. Generally, the prospective contractor shall supply information requested by the  
11 Procurement Officer concerning responsibility. 2 G.A.R., Div. 4, Chap. 3, §3116(b)(2)(B).  
12 Further, the prospective contractor may demonstrate the availability of necessary financing,  
13 equipment, facilities, expertise, and personnel by submitting upon request evidence that such  
14 contractor possesses such necessary items. 2 G.A.R., Div. 4, Chap. 3, §3116(b)(3)(A). Here,  
15 GVB did not afford JJ GLOBAL the opportunity to provide this information by requesting it  
16 prior to issuing its October 31, 2018 final determination of non-responsibility removing its bid  
17 from further consideration in the IFB solicitation that same day. Concerning these allegations of  
18 non-satisfactory performance, JJ GLOBAL states that GVB's claim that its contract with GPA  
19 was not "terminated" as stated in GVB's Notice of Non-Responsibility. It was put on hold three  
20 months prior to its expiration due to funding issues, the contract was amended, purchase orders  
21 continue to be issued to JJ GLOBAL, no letter of termination was issued by GPA to JJ GLOBAL  
22 concerning the contract, and JJ GLOBAL was fully paid by GPA for the contract.<sup>23</sup> JJ GLOBAL  
23 states that GWA did not express displeasure to JJ GLOBAL and that GWA fully paid JJ  
24 GLOBAL for its work.<sup>24</sup> JJ GLOBAL states that there was no evidence in the procurement

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26 <sup>21</sup> Project Reference List, JJ GLOBAL's Bid Submission, GVB's Submission of  
Further Matters filed on March 26, 2019 at 1.

27 <sup>22</sup> Id., at 2.

28 <sup>23</sup> Comments on Agency Statement filed on January 28, 2019 at 3.

<sup>24</sup> Id.



1 record that any DPR or GIAA official with direct oversight over JJ GLOBAL's contract with  
2 DPR or GIAA expressed concern to JJ GLOBAL and that DPR and GIAA paid JJ GLOBAL  
3 their full contract amounts.<sup>25</sup> Thus, assuming the persons GVB contacted at GPA, GWA, DPR,  
4 and GIAA expressed displeasure concerning JJ GLOBAL's performance of its contract with  
5 them, such displeasure did not rise to the level of contract termination, claims of breach of  
6 contract, or the withholding of funds concerning such contracts.

7 JJ GLOBAL also asserts that GVB did not communicate with the actual points of contact  
8 for JJ GLOBAL's contracts with GPA, GWA, GIAA, and DPR.<sup>26</sup> JJ GLOBAL states that after  
9 receiving GVB's notice of non-responsibility, it contacted its point of contact for its contracts  
10 with GIAA, DPR, GPA, who denied making negative statements to GVB concerning JJ  
11 GLOBAL's performance.<sup>27</sup> JJ GLOBAL stated that although they were never given a point of  
12 contact for their work at GWA, they never received any reports of unsatisfactory performance by  
13 GWA.<sup>28</sup> These assertions conflict with statements made by GVB concerning some of the people  
14 it contacted at these agencies. As set forth above, GVB obtained the information it relied on to  
15 find JJ GLOBAL non-responsible from GPA, GWA, GIAA, and DPR by contacting various  
16 people at those agencies. It appears that JJ GLOBAL and GVB spoke to the same persons at  
17 GPA and DPR. However, GVB's position is that the same contact for GPA stated that the JJ  
18 GLOBAL's contract was terminated early for poor performance and that the contact for DPR  
19 stated that they were not satisfied with JJ GLOBAL's performance.<sup>29</sup> Further, there was an  
20 admission by the GVB employee who contacted GIAA that the person they contacted at that  
21 agency stated that JJ GLOBAL's performance was "okay."<sup>30</sup> GVB's statements concerning its  
22 contacts with GPA, GWA, GIAA, and DPR are not supported by the Procurement Record it  
23 submitted in this matter. The two GVB employees who stated that they contacted these  
24 agencies admit that neither of them, despite making some notes on either a personal "daily  
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26 <sup>25</sup> Id., at 4.

27 <sup>26</sup> Id., at 3-4.

28 <sup>27</sup> March 27, 2019 Testimony of Luis Bustamonte.

29 <sup>28</sup> Id.

30 <sup>29</sup> March 27, 2019 Testimony of Doris Ada.

<sup>30</sup> Id.

1 activity log,” or a “note-book,” or making handwritten notes on JJ GLOBAL’s Project  
2 Reference List, made an official record of their telephone conversations with the persons they  
3 contacted at these agencies and earlier in these proceedings GVB admitted that it could not  
4 produce a log of communications with its procurement record because such a log did not exist.<sup>31</sup>  
5 It is important to note the Purchasing Agency must maintain a complete record of the IFB. 5  
6 G.C.A. §5249 and 2 G.A.R., Div. 4, Chap. 3, §3129. A complete procurement record requires a  
7 log of all communications between government employees and any member of the public,  
8 potential bidder, vendor or manufacturer which is in any way related to the procurement. 5  
9 G.C.A. §5249(b) and 2 G.A.R., Div. 4, Chap. 3, §3129(2). Here, had GVB complied with this  
10 requirement, it could have better substantiated the telephone calls its employees made to GPA,  
11 GWA, GIAA, and DPR which it relies on now to justify its issuance of the October 31, 2018  
12 Notice of Non-Responsibility. The OPA resolves the conflicting testimony concerning whether  
13 JJ GLOBAL’s performance of its contracts with GPA and DPR was satisfactory by finding that  
14 the testimony provided by JJ GLOBAL to be more credible concerning its telephone contacts  
15 with GPA and DPR.

16 Finally, the evidence provided by the Parties indicates that only the Project Reference  
17 List provided by JJ GLOBAL, the lowest bidder, was scrutinized by GVB. GVB did not  
18 attempt to call or verify the contacts listed on either LMS GUAM or CANTON  
19 CONSTRUCTION’s Project Reference Lists submitted with their bids. This unequal and  
20 singular treatment of JJ GLOBAL’s Project Reference List is very suspicious when coupled with  
21 the fact that GVB did not give JJ GLOBAL the opportunity to provide evidence that it was  
22 responsible as set forth above, and the fact that GVB awarded the IFB contract to LMS GUAM,  
23 the second lowest bidder and incumbent contractor, on the very same day that GVB issued its  
24 Notice of Non-Responsibility and removed JJ GLOBAL from any further consideration in the  
25 IFB’s solicitation. Even assuming that the services provided by the second lowest bidder in this  
26 solicitation were of superior quality than the services that could have been provided by JJ  
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28 <sup>31</sup> GVB’s Opposition to Motion to Supplement a Procurement Record filed on  
February 13, 2019 at 1-2.

1 GLOBAL, GVB is hereby reminded of the provisions of Guam Procurement Regulations that  
2 make it impermissible to award a contract to a bidder submitting a higher quality item than that  
3 stated in the IFB, if such bidder is not also the lowest bidder. 2 G.A.R., Div. 4, Chap. 3,  
4 §3109(n)(5). Further, GVB is hereby reminded that one of the underlying purposes and policies  
5 underlying Guam's Procurement Laws and Regulations is to ensure the fair and equitable  
6 treatment of all persons who deal with the procurement system. 5 G.C.A. §5001(b)(4) and 2  
7 G.A.R., Div. 4, Chap. 1, §1102(3). Based on the foregoing, the OPA finds that GVB violated  
8 this policy by its suspicious, unequal, and singular scrutiny of JJ GLOBAL's Project Reference  
9 List.

10  
11 **C. The Protest did not trigger the Automatic Stay.**

12 JJ GLOBAL's November 19, 2018 Protest did not trigger the Automatic Stay. In the  
13 event of a timely protest, the Purchasing Agency shall not proceed further with the solicitation or  
14 award of the contract, or make an award of the contract, prior to final resolution of the protest. 5  
15 G.C.A. §5425(g) and 2 G.A.R., Div. 4, Chap. 9, §9101(e). Here, it is undisputed that JJ  
16 GLOBAL's November 19, 2018 Protest, albeit timely, was made after GVB's award of the IFB  
17 contract to LMS GUAM on October 31, 2018. Accordingly, OPA finds that the protest did not  
18 trigger the automatic stay.

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20 **D. GVB may ratify or affirm the contract or cancel it.**

21 GVB may ratify or affirm the IFB contract with LMS GUAM or terminate it. If after an  
22 award it is determined that a solicitation or award of a contract is in violation of law and the  
23 person awarded the contract has not acted in bad faith, then: (i) The contract may be ratified and  
24 affirmed provided that doing so is in the best interest of the Government of Guam; or (ii) The  
25 contract may be terminated and the person awarded the contract shall be compensated for the  
26 actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to the  
27 termination. 5 G.C.A. §5452(a)(1) and 2 G.A.R., Div. 4, Chap. 9, §9106(1)(a). As set forth  
28 above, GVB's Notice of Non-Responsibility is arbitrary and GVB's suspicious, unequal, and

1 singular scrutiny of JJ GLOBAL's Project Reference List violates 5 G.C.A. §5001(b)(4) and 2  
2 G.A.R., Div. 4, Chap. 1, §1102(3). Further, it is undisputed that the IFB Contract was awarded  
3 to LMS GUAM on October 31, 2018 and there has been no evidence in this matter showing that  
4 LMS GUAM has acted in bad faith. Therefore, in accordance with 5 G.C.A. §5452(a)(1) and 2  
5 G.A.R., Div. 4, Chap. 9, §9106(1)(a), GVB shall either: (i) Ratify and affirm its IFB contract  
6 with LMS GUAM, provided that doing so is in the best interest of the Government of Guam; or  
7 (ii) GVB may terminate the contract and compensate LMS GUAM for its actual expenses  
8 reasonably incurred under the contract, plus a reasonable profit, prior to the termination.

#### 10 IV. CONCLUSION

11 Based on the foregoing, OPA hereby determines the following:

12 1. JJ GLOBAL's November 19, 2018 Protest was timely.

13 2. GVB's October 31, 2018 Notice of Non-Responsibility is arbitrary and is hereby  
14 VACATED.

15 3. GVB's suspicious, unequal, and singular scrutiny of JJ GLOBAL's Project Reference  
16 List violates 5 G.C.A. §5001(b)(4) and 2 G.A.R., Div. 4, Chap. 1, §1102(3).

17 4. GVB shall either: (i) Ratify and affirm its IFB contract with LMS GUAM, provided  
18 that doing so is in the best interest of the Government of Guam; or (ii) GVB may terminate the  
19 contract and compensate LMS GUAM the contract for its actual expenses reasonably incurred  
20 under the contract, plus a reasonable profit, prior to the termination in accordance 5 G.C.A.  
21 §5452(a)(1) and 2 G.A.R., Div. 4, Chap. 9, §9106(1)(a).

22 6. JJ GLOBAL's appeal is hereby GRANTED in part and DENIED in part.

23 7. OPA finds that JJ GLOBAL is entitled to its reasonable costs incurred in connection  
24 with the solicitation, including its bid preparation costs and November 19, 2018 protest,  
25 excluding attorney's fees, pursuant to 5 G.C.A. §5425(h), because there was a reasonable  
26 likelihood that it may have been awarded the contract, but for GVB's violation of 5 G.C.A.  
27 §5001(b)(4) and 2 G.A.R., Div. 4, Chap. 1, §1102(3). JJ GLOBAL shall submit its costs to GVB  
28

1 no later than thirty (30) days after the date this decision is rendered, and GVB shall have two (2)  
2 weeks to file an objection relating to said costs after the date GVB receives them.

3 This is a Final Administrative Decision. The Parties are hereby informed of their right to  
4 appeal from a Decision by the OPA to the Superior Court of Guam, in accordance with Part D of  
5 Article 9, of 5 G.C.A. §5481(a) within fourteen (14) days after receipt of a Final Administrative  
6 Decision.

7 A copy of this Decision shall be provided to the parties and their respective attorneys, in  
8 accordance with 5 G.C.A. §5702, and shall be made available for review on the OPA Website  
9 [www.opaguam.com](http://www.opaguam.com).

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11 **DATED** this 8<sup>th</sup> day of May 2019.

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ANTHONY R. CAMACHO, ESQ.  
HEARING OFFICER

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Jerrick Hernandez <jhernandez@guamopa.com>

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## OPA-PA-19-001 Decision

1 message

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**Jerrick Hernandez** <jhernandez@guamopa.com>  
To: Vanessa Williams <vlw@vlwilliamslaw.com>

Wed, May 8, 2019 at 2:17 PM

Hafa Adail

See the attached Decision for OPA-PA-19-001. Please confirm receipt of this email and the attachment.

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Regards,

**Jerrick J.J.G. Hernandez, CGAP, CICA**  
Auditor  
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**Re:** OPA-PA-19-001 Decision

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**Abbreviations:**

HS: Host send  
HR: Host receive  
WS: Waiting send

PL: Polled local  
PR: Polled remote  
MS: Mailbox save

MP: Mailbox print  
RP: Report  
FF: Fax Forward

CP: Completed  
FA: Fail  
TU: Terminated by user

TS: Terminated by system  
G3: Group 3  
EC: Error Correct