



OFFICE OF THE PUBLIC AUDITOR

December 12, 2007

Mr. Peter John Camacho
Administrator
Guam Memorial Hospital Authority
850 Governor Carlos Camacho Rd.
Tamuning, Guam 96913

VIA FACSIMILE 649-0145

Re: Receipt of Notice of Appeal Regarding GMHA Bid No. 024-2007 – Automated Microbiology Analyzers

Dear Mr. Camacho:

Please be advised that JMI Medical Systems, Inc. by their counsel Cruz Sison & Terlaje, PLLC has filed an appeal with the Office of the Public Auditor on December 12, 2007, of your protest decision on the above-stated procurement action. Immediate action is required of your office pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of Title 2 of the Guam Administrative Regulations. Copies of the Rules and the appeal are available at our office and on our website www.guamopa.org. The front page of the appeal is enclosed for your reference.

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

Please submit one complete copy of the procurement record to OPA by December 19, 2007, five working days following receipt of this notice of appeal. When filing other required documents with our office, please provide an original and two copies for OPA and serve a copy to Cruz Sison & Terlaje, PLLC the appellant's attorney.

Thank you for your prompt attention to this matter. Please contact Theresa Gumataotao ext. 207 if you have any questions regarding this notice.

Sincerely,

for DORIS FLORES BROOKS, CPA, CGFM
PUBLIC AUDITOR

Enclosure: Notice of Appeal & Front Page of Appeal Letter re OPA-PA-07-011
cc: Mr. Benjamin C. Sison, Jr., Esq. Attorney for Appellant – Cruz Sison & Terlaje, PLLC (Via Facsimile 477-0001)
Mr. Eric Canovas General Manager – JC Marketing (Via Facsimile 633-6333)
Mr. Arcangel P. Confiado, Operations Manager – Medpharm (Via Facsimile 632-9000)



OFFICE OF THE PUBLIC AUDITOR

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

RECEIVED
OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

DEC 12 2007

TIME: 9:15 AM
BY: T. Cumaratne
FILE No. OPA-PA 07-011

PART I- To be completed by OPA

In the Appeal of)
)
JMI Systems INC.)
(Name of Company), APPELLANT)
)
_____)

NOTICE OF APPEAL

Docket No. OPA-PA -07-011

PART II- Appellant Information

Name: JMI MEDICAL SYSTEMS, INC.
Mailing Address: P.O. BOX 6577
TAMUNING, GUAM 96931
Business Address: 125 N. MARINE CORPS DRIVE
TAMUNING, GUAM 96931
Daytime Contact No: (671) 649-5444

PART III- Appeal Information

- A) Purchasing Agency: JMI MEDICAL SYSTEMS INC.
- B) Identification/Number of Procurement, Solicitation, or Contract: G M H A Bid 024-2007
- C) Decision being appealed was made on 11-27-07 (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
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

ORIGINAL

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

<u>Medpharm</u>	_____
<u>JC Marketing</u>	_____
_____	_____
_____	_____
_____	_____

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.

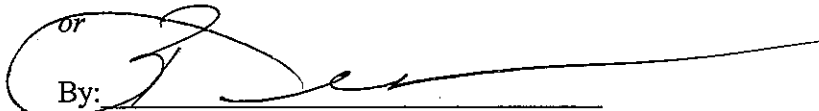
PART V- Declaration Re Court Action

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 the Public Auditor 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 the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this ___ day of ____, 20__.

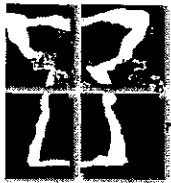
By: _____
APPELLANT

or
By: 

Appellant's Duly Authorized Representative, Ben C. Sison
(Address) 777 Route 4 Suite 10 B MVP Business Center Sinajana Guam 96910
(Phone No.) (671) 477-0000

APPENDIX A

ORIGINAL



**CRUZ
SISON
&
TERLAJE**

LAW OFFICES
777 Route 4, Ste 108 • MVP Business Center
Sinajana, Guam 96910
Tel: 671- 477-0000
Fax: 671-477-0001 866-610-1966 (Toll Free)
Email: guamlaw@ite.net

Donna M. Cruz, Esq.
Benjamin C. Sison, Jr., Esq.
Dominic S. Terlaje, Esq.

PROFESSIONAL LIMITED LIABILITY COMPANY

December 11, 2007

VIA HAND DELIVERY

Doris Flores-Brooks
CPA, CGFM
Public Auditor of Guam
OFFICE OF THE PUBLIC
AUDITOR OF GUAM
Suite 401 Pacific News Building
238 Archbishop Flores Street
Hagatna, GU 96910

RECEIVED
OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT AFFAIRS

DEC 12 2007
TIME: 9:15 AM
BY: T. C. C. [Signature]
FILE No. OPA-PA -07-011

Re: Appeal of GMHA Notice of Decision Against JMI Medical Systems Inc. Regarding Procurement for Microbiology Analyzer RFB 024-2007;

Dear Mrs. Flores-Brooks:

Our office has been retained by JMI Medical Systems Inc. (“JMI” or “Protestant”). This letter is an appeal of the Guam Memorial Hospital Authority’s (“GMHA”) Notice of Decision dated November 27, 2007 denying JMI’s Protest of the award of the contract for a Microbiology Analyzer to Medpharm pursuant to Bid Invitation and Award GMHA 024-2007 (the “RFB”). This appeal is made pursuant to 5 GCA Article 9 §5425(e).¹

I. FACTUAL STATEMENT

On June 22, 2007, GMHA issued a Bid Invitation and Award GMHA 024-2007 (the “RFB”) for the purchase of an Automated Microbiology Analyzer with the newest technology on hardware, software and clinical application (the “Equipment Component”) and reagent and supplies for a minimum 3000 tests per year for use with the Microbiology Analyzer (the “Supplies Component”). A copy of the RFB is attached hereto as Exhibit “A” and specifically incorporated herein by its reference. In response to

¹ 5 Guam Code Annotated (GCA) Article 9 §5425(e) in pertinent part provides as follows:

e. **Appeal.** A decision under Subsection (c) of this Section..., may be appealed by the Protestant, to the Public Auditor within fifteen (15) days after receipt by the protestant of the notice of decision.

ORIGINAL

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

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



OFFICE OF THE PUBLIC AUDITOR

Fax

To: Mr. Peter John Camacho, Administrator **From:** Theresa Gumataotao

OPA Procurement Appeals

Agency: Guam Memorial Hospital Authority **Pages:** 6 (Including cover)

CC: Mr. Benjamin C. Sison, Jr., Esq. Attorney for Appellant **Date:** Wednesday – 12/12/2007

Mr. Eric Canovas- General Manager, JC Marketing

Mr. Arcangel P. Confiado, Operations Manager, Medpharm

Fax: 649-0145 / 477-0001 / 633-6333 / 632-9000 **Phone:** 647-2444 / 477-0000 / 633-6330 / 632-6000

Re: **OPA-PA-07-011: Receipt of Notice of Appeal** on GMHA Bid No. 024-2007 -
Automated Microbiology Analyzers

Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

See attached letter and Memorandum. AND **Please acknowledge receipt of this fax by re-sending this cover page along with the attached letter, stamped with your agency name, date, and initials.** Thank you.

 Theresa x.207 tgumataotao@guamopa.org

This facsimile transmission and accompanying documents may contain confidential or privileged information. If you are not the intended recipient of this fax transmission, please call our office and notify us immediately. Do not distribute or disclose the contents to anyone. Thank you.



OFFICE OF THE PUBLIC AUDITOR

November 27, 2007

MEMORANDUM

TO: Honorable Felix P. Camacho
Governor of Guam

Honorable Mark Forbes
Speaker 29th Guam Legislature

Honorable Edward J.B. Calvo
Acting Speaker, 29th Guam Legislature

FROM: Doris Flores Brooks
Public Auditor

SUBJECT: Appointment of Administrator While Off Island

This is to advise you that I will be on personal leave and off island for approximately 10 weeks beginning November 28, 2007. My husband, James, will be undergoing medical treatment at Cedars Sinai Hospital in Los Angeles. My expected return to Guam is around February 16, 2008, when the Doctors authorize his travel.

During my absence the Administrator of the office will be rotated in three-week intervals beginning with Anne T. Camacho from November 28 to December 14, Yukari B. Cabrera from December 17 to January 4, 2008 and Lourdes R. Perez from January 7 to 25, 2008. After that time the rotation will begin again with Yukari Cabrera and Lourdes Perez until my return.

Senseramente

WorkCentre Pro 123 Broadcast Report

G3 ID

472-7951

Date/Time: 12/12/2007: 02:37PM

Page: 1 (Last Page)

Local Name
Logo

Guam OPA

Document Size 8.5X11"SEF

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

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



OFFICE OF THE PUBLIC AUDITOR

Fax

To: Mr. Peter John Camacho, Administrator From: Theresa Gumataotao
OPA Procurement Appeals

Agency: Guam Memorial Hospital Authority Pages: 6 (including cover)

CC: Mr. Benjamin C. Ston, Jr., Esq., Attorney for Appellee Date: Wednesday - 12/12/2007
Mr. Eric Canova - General Manager, JC Marketing
Mr. Arcangel P. Cortado, Operations Manager, Medpharm

Fax: 649-0145 / 477-0001 / 633-6333 / 632-8000 Phone: 647-2444 / 477-0000 / 633-6330 / 632-6000

Re: OPA-PA-07-011: Receipt of Notice of Appeal on GMI-A Bid No. 024-2007 - Automated Microbiology Analyzers

Urgent For Review Please Comment Please Reply Please Recycle

•Comments:

See attached letter and Memorandum. AND Please acknowledge receipt of this fax by re-sending this cover page along with the attached letter, stamped with your agency name, date, and initials. Thank you.

Theresa.x207@gumataotao@guamopa.org

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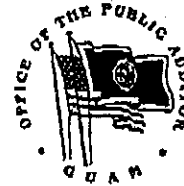
No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
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2	3350	Fax	2:29PM	2m45s	6/ 6	ECM BC		CP
3	3350	6716336333	2:34PM	54s	6/ 6	SG3 RE		CP
4	3350	6716329000	2:35PM	45s	6/ 6	SG3 BC		CP

Note:
 RE: Resend MB: Send to Mailbox BC: Broadcast MP: Multi Polling RV: Remote Service
 PG: Polling RB: Relay Broadcast RS: Relay Send BF: Box Fax Forward CP: Completed
 SA: Send Again EN: Engaged AS: Auto Send TM: Terminated

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

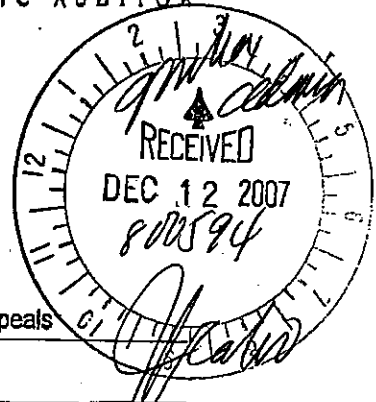
Phone: (671) 475-0390

FAX: (671) 472-7951



OFFICE OF THE PUBLIC AUDITOR

Fax



To: Mr. Peter John Camacho, Administrator **From:** Theresa Gumataotao

OPA Procurement Appeals

Agency: Guam Memorial Hospital Authority **Pages:** 6 (Including cover)

CC: Mr. Benjamin C. Sison, Jr., Esq. Attorney for Appellant **Date:** Wednesday - 12/12/2007

Mr. Eric Canovas- General Manager, JC Marketing

Mr. Arcangel P. Conrado, Operations Manager, Medpharm

Fax: 648-0145 / 477-0001 / 633-6333 / 632-9000 **Phone:** 647-2444 / 477-0000 / 633-6330 / 632-6000

Re: OPA-PA-07-011: Receipt of Notice of Appeal on GMHA Bid No. 024-2007 -
Automated Microbiology Analyzers

Urgent For Review Please Comment Please Reply Please Recycle

•Comments:

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Theresa x.207 tgumataotao@guamopa.org

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RECEIVED BY GMHA ADMIN. OFFICE

12-12-07

12-12-07;02:29PM;

;472-7951

1/ 6

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

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



OFFICE OF THE PUBLIC AUDITOR

Fax

To: Mr. Peter John Camacho, Administrator **From:** Theresa Gumataotao
OPA Procurement Appeals

Agency: Guam Memorial Hospital Authority **Pages:** 6 (Including cover)

CC: Mr. Benjamin C. Skon, Jr., Esq. Attorney for Appellant **Date:** Wednesday - 12/12/2007

Mr. Eric Canovas- General Meneger, JC Marketing

Mr. Arcangel P. Confido, Operations Manager, Medpharm

Fax: 648-0145 / 477-0001 / 633-6333 / 632-9000 **Phone:** 647-2444 / 477-0000 / 633-6330 / 632-6000

Re: OPA-PA-07-011: Receipt of Notice of Appeal on GMHA Bid No. 024-2007 -
Automated Microbiology Analyzers


Urgent For Review Please Comment Please Reply Please Recycle

Comments:

See attached letter and Memorandum. AND Please acknowledge receipt of this fax by re-sending this cover page along with the attached letter, stamped with your agency name, date, and initials. Thank you.

 Theresa x.207 tgumataotao@quamopa.org

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DEC 12 2007
Rec'd.  Time 3:30pm

12-12-07;02:28PM;

;472-7951

2/ 6



OFFICE OF THE PUBLIC AUDITOR

December 12, 2007

Mr. Peter John Camacho
 Administrator
 Guam Memorial Hospital Authority
 850 Governor Carlos Camacho Rd.
 Tamuning, Guam 96913

VIA FACSIMILE 649-0145

Re: Receipt of Notice of Appeal Regarding GMHA Bid No. 024-2007 – Automated Microbiology Analyzers

Dear Mr. Camacho:

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Please submit one complete copy of the procurement record to OPA by December 19, 2007, five working days following receipt of this notice of appeal. When filing other required documents with our office, please provide an original and two copies for OPA and serve a copy to Cruz Sison & Terlaje, PLLC the appellant's attorney.

Thank you for your prompt attention to this matter. Please contact Theresa Gumatsotao ext. 207 if you have any questions regarding this notice.

Sincerely,

for DORIS FLORES BROOKS, CPA, CGFM
 PUBLIC AUDITOR

Enclosure: Notice of Appeal & Front Page of Appeal Letter re OPA-PA-07-011

cc: Mr. Benjamin C. Sison, Jr., Esq. Attorney for Appellant – Cruz Sison & Terlaje, PLLC (Via Facsimile 477-0001)
 Mr. Eric Canovas General Manager – JC Marketing (Via Facsimile 633-6333)
 Mr. Arcangel P. Confiado, Operations Manager – Medpharm (Via Facsimile 632-9000)

12-12-07;02:29PM;

;472-7951

3/ 6



OFFICE OF THE PUBLIC AUDITOR
Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

RECEIVED
OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

DEC 12 2007

TIME: 9:15 AM
BY: T. Gonzalez
FILE No. OPA-PA 07-011

PART I- To be completed by OPA

In the Appeal of
JMI Systems INC.
(Name of Company), APPELLANT

NOTICE OF APPEAL

Docket No. OPA-PA-07-011

PART II- Appellant Information

Name: JMI MEDICAL SYSTEMS, INC.
Mailing Address: P.O. BOX 6577
Business Address: TAMUNING, GUAM 96931
125 N. MARINE CORPS DRIVE
Daytime Contact No: TAMUNING, GUAM 96931
(671) 649-5444

PART III- Appeal Information

- A) Purchasing Agency: JMI MEDICAL SYSTEMS INC.
- B) Identification/Number of Procurement, Solicitation, or Contract: C.M.H.A Bid 024-2007
- C) Decision being appealed was made on 11-27-07 (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
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

ORIGINAL

12-12-07;02:20PM;

;472-7951

4/ 6

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

<u>Medpharm</u>	_____
<u>JC Marketing</u>	_____
_____	_____
_____	_____
_____	_____

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.

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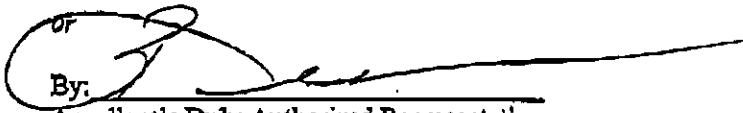
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Submitted this ___ day of ___, 20__.

By: _____
APPELLANT

By: 

Appellant's Duly Authorized Representative, Ben C. Sison
(Address) 777 Route 4 Suite 10 B MVP Business Center Sinajana Guam 96910
(Phone No.) (671) 477-0000

APPENDIX A

ORIGINAL

12-12-07:02:29PM;

;472-7951

5/ 6



LAW OFFICES
 777 Route 4, Ste 108 • MVP Business Center
 Sinajana, Guam 96910
 Tel: 671-477-0000
 Fax: 671-477-0001 866-610-1966 (Toll Free)
 Email: guamlaw@lte.net

Donna M. Cruz, Esq.
 Benjamin C. Sison, Jr., Esq.
 Dominic S. Terlaje, Esq.

December 11, 2007

VIA HAND DELIVERY

Doris Flores-Brooks
 CPA, CGFM
 Public Auditor of Guam
 OFFICE OF THE PUBLIC
 AUDITOR OF GUAM
 Suite 401 Pacific News Building
 238 Archbishop Flores Street
 Hagatna, GU 96910

RECEIVED
 OFFICE OF THE PUBLIC AUDITOR
 PROCUREMENT SERVICES

DEC 12 2007

TIME: 9:15 AM
 BY: T. Conataker
 FILE No. OPA-PA 07-01

Re: Appeal of GMHA Notice of Decision Against JMI Medical Systems Inc. Regarding Procurement for Microbiology Analyzer RFB 024-2007;

Dear Mrs. Flores-Brooks:

Our office has been retained by JMI Medical Systems Inc. ("JMI" or "Protestant"). This letter is an appeal of the Guam Memorial Hospital Authority's ("GMHA") Notice of Decision dated November 27, 2007 denying JMI's Protest of the award of the contract for a Microbiology Analyzer to Medpharm pursuant to Bid Invitation and Award GMHA 024-2007 (the "RFB"). This appeal is made pursuant to 5 GCA Article 9 §5425(e).¹

I. FACTUAL STATEMENT

On June 22, 2007, GMHA issued a Bid Invitation and Award GMHA 024-2007 (the "RFB") for the purchase of an Automated Microbiology Analyzer with the newest technology on hardware, software and clinical application (the "Equipment Component") and reagent and supplies for a minimum 3000 tests per year for use with the Microbiology Analyzer (the "Supplies Component"). A copy of the RFB is attached hereto as Exhibit "A" and specifically incorporated herein by its reference. In response to

¹ 5 Guam Code Annotated (GCA) Article 9 §5425(e) in pertinent part provides as follows:

c. Appeal. A decision under Subsection (c) of this Section..., may be appealed by the Protestant, to the Public Auditor within fifteen (15) days after receipt by the protestant of the notice of decision.

12-12-07;02:28PM;

;472-7951

6/ 6



OFFICE OF THE PUBLIC AUDITOR

November 27, 2007

MEMORANDUM

TO: Honorable Felix P. Camacho
Governor of Guam

Honorable Mark Forbes
Speaker 29th Guam Legislature

Honorable Edward J.B. Calvo
Acting Speaker, 29th Guam Legislature

FROM: Doris Flores Brooks
Public Auditor

SUBJECT: Appointment of Administrator While Off Island

This is to advise you that I will be on personal leave and off island for approximately 10 weeks beginning November 28, 2007. My husband, James, will be undergoing medical treatment at Cedars Sinai Hospital in Los Angeles. My expected return to Guam is around February 16, 2008, when the Doctors authorize his travel.

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Senseramente