



Jerrick Hernandez &lt;jhernandez@guamopa.com&gt;

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**In the Appeal of JJ Global Services re: Appeal Case No. OPA-PA-25-003**

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**Abi T. Brennan** <atbrennan@gdoe.net>

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To: Jerrick Hernandez &lt;jhernandez@guamopa.com&gt;, McDonald Law Office &lt;guam@mcdonald.law&gt;

Cc: "Matthew E. Wolff" &lt;mewolff@gdoe.net&gt;, "Jesse N. Nasis" &lt;jnnasis@gdoe.net&gt;, Legal Admin &lt;legal-admin@gdoe.net&gt;

Hafa Adai All,

Please see attached ***GDOE Rebuttal to Comments on Agency Report, and Declaration of Nikolas Cruz in Support of the Agency Rebuttal to the Appellant's Comments*** re: In the Appeal of JJ Global Services; OPA-PA-25-003. Kindly confirm receipt.

Thank you and stay safe.

Respectfully,

**Abi T. Brennan**  
Office of the Superintendent, Legal Division  
[Guam Department of Education](#)  
501 Mariner Ave., Barrigada, Guam 96913  
Contact No.: (671) 929.4444

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**2 attachments****Declaration of N.Cruz In Support of the Rebuttal re Appeal Case No. OPA-PA-25-003.pdf**

52K

**Rebuttal to Comments on Agency Report re Appeal Case No. OPA-PA-25-003.pdf**

433K

1 **GUAM DEPARTMENT OF EDUCATION**

2 Jesse N. Nasis, Esq.  
3 Matthew E. Wolff, Esq.  
4 501 Mariner Avenue  
5 Barrigada, Guam 96913  
6 Telephone: (671) 300-1537  
7 E-mail: legal-admin@gdoe.net  
8 *Attorneys for Guam Department of Education*

6 **OFFICE OF THE PUBLIC AUDITOR**  
7 **PROCUREMENT APPEALS**

8 In the Appeal of

**APPEAL CASE NO. OPA-PA-25-003**

9  
10 JJ Global Services,

**REBUTTAL TO COMMENTS  
ON AGENCY REPORT**

11  
12 Appellant.

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14 COMES NOW, the Guam Department of Education (“GDOE”), by and through its Legal  
15 Counsel Matthew E. Wolff, and files its Rebuttal to Comments on Agency Report pursuant to  
16 Title 2 of the Guam Administrative Rules and Regulations (“GAR”), Division (“Div.”) 4, Section  
17 (“§”) 12104(c)(4), in response to the Appeal of JJ Global Services (hereafter referred to as “JJ  
18 Global” or “Appellant”) of GDOE Invitation for Bid (“IFB”) 002-2025, for Grounds Maintenance  
19 Services for Various GDOE Public Schools and Support Facilities.

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21 **I. RELEVANT BACKGROUND.**

22 On December 18, 2024, GDOE published IFB 002-2025 for grounds maintenance  
23 services. On January 7, 2025, IFB 002-2025 was set for public bid opening. On January 6 and 7,  
24 2025, JJ Global issued protests regarding IFB 002-2025. JJ Global’s protests made numerous  
25 allegations regarding the specifications well after the fourteen (14) day allowable period, and  
26 included numerous allegations regarding a distinct and separate IFB from IFB 002-2025. JJ  
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1 Global alleges that the twenty (20) days for bid submission from publication was insufficient and  
2 not enough time for JJ Global to provide a bid, despite the legal requirement being fifteen (15)  
3 days. 2 GAR Div. 4 § 3109(d). IFB 002-2025 is in an automatic stay from the protest and shall  
4 not proceed further prior to final resolution of the protest. Title 5 of the Guam Code Annotated  
5 (“GCA”) § 5425(g).

6 Due to the automatic stay, GDOE issued an emergency procurement on January 24, 2025,  
7 at approximately 3:30pm. The emergency procurement is for ninety (90) days and includes the  
8 same amount of regions as IFB 002-2025, specifically thirty-five (35) schools and two (2) GDOE  
9 facilities. See Declaration of GDOE Supervisor II, Mark Crisostomo (March 27, 2025). On  
10 January 28, 2025, at approximately 9:00am, within less than three (3) business days, JJ Global  
11 successfully provided a quote for the emergency procurement for all thirty-five (35) schools and  
12 two (2) GDOE facilities and was awarded thirty-three (33) schools and two (2) GDOE facilities.  
13 *Id.* JJ Global shall earn approximately \$139,852.29 from the emergency procurement. *Id.*

14 The ninety (90) days for the first emergency procurement ended on April 16, 2025. The  
15 automatic stay applicable to this procurement remains in effect. Prior to the end of the first  
16 emergency procurement, Governor Lourdes Leon Guerrero approved GDOE’s second request for  
17 an emergency procurement on April 15, 2025. Thereafter, GDOE issued a second emergency  
18 procurement on April 25, 2025. See Supplemental Declaration of Nikolas Cruz (May 2, 2025).  
19 JJ Global was awarded thirty-three (33) schools under the second emergency procurement. *Id.* JJ  
20 Global shall earn approximately \$128,047.86 under the second emergency procurement. *Id.* As  
21 resolution of the appeal is still pending and the second emergency procurement is restricted to  
22 ninety (90) days, GDOE with limited options will likely have to seek a third emergency  
23 procurement in order to have grounds maintenance services. *Id.* GDOE’s Rebuttal to JJ Global’s  
24 Comments to GDOE’s Agency Report herein follows.  
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1 **II. JJ GLOBAL’S ALLEGATIONS ARE UNTIMELY.**

2 Regarding the right to protest, Title 5 GCA § 5425(a) states in relevant part that the  
3 protest shall be in writing within fourteen (14) days after such aggrieved person knows or should  
4 know of the facts giving rise thereto. *See* 5 GCA § 5425(a).

5 In this case, IFB 002-2025, its specifications, and bid receiving deadlines were published  
6 and distributed on December 18, 2024. Fourteen (14) days after December 18, 2024, is January  
7 2, 2025, because of the New Year Government of Guam holiday.

8 On January 6 and 7, 2025 (or 19 and 20 calendar days after Dec. 18, 2024), JJ Global  
9 protested the specifications and published information. Pursuant to Guam law, JJ Global’s  
10 arguments regarding specifications, the inclusion of regions within specifications, and the  
11 deadline for bid submission are statutorily barred because they are untimely. *Id.*

12 Notwithstanding JJ Global’s protest regarding the published specifications and deadline  
13 for bid submissions for IFB 002-2025 being untimely, JJ Global failed to provide any legal  
14 authority for a vendor to dictate specifications or deadlines for a procurement. That is because it  
15 is the purchasing agencies that shall prepare and issue specifications for supplies and services  
16 required by Guam, not a vendor. *See* 5 GCA § 5262(a). For these reasons, JJ Global’s untimely  
17 arguments are meritless and should be dismissed.

18 The statute is clear and unambiguous. There are fourteen (14) days within which a protest  
19 can legally be made. 5 G.C.A. §5425(a). There is no exception in the statute (5 G.C.A.  
20 §5425(a)) for allegations of misrepresentations. 9<sup>th</sup> Circuit case law is consistent on the concept  
21 that when the statute is clear and unambiguous, we look to the *plain meaning* of the statute.  
22 *Gonzales & Gonzales Bonds & Ins. Agency, Inc. v. U.S. Dep’t of Homeland Security*, 107 F.4d  
23

1 1064 (9<sup>th</sup> Cir. 2024). Analysis really need not be any more complicated than that. Based on the  
2 statute, there is no wiggle room for creative or financially-charged interpretation.

3 JJ Global's defenses about untimeliness miss the point in that JJ Global already had  
4 enough information for protest when there was no clarification or response regarding the 9-27-24  
5 letter. However, at that point, there was nothing formally to protest. That formal ability to  
6 protest did arrive with the publication and distribution of IFB 002-2025 because its very existence  
7 contradicts IFB 007-2023 and the 9-27-24 letter that JJ Global sought clarification on. For this  
8 reason, JJ Global's spin on its timeliness is unavailing.

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11 **III. JJ GLOBAL'S APPEAL IS MOOT.**

12 Mootness is an issue because GDOE is already receiving all of the grass cutting services it  
13 needs through the first (1<sup>st</sup>) and second (2<sup>nd</sup>) emergency procurements. Thirty-five (35) schools,  
14 thirty-three (33) of which are awarded to JJ Global, and two (2) GDOE facilities are receiving  
15 such services under the current emergency procurement contract. Consequently, JJ Global is  
16 already receiving the pay it would receive if it won a majority of IFB 002-2025 and if it continued  
17 via the 9-27-24 letter. Although the OPA is an administrative tribunal instead of a court, the need  
18 for a case and controversy is ever-present, and jurisdiction can be raised at any time. Therefore,  
19 due to the current state of the desired services and the absence of a limit as to the number of  
20 emergency procurements that GDOE can request, and the benefit of a contract already being  
21 currently given to JJ Global, the instant appeal is moot and should thus be dismissed.

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1 **IV. JJ GLOBAL FAILED TO EXHAUST ITS ADMINISTRATIVE REMEDIES**  
2 **REGARDING ITS UNFOUNDED ALLEGATIONS OF CONTRACT AND**  
3 **BREACH OF CONTRACT CONTROVERSIES OF A SEPARATE AND**  
4 **DISTINCT IFB FROM IFB 002-2025.**

5 The issue before the OPA is that this is an appeal of a protest for IFB 002-2025, and yet JJ  
6 Global has shoved a litany of allegations against GDOE for a separate and distinct IFB regarding  
7 contract and breach of contract controversies. JJ Global fails to provide any legal authority that  
8 allows for the freezing of one (1) IFB (or IFB 002-2025) by and through a protest when the  
9 complaint is about a separate and distinct IFB (or IFB 007-2023). Guam law provides an entirely  
10 separate mechanism for contract and breach of contract controversies. 5 GCA § 5427.  
11 Procurement rules and regulations further provide the procedure for allegations regarding claims  
12 of contract and breach of contract controversies. *See generally* Title 2 GAR Div. 4 Chapter 9.  
13 The Supreme Court of Guam has held to exhaust administrative remedies, a person must follow  
14 the rules governing filing and prosecution of a claim. *See DFS Guam L.P. v. A.B. Won Pat*  
15 *International Airport Authority...*, 2020 Guam 20 ¶ 66. Administrative exhaustion is required  
16 with respect to each and every claim under the Procurement Code that a plaintiff seeks to raise in  
17 the Superior Court under section 5480, and that failure to properly protest and exhaust such  
18 remedies deprives the Superior Court of jurisdiction over individual claims that were not  
19 administratively exhausted. *Id.* at ¶ 60.

21 In this case, JJ Global improperly inserted numerous allegations regarding IFB 007-2023  
22 within a protest and appeal of IFB 002-2025, effectively holding IFB 002-2025 hostage. Guam  
23 law does not allow this. *Id.* GDOE objects to and denies all allegations regarding the separate  
24 and distinct IFB 007-2023 and all related contract controversies. JJ Global is required to exhaust  
25 its administrative remedies regarding a contract and breach of contract controversy. *Id.* JJ Global  
26 did not exhaust its administrative remedies regarding the alleged contract and breach of contract  
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1 controversies, and for these reasons, these allegations regarding a separate and distinct issue and  
2 IFB are not properly before the OPA and should be dismissed. *Id.*

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4 **V. JJ GLOBAL'S PROTEST AND APPEAL OF IFB 002-2025 ARE CLEARLY TO**  
5 **MONOPOLIZE THE GROUND MAINTENANCE SERVICES FOR GDOE AND**  
6 **MANIPULATE THE DURATION OF THE PROCUREMENT STAY.**

7 JJ Global's protest and appeal of IFB 002-2025 are clearly to monopolize the ground  
8 maintenance services for GDOE and manipulate the duration of the procurement stay. The facts  
9 show JJ Global greatly benefits by prolonging, for as long as possible, a protest and appeal of the  
10 recently opened IFB 002-2025. First, IFB 002-2025 is only in its infancy. Bids have not been  
11 opened, JJ Global's bid status is unknown, or if JJ Global is actually the majority winner of IFB  
12 002-2025. It is certain that the protest and appeal act as a placeholder for JJ Global. Second, JJ  
13 Global alleges that 20 days were inadequate to provide a bid for IFB 002-2025 and yet JJ Global  
14 provided a quote and was awarded for the exact same amount of regions within three (3) business  
15 days. *See* Declaration of GDOE Supervisor II, Mark Crisostomo (March 27, 2025). JJ Global's  
16 arguments and actions clearly contradict each other. Third, JJ Global earned \$139,852.29 under  
17 the first emergency procurement. Fourth and finally, JJ Global will earn approximately  
18 \$128,047.86 under the second emergency procurement. These critical facts are offered for  
19 additional consideration for the timing and content of the appeal for IFB 002-2025.  
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22 In addition, JJ Global's appeal fails to refute, address, or even acknowledge any of  
23 GDOE's responses to its original protest. *See* Procurement Appeal, In the Appeal of JJ Global  
24 Services, OPA-PA-025-003 (Mar. 17, 2025). Furthermore, GDOE moves that JJ Global's  
25 allegations regarding the separate and distinct IFB 007-2023 and all related contract controversies  
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1 be dismissed for failure to state a claim upon which relief may be granted. *See First Hawaii Bank*  
2 *v. Manley*, 2007 Guam 2 ¶ 9; *see also* GRCP Rule 12(b)(6).  
3

4 **VI. GDOE PROVIDED THE PROCUREMENT RECORD IN ACCORDANCE WITH**  
5 **THE PROCUREMENT RECORD RULES AND REGULATIONS.**

6 On March 25, 2025, GDOE filed the Procurement Record as required by this appeal, to  
7 the OPA and JJ Global. Guam Procurement rules and regulations state, the head of a Purchasing  
8 Agency shall submit to the OPA a complete copy of the procurement record relevant to the appeal  
9 within five (5) working days of receiving notice of an Appeal, in chronological order where  
10 practicable, numbered sequentially, tabbed, and indexed to identify the contents. *See* 2 GAR Div.  
11 4 §§ 12104(c)(3), 12105. GDOE submitted timely and in accordance with the requirements set  
12 forth in the procurement rules & regulations. *See generally* GDOE Procurement Record. As  
13 stated above, GDOE filed the Procurement Record to the tribunal OPA and to opposing counsel  
14 JJ Global. In addition, JJ Global's protest preceded bid openings and therefore received bids are  
15 confidential and withheld pursuant to Guam law, rules and regulations. 5 GCA § 5429(g); *see*  
16 *also* 2 GAR Div. 4 §§ 3109(l)(1) & 3109(t)(3). Please also see formal notice included with the  
17 filed procurement record as required. *See* 2 GAR Div. 4 § 12104(c)(6). Therefore, GDOE filed  
18 the Procurement Record as provided in the relevant rules and regulations.  
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22 **VII. GDOE'S USE OF PURCHASE ORDERS IS VALID.**

23 JJ Global argues that GDOE failed to comply with its own procedures by issuing only a  
24 purchase order for IFB 007-2023 and not a long form contract. Purchase orders have been held  
25 out as viable contracts by GSA. The Procurement Code also legitimizes the use of purchase  
26 orders, at the discretion of GDOE's chief procurement officer. 5 G.C.A. 5121(c). In addition,  
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1 GDOE regularly incorporates by reference the IFB and its attachments and the winning bid into  
2 the purchase order, and/or attaches the Purchase Order Terms and Conditions (“PO T&C”) to the  
3 purchase order even though what is ultimately signed is the purchase order. Either way, GDOE’s  
4 process is not arbitrary and is supported by both statute and common practice.  
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7 **VIII. JJ GLOBAL’S PROTEST APPEAL DEPRIVES ALL PARTIES FROM THE**  
8 **MOST OPTIMAL AND EQUITABLE PROCUREMENT ENVIRONMENT FOR**  
9 **GRASS CUTTING.**

10 Although lacking an accurate citation<sup>1</sup> to the procurement code, JJ Global cites to various  
11 underlying values and purposes of the code (increased public confidence in the procedures,  
12 ensuring fair and equitable treatment of all persons, providing increased economy in Guam  
13 activities, maximizing the purchasing value of public funds, fostering effective broad-based  
14 competition within the free enterprise system, and to provide safeguards for the maintenance of a  
15 procurement system of quality and integrity). First, JJ Global conveniently leaves out the 8<sup>th</sup> and  
16 final purpose and policy listed under §5001(b) of the procurement code, “to **require public**  
17 **access to all aspects of procurement consistent with the sealed bid procedure** and the  
18 integrity of the procurement process.” The sealed bid procedure is what governs IFB 002-2025,  
19 which JJ Global has arrested through the instant appeal. Again, regarding confidence in the  
20 procedures, GDOE follows the procedure when it deems statutorily untimely protests as untimely.  
21 The most fair and equitable treatment of all persons while maximizing broad-based competition  
22 and the purchasing value of public funds is to allow IFB 002-2025 to move forward because that  
23 is where all competitive persons and entities participate and because that is where selection will  
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1 be based on lowest price rather than on incumbency and letter extensions, and because within IFB  
2 002-2025, quality and integrity (most responsive and responsible, confirmed via various  
3 affidavits) will be present as compared to litigation where settlement may cause a blind eye to be  
4 turned to quality and integrity for the sake of moving on.  
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7 **IX. THE NEED FOR A VALID CONTRACT AND AN EFFORT TO UPHOLD THE**  
8 **PURPOSES OF THE PROCUREMENT CODE GAVE RISE TO IFB 002-2025.**

9 JJ Global argues that the subject matter of IFB 007-2023 and IFB 002-2025 are the same.  
10 The difference, however, is that the former has an expired unextendible contract and the latter  
11 presents GDOE's and all prospective bidders' best chance at a legitimate, competitive, extendable  
12 contract with integrity and freedom from emergency procedures. GDOE did not make the  
13 deadline of extending the IFB 007-2023 contract by the extension deadline of 9-30-24, which  
14 means that the IFB 007-2023 contract was dead and could not be extended. One would never put  
15 it beyond humans to try to patch things up, which is what prompted the 9-27-24 extension letter.  
16 But even the extension letter was not per se extendible. For cleanliness, GDOE immediately got  
17 to work on the prospect of a new competitive viable extendable and legitimate contract through  
18 IFB 002-2025, and upon final realization of the nonresuscibility of the IFB 007-2023 contract,  
19 GDOE terminated the 9-27-24 letter. Whether all reasons were immediately revealed amidst  
20 growing tensions is less relevant than the fact that GDOE was taking immediate steps to make it  
21 right with a new proper procurement. There is nothing underhanded or retaliatory about trying to  
22 make something more proper under the code, and the duty of good faith and fair dealing does not  
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24 \_\_\_\_\_  
25 (Footnote continued from previous page)

26  
27 <sup>1</sup> Citation- The citation should have been 5 G.C.A. §5001(b) rather than 5 G.C.A. §5703.

1 obligate any one party to reveal any and all thought processes and rationales. Rather, it requires  
2 that all parties head in the right direction with the intention of no harm.

3  
4 **X. FOR SERVICES RENDERED, THE GOVERNMENT CLAIMS ACT, OUTSIDE**  
5 **THE OPA PROCESS, IS AVAILABLE AND CONSISTENT WITH**  
6 **PROCUREMENT LAW.**

7 JJ Global, legally represented, always had and has access to the Government Claims Act  
8 through which it can pursue enforcement of what it deems to be an enforceable contract (despite  
9 the contract having expired by its own terms on 9-30-24). This stance is supported by the  
10 procurement regulations. 2 GAR, Div. 4, §9103(c)(2). Thus, JJ Global is not without remedy if  
11 the record shows that it has performed under the prior contract or 9-27-24 letter without being  
12 fully compensated. However, such money-owed issues are not proper when before the OPA. 5  
13 G.C.A. §5703(b)(“The Public Auditor shall not have jurisdiction over disputes having to do with  
14 money owed to or by the government of Guam”).

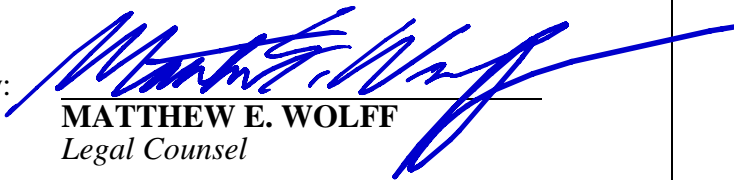
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17 **XI. CONCLUSION.**

18 In conclusion and based on the above, GDOE respectfully requests the appeal be denied  
19 and dismissed in its entirety.

20 Dated: May 2, 2025.

21 Respectfully submitted,

22 **GUAM DEPARTMENT OF EDUCATION**

23  
24 By:   
25 **MATTHEW E. WOLFF**  
26 *Legal Counsel*