

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



FAX

To:	Ms. Emily G. Gumataotao Supply Management Administrator University of Guam UOG Station Mangilao, Guam 96923 Phone: (671) 735-2925 Fax: (671) 735-3010 Email: eggumataotao@triton.uog.edu ; uog.bids@triton.uog.edu	From:	Benjamin J.F. Cruz Public Auditor Office of Public Accountability
		Pages:	9 (including cover page)
CC:	Mr. Sedfrey Linsangan President Guam Pacific Enterprise, Inc. Phone: (671) 649-6994/7/8 Email: guampacific@gmail.com	Date:	September 16, 2021
		Phone : Fax:	(671) 475-0390 x. 204 (671) 472-7951

Re: OPA-PA-21-006 Notice of Receipt of Appeal

For Review

**Please
Comment**

Please Reply

Please Recycle

Comments:

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,
 Jerrick Hernandez, Auditor
jhernandez@guamopa.com

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 PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910
Phone: (671) 475-0390 / FAX: (671) 472-7951

September 16, 2021

Ms. Emily G. Gumataotao
Supply Management Administrator
University of Guam
UOG Station
Mangilao, Guam 96923

VIA FACSIMILE: (671) 735-3010

Re: Notice of Receipt of Appeal – OPA-PA-21-006

Dear Ms. Gumataotao,

Please be advised that Guam Pacific Enterprises Inc. (hereinafter referred to as “GBE INC” filed an appeal with the Office of Public Accountability (OPA) on September 15, 2021, regarding the University of Guam’s (UOG) procurement award for UOG Bid B21-10 for Air Purifier system and Replacement Filter. OPA has assigned this appeal case number OPA-PA-21-006.

Immediate action is required of UOG pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA’s office and on its website at www.opaguam.org. The first eight pages of the notice of appeal filed with OPA is enclosed for your reference.

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

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Thursday, September 23, 2021**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Thursday, September 30, 2021**, ten work days following receipt of this notice.

When filing all other required documents with our office, please provide one original and one copy to OPA (electronic filings will be acceptable), and serve a copy to GBE INC. Although the Guam Procurement Law and Regulations require only one copy of the procurement record, OPA respectfully asks that UOG provide one original and one electronic file of the said record, which

will be distributed as follows: Copy-1: Master File; and Copy-2: Public Auditor and/or Hearing Officer.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at 475-0390 ext. 204 or jhernandez@guamopa.com should you have any questions regarding this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Benjamin J.F. Cruz', with a stylized flourish at the end.

Benjamin J.F. Cruz
Public Auditor

Enclosure: First Six Pages of the Notice of Appeal – OPA-PA-21-006

Cc: Sedfrey M. Linsangan, GPE Inc. President



**Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL**

PART I- To be completed by OPA

In the Appeal of)	NOTICE OF APPEAL
<u>Guam Pacific Enterprises</u>)	
(Name of Company), APPELLANT)	
_____)	
_____)	
)	Docket No. OPA-PA _____

PART II- Appellant Information

Name: Guam Pacific Enterprises Inc.
 Mailing Address: P. O. Box 23128 Barrigada
Guam 96921
 Business Address: #202 Corner Blas Pangelinan
Road, Harmon Guam
 Email Address: guampacific@gmail.com
 Daytime Contact No: 649-6997-8-4
 Fax No.: 649-6988

PART III- Appeal Information

- A) Purchasing Agency: University of Guam
- B) Identification/Number of Procurement, Solicitation, or Contract: VOGBid No. B21-10
- C) Decision being appealed was made on July 1 (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)

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

J & B Modern Tech _____
Wang Bros. LLC _____
Docomo Pacific _____

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

Submitted this 15 day of Sept 20 21

By: _____

APPELLANT

or

By: _____

Appellant's Duly Authorized Representative

(Address)

(Phone No.)

APPENDIX A



**Appendix D: Hearing Request/Waiver Form
PROCUREMENT APPEAL**

In the Appeal of _____)
)
) **HEARING**
) **REQUEST/WAIVER**
)
(Name of Company), APPELLANT)
)
) Docket No. OPA-PA _____
)
)
)

Please select one:

- Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.
- Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

Submitted this 15 day of Sept, 20 21

By: (Please select one)

- APPELLANT
- Chief Procurement Officer
- Director of Public Works
- Head of Purchasing Agency


Signature

Sedfrey M. Linsangan
Print Name

Concise Statement

Notice of Award and Bid Status was only provided to me on Sept. 2, 2021. I had been following up since June, July and August many times but the answer was that they are still evaluating the bid.

The Administrator reasoned out that it was an oversight on her part. (Please see her letter dated Sept. 2 (Exhibit A) My concern or the violation is the Notice of Award was provided first on June 7, 2021 but the Bid Status which was not sent to me was dated July 1. (Please see Exhibit B and C)

The specs of Docomos offer does not comply with the intention and Background as provided in Exhibit A of the Bid (pages 20). The offer was specifically for homes not classrooms.

The offer that was favored was made in Israel not USA. UOG should be buying American made for Federal funding projects to comply with Buy American Act.

UOG violates the provisions in Instruction 12, Method of Award because the product they approved does not conform for class rooms use but only for homes. It is not in the public interest that UOG will buy or award the bid that does not served its purpose. Yes the product is cheap and the lowest bid but just a waste of money since it is not designed for schools. Please see page 5 of Bid Document (Method of Award).

Ruling Requested

It is up to OPA to determine the appropriate ruling or sanction to correct this wrong disposition on Method of Award and not following the basic Guam Procurement Law on Bid Status and Notice of Award. I also have to add that they (LOG) are the only one charging \$25.00 for Bid Documents in PDF file. All agencies does not charge \$25.00 if Bidders download the file.

Very Respectfully,

9/15/21


Sedfrey M. Linsangal



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-21-006 Notice of Receipt of Appeal

Jerrick Hernandez <jhernandez@guamopa.com>

Thu, Sep 16, 2021 at 1:23 PM

To: eggumataotao@triton.uog.edu, uog.bids@triton.uog.edu, GPE INC <guampacific@gmail.com>

Hafa Adai,

Please see attached Notice of Receipt of Appeal for OPA-PA-21-006. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

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Regards,

Jerrick J.J.G. Hernandez, MA, CGAP, CICA
Auditor
Office of Public Accountability – Guam
www.opaguam.org
Tel. (671) 475-0390 ext. 204
Fax (671) 472-7951

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**21-006 Notice of Receipt of Appeal.pdf**

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