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9 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

10 IN THE APPEAL OF
11 GLIMPSES OF GUAM, INC.,
12 Appellant.

13 Appeal No. OPA-PA-25-002

14 **PURCHASING AGENCY'S**
15 **ADMISSIONS OF FACT AND LIST OF**
16 **ISSUES**

17 **I. Admissions of fact**

- 18 A. GVB is a nonprofit public membership corporation created for the purposes stated in 12
19 GCA § 9104, including to promote Guam.
- 20 B. GVB is funded in part through the Tourist Attraction Fund.
- 21 C. Tourism contributes jobs, generates taxes, and adds income to gross island product.
- 22 D. Governor Lourdes A. Leon Guerrero attended a GVB Board of Directors Meeting on
23 October 24, 2024, to urge GVB's board and management to take action regarding the
24 trajectory of recovery of Guam's tourism sector, which has underperformed after the end
25 of the Covid-19 pandemic, while competitor destinations eat Guam's market share.
- 26 E. At the October 24, 2024 board meeting, the Board created a Recovery Committee to
27 address the Governor's urged action (hereinafter, the "Recovery Committee").
- 28 F. The chairs of the Recovery Committee have been Joaquin Cook and Mark Baldyga. The
Recovery Committee has met regularly after the October 24 meeting, one to two times a

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Vince P.

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month, to oversee the action urged by the Governor. The Recovery Committee continues to meet regularly.

- G. Acting on the Governors urging; on or around December 5, 2024, the purchasing agency with oversight by the Recovery Committee produced a Short-Term Tourism Recovery Plan (hereinafter, the "Recovery Plan"), which resulted from collaboration with local tourism industry, GVB general members, and from input by source market professionals, and the public. The Recovery Plan included detail for promoting Guam through specific tactical means and marketing strategies.
- H. GVB made a determination of need and record of procurement planning on December 20, 2024, to procure, through method of selection request for proposal, Integrated Communications, Advertising and Event Support Services (the "ICAESS Services").
- I. GVB would utilize the ICAESS Services to help address needs arising from the Recovery Plan.
- J. GVB approved GVB RFP 2025-002 on December 20, 2024 for the ICAESS Services (hereinafter, the "ICAESS RFP").
- K. GVB's board on or around December 23, 2024 approved the Recovery Plan.
- L. GVB issued the ICAESS RFP on December 27, 2024.
- M. An advertisement announcing the ICAESS RFP was advertised on December 27, 2024 in the Guam Daily Post.
- N. GVB emailed the hyperlink to a copy of the ICAESS RFP to Glimpses on December 27, 2025.
- O. The deadline to submit written questions regarding the ICAESS RFP to GVB was January 2, 2025.

PURCHASING AGENCY'S ADMISSIONS OF FACT AND ISSUES LIST

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2 P. GVB did not receive written questions from Glimpses regarding the ICAESS RFP by
3 January 2, 2025.
- 4 Q. GVB amended the ICAESS RFP on January 2 and 3, 2025.
- 5 R. GVB sent ICAESS Procurement Packets (as amended) to Glimpses and Adztech &
6 Public Relations, Inc., on January 3, 2025.
- 7 S. GVB responded to written questions on or around January 8, 2025 and notified potential
8 offerors of its answers.
- 9
10 T. Potential offerors including Glimpses, Ruder Integrated Marketing Strategies
11 (RIMS)/Manhita Group, Big Fish/Manhita – Big Fish Creative had references submit
12 questionnaires to GVB.
- 13 U. The deadline for submission of proposals to the ICAESS RFP was January 17, 2025.
- 14 V. On or around January 15, 2025, RIMS and Big Fish executed an agreement to establish a
15 partnership to jointly provide marketing, advertising, and communications services to
16 GVB through an agreement to collaborate to leverage their expertise and resources to
17 effectively serve GVB's marketing objectives for the services outlined in the ICAESS
18 RFP. RIMS and Big Fish were to be independent contractors under the agreement.
- 19
20 W. The proposals submitted at the deadline were from Galaide, Glimpses, Greenlight Group,
21 and RIMS.
- 22
23 X. The evaluation took place on January 17, 2025, and was administered by GVB employee
24 Christine Lizama. Three GVB employees, Dee Hernandez, Nadine Leon Guerrero, and
25 Kraig Camacho were tasked with evaluating the proposals. The evaluators certified that
26 they did not have conflicts. The evaluation criteria for the proposals were qualification
27 and experience (50 points), demonstrated capability and capacity to respond (5 points),
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PURCHASING AGENCY'S ADMISSIONS OF FACT AND ISSUES LIST

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2 quality and responsiveness (5 points), and plan of performance – approach and strategy
3 (40 points).

4 Y. Glimpses submission identified itself as the offeror. Glimpses' proposal was submitted
5 via a cover letter that identified the ICAESS RFP but otherwise did not have a catchy,
6 creative name. In response to the RFP's criteria for Glimpses' information regarding
7 qualifications and experience, its proposal stated that non-offeror Adztech and Public
8 Relations, Inc. ("Adztech") was the head of its Events and Logistics Team and that non-
9 offeror Klara M was the head of its Digital Team. These two non-offerors featured
10 prominently in Glimpses' Plan of Performance – Approach and Strategy as identified
11 subcontractors. As the two were not offerors but subcontractors, neither Adztech nor
12 Klara M provided their business licenses, acknowledgment to amendments to the RFP,
13 identification as the authorized offeror, or affidavits pertaining to ownership,
14 commissions, non-collusion, gratuities or kickbacks, ethical standards, wage compliance,
15 contingent fees, or non-employment of sex offenders.

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18 Z. Glimpses did not provide a copy of its subcontracts with Adztech or Klara M.

19 AA. RIMS' proposal identified itself as the offeror and was, by contrast, presented in a
20 spiral bound notebook style format with the cover titled "Navigating Forward Together"
21 and subtitled "The Manhita Team." The cover further stated the submission was by the
22 Manhita Group, RIMS and Big Fish. The proposal stated that Big Fish would be
23 involved in Strategic Oversight/Planning Support, Project Management Team Support,
24 Account Administration, Creative Design/Production, Art and Video, Crisis
25 Communications. RIMS' proposal also gave information that another company called
26 SKIFT would take Research, Data & Stakeholder – Global Markets, Destination
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2 Branding & Market Analysis roles. Neither Big Fish nor SKIFT provided their business
3 licenses, acknowledgment to amendments to the RFP, identification as the authorized
4 offeror, or affidavits pertaining to ownership, commissions, non-collusion, gratuities or
5 kickbacks, ethical standards, wage compliance, contingent fees, or non-employment of
6 sex offenders.

7 BB. The evaluators totaled scores were 271 for Manhita, 261 for Galaide, 220 for
8 Glimpses, and 215 for Greenlight.

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10 CC. GVB notified all offerors on January 21, 2025 of its intent to award to RIMS,
11 stating that it had elected to pursue a contract with RIMS.

12 DD. GVB commenced negotiations on a contract with RIMS on January 23, 2025.

13 EE. On January 27, 2025, Glimpses requested copies of public records of RIMS' bid
14 submission, and on January 30, 2025, GVB made the responsive, public records
15 available.

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17 FF. On February 4, 2025, GVB continued negotiating the ICAESS contract with RIMS.

18 GG. Also on February 4, 2025, Glimpses submitted its protest. Glimpses' protest
19 stated the following grounds:

20 a. GVB's acceptance of the RIMS' bid violated the RFP because (i) Glimpses had
21 been performing on Contract C24025 in a satisfactory manner; (ii) Glimpses
22 received a low score from Evaluator B; and (iii) Manhita had the highest score but
23 RIMS was not mentioned in the evaluation of proposals.

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25 b. A crucial portion of the specifications are ambiguous and unfair and the
26 procurement must be rebid because the Plan of Performance – Approach and
27 Strategy requirement called for a hypothetical scenario, GVB failed to specify
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what it wanted and was highly misleading, and that GVB should clearly state what was different compared to the previous contract awarded to RIMS.

HH. GVB suspended the procurement and informed RIMS on February 6, 2025.

II. On February 14, 2025, GVB sent a letter to Glimpses seeking resolution by asking it to withdraw its protest.

JJ. On February 19, 2025, GVB made a determination of need to award the contract to RIMS without delay to protect the substantial interests Guam has in its tourism industry and recovery.

KK. On February 20, 2025, the designated Deputy Attorney General concurred with the determination.

LL. On February 24, 2025, Glimpses was notified of the determination.

MM. As of February 26, 2025, Glimpses did not protest the determination of need to award without delay with the Public Auditor.

NN. On March 3, 2025, RIMS provided its price proposal for the ICAESS contract.

OO. On March 4, 2025, GVB awarded the ICAESS contract to RIMS.

PP. On March 4, 2025, GVB and RIMS executed the ICAESS contract.

QQ. On March 11, 2025, Glimpses appealed to the OPA. The grounds stated in

Glimpses' appeal were as follows:

- a. GVB's acceptance of the RIMS bid violated the RFP because (i) Glimpses had been performing on Contract C24025 in a satisfactory manner; and (ii) no state of public emergency existed;
- b. There was no objective evaluation of Glimpses' bid because (i) evaluator B was biased and unfair when scoring Glimpses' Qualifications and Experience from;

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(ii) Manhita was scored highest, but the award went to RIMS; (iii) Glimpses' score was inexplicably low;

- c. GVB's determination of need to award without delay failed to notify Glimpses of its right to review and appeal under 5 GCA § 5425 (c) (3);
- d. A crucial portion of the RFP's specifications were ambiguous and unfair;
- e. GVB was required to issue only an invitation for bid.

RR. On March 21, 2025, GVB issued its Decision Denying Protest.

II. List of Issues

- A. Whether Glimpses failed to exhaust administrative remedies with respect to the determination of need under 5 GCA § 5425 (g) by failing to protest with the Public Auditor within 2 days of receiving notice of the determination.
- B. Whether Glimpses failed to exhaust administrative remedies with respect to its February 4, 2025 Protest by filing this appeal without first obtaining a decision from GVB pursuant to § 5425 (c).
- C. Whether Glimpses failed to exhaust administrative remedies with respect to claims raised in the instant appeal that were not raised in its Protest.
- D. Whether the Public Auditor has the jurisdiction under § 5425 (e) to review *de novo* a determination of need made under § 5425 (g).
- E. Should the Public Auditor in error and over GVB's objection determine that he has jurisdiction under § 5425 (e) to review a determination of need made under § 5425 (g);
 - (i) whether the determination was made by an authorized official; (ii) whether the attorney general or a designated deputy attorney general concurred on the determination;

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(iii) whether the determination identified substantial interests of Guam; and (iv) whether delay of the award would impair the substantial interests of Guam.

F. Whether Glimpses knew or should have known of the method of source selection, specifications, and terms of the solicitation of the ICAESS RFP on December 27, 2025.

G. Whether Glimpses had actual knowledge of method of source selection, specifications, and terms of the solicitation of the ICAESS RFP on December 27, 2025.

H. Should the Public Auditor in error and over the objection of GVB decide he has jurisdiction to decide this appeal; (i) whether GVB's acceptance of the RIMS bid violated the RFP; (ii) whether there was no objective evaluation of Glimpses' bid; (iii) whether GVB failed to comply with the Procurement Code when, in connection with the determination made under § 5425 (g), GVB did not notify Glimpses of its right to review and appeal under § 5425 (c) (3); (iv) whether a crucial portion of the RFP's specifications were ambiguous and unfair; and whether GVB was required to issue only and invitation for bid.

I. Whether GVB on March 21, 2025 issued its Decision Denying Protest in response to Glimpses' February 4, 2025 Protest.

RESPECTFULLY SUBMITTED THIS 19th day of May, 2025.

McDONALD LAW OFFICE, LLC
Attorneys for Purchasing Agency
Guam Visitors Bureau

By: 

JOSEPH B. McDONALD