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SUPERIOR COURT  
OF GUAM

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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

DOOSAN UKUDU POWER LLC and  
MICHAEL J. GATEWOOD,

Petitioners,

vs.

JOHN M. BENAVENTE, P.E., in his  
individual and official capacity as General  
Manager of Guam Power Authority,

Respondent.

Special Proceedings Case No. SP0079-26

**DECISION AND ORDER RE VERIFIED  
PETITION FOR INSPECTION OF  
PUBLIC RECORDS**

Petitioner Michael J. Gatewood seeks the disclosure of documents withheld by Respondent Guam Power Authority and John M. Benavente in response to a Sunshine Act request. Respondents oppose the production of withheld records on the grounds of attorney-client privilege and/or attorney work-product protection. The Court granted an in-camera review of non-privileged documents and ordered a privilege log of the records withheld based on a privilege. Now having reviewed the record, the privilege log, and the materials submitted for in-camera review, the Court GRANTS IN PART and DENIES IN PART the Petition.

**I. PROCEDURAL BACKGROUND**

Gatewood's Sunshine Act request sought inspection of records held by GPA concerning (1) grid support provided by Doosan Ukudu Power LLC; (b) extension-of-time claims submitted by Guam Ukudu Power LLC ("GUP") and/or Doosan; (c) water issues at the power plant; and (4) communications between GPA and GUP regarding grid support, an extension-of-time claim, and water issues. V. Pet. at ¶ 5 (May 12, 2026). GPA produced over 500 records, but has

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withheld approximately 404 others, citing exemptions under 5 GCA § 10108, including work-product, attorney-client privilege, and pending litigation. *Id.* at ¶¶ 7-9. As background, GPA explains that Doosan, a client of Gatewood's, filed a government claim with GPA and has disputed liability for liquidated damages imposed on it by GUP. Decl. Marianna Woloschuk, ¶¶ 3, 4 (July 30, 2026). Doosan also attempted to intervene in a GPA matter before the Public Utilities Commission. *Id.* GPA's initial response to Gatewood invoked section 10108 and withheld documents based on these anticipated or pending disputes. *Id.* at ¶¶ 11, 12, 17.

After reviewing the parties' arguments over the Petition, the Court directed GPA to provide a declaration and a log to support its claimed exemptions and to submit non-privileged, withheld materials for in camera review. Order Granting In Camera Rev. (Aug. 6, 2026). GPA thereafter submitted an introductory page, a privilege log, and all withheld materials—both privileged and non-privileged. For the 404 documents, GPA's log generally identifies each document's date, time, document type, sender, recipients or copied persons, subject or description, file type, and an asserted designation of "WP" or "ACP/WP."

The Court now issues its Decision and Order granting the production of eight (out of the 404) documents, each of which do not appear to be exempt. The Court does not disclose the contents of the submitted log or the in-camera materials in this Decision and Order, and Gatewood forfeited his request to review such index in lieu of the Court's in camera review.

## **II. DISCUSSION OF LAW**

### **A. Presumption of Public Access and Burden of Proof**

The Sunshine Reform Act establishes Guam's public-records regime. *See* 5 GCA ch. 10. The Act's exemptions must be construed consistently with its public-access purpose. A public

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agency that withholds a requested record bears the burden to establish the particular statutory or legally recognized exemption upon which it relies. 5 GCA § 10111(c). Any segregable portion of a record must be made available for inspection after deletion of the portions exempted by law. 5 GCA § 10103(b). When a requested record partially contains exempt information, the agency must redact only the exempt information and release the nonexempt information, citing the legal exemption supporting the redaction. 5 GCA § 10103(d).

The Court is authorized—and, in a verified-petition proceeding, directed—to decide the matter after examining the disputed records in camera, together with the parties’ papers, any oral argument, and such additional evidence as the Court permits. 5 GCA § 10111(c); *Ryan v. Birn*, 2024 Guam 11 ¶ 16. In-camera review permits the Court to determine whether the asserted exemption applies to the record or a discrete portion of it, and whether redaction, rather than complete withholding, will protect the exempt material while allowing disclosure of the remaining public information. The Court therefore properly invoked in camera review of the withheld documents. *See* Order Granting In Camera Rev.

#### **B. A Majority of Withheld Documents are Exempted from Production**

GPA’s privilege log denoted each withheld item as protected based either on the attorney-client privilege or work product.<sup>1</sup> The attorney-client privilege and attorney work-product protection are exempted from disclosure under section 10108(i). *See* Guam R. Evid. 504(c); Guam R. Civ. P. 26(b)(3). Attorney-client privilege protects confidential communications made for legal services. Work-product protection extends to documents and

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<sup>1</sup> Despite invoking the “pending litigation” exemption in its initial response, GPA did not explicitly label any withheld document under this category.

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tangible things prepared in anticipation of litigation or for trial by or for a party or its representative. *See* GRCP 26(b)(3).

The Court finds that GPA's log of all withheld materials adequately guided the Court in reviewing the in-camera materials and allowed it to conduct a document-by-document assessment. After reviewing the materials, the Court finds that most of the withheld documents fall under attorney-client privilege or work product, given GPA's assertion of pending litigation matters involving Doosan's government claim and the PUC.

However, there are eight exceptions: Log Entry Nos. 98, 241–242, 246–247, 341, 348 and 372. GPA has not established a basis to withhold the above log entries. The identified records do not establish confidential communications made for legal services, materials prepared in anticipation of litigation or for trial, or another exemption from disclosure. As to some entries, GPA failed to meet its burden in providing sufficient information to establish the asserted exemption; as to others, the records consist of ordinary business, operational, technical, financial, project-administration, or factual material that is not exempt from disclosure. A notation of “WP” or “ACP/WP,” standing alone, does not establish an exemption. Nor does the inclusion of counsel make an entire communication or attachment privileged, and each attachment must independently satisfy the asserted exemption. GPA shall produce the identified records, but may redact only material that is independently privileged, protected work product, or otherwise exempt by law.

### III. ORDER

It is hereby ORDERED:

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1. Petitioner's Verified Petition for Inspection of Public Records is GRANTED IN PART and DENIED IN PART.
2. GPA's privilege log is adequate for purposes of identifying the materials withheld, matching those materials to GPA's in-camera submission, and permitting the Court's review of GPA's asserted exemptions. The Court does not order public disclosure of the privilege log, nor did Gatewood seek such disclosure.
3. Except as provided in paragraph 4 below, GPA may continue to withhold the records it claims are protected and that it submitted for in-camera review. Based on the privilege log and the Court's in-camera review, GPA has established attorney-client privilege, attorney work-product protection, or both, as to those records.
4. GPA has not established a basis to withhold Log Entry Nos. 98, 241–242, 246–247, 341, 348, and 372. The identified records are not exempt from disclosure under the asserted attorney-client privilege or work-product protection because GPA did not establish that the particular material is a confidential legal communication, material prepared in anticipation of litigation or trial, or otherwise exempt from disclosure. Within four business days after entry of this Order, GPA shall produce these records.
5. GPA has forfeited protection of any responsive documents not produced in response to the Sunshine Act, and not produced to the Court in camera.
6. Fourteen days after receiving the production of documents from GPA, Gatewood may file a Memorandum with the Court indicating if he still intends to pursue attorney's fees and costs and the fine under 5 GCA § 10112, and if so, file supporting

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documents with the Memorandum. GPA may file an Opposition to the Memorandum 14 days thereafter, and Gatewood may file a Reply five days after the Opposition.

**SO ORDERED** this 7 October 2026.

  
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**HON. ELYZE M. IRIARTE**  
**Judge, Superior Court of Guam**

Appearing Attorneys:

Shannon Taitano, Esq. and Leevin Camacho, Esq., Camacho & Taitano LLP, for Plaintiffs  
Heather Martinez Quitugua, Esq., Law Offices of Heather Martinez Quitugua, P.C., for  
Defendant

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