



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

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**05/07/26 E-FILING: In the Procurement Appeal of General Pacific Services, LLC, OPA-PA-26-001**

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Tawnia Katsuren &lt;tkatsuren@civilletang.com&gt;

Thu, May 7, 2026 at 4:08 PM

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

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Dear Jerrick:

Please find the attached ***Interested Party Core Tech International Corporation's Joinder in DPW's Motion to Dismiss; Supplemental Memorandum of Points and Authorities in Support of DPW's Motion to Dismiss*** for e-filing in the above-captioned matter dated May 7, 2026.

Kindly confirm receipt of this filing.

Thank you,

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 **Interested Party's Joinder to DPW's Motion to Dismiss.pdf**  
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**IN THE OFFICE OF PUBLIC ACCOUNTABILITY**

In the Procurement Appeal of

GENERAL PACIFIC SERVICES, LLC,  
Appellant.

APPEAL NO. OPA-PA-26-001

**INTERESTED PARTY CORE TECH  
INTERNATIONAL CORPORATION'S  
JOINDER IN DPW'S MOTION TO  
DISMISS; SUPPLEMENTAL  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF DPW'S  
MOTION TO DISMISS**

**I. INTRODUCTION**

General Pacific Services, LLC (“GPS”) filed three protests with the Department of Public Works, Government of Guam, procurement in connection with the “Request for Proposals for New Simon Sanchez High School: Finance, Demolition, Design, Build, Lease/Leaseback & Insure/Capital Maintenance” (“SSHS Procurement”).

The Department of Public Works, Government of Guam (“DPW”) filed its Motion to Dismiss on February 12, 2026 (“DPW Motion”). DPW asserts two bases for dismissal of the Appeal (1) the Office of Public Accountability (“OPA”) lacks jurisdiction because no agency

decision has been issued, and (2) GPS's reliance on 5 GCA §5427(f), the constructive denial provision, is inapplicable. *See* DPW Motion at 3-5.

CTI joins in DPW Motion's and furthermore, asserts additional arguments in support of the motion to dismiss.

## II. PROCEDURAL BACKGROUND

### A. GPS Filed Three Protests with the Department of Public Works

GPS filed three protests ("GPS Protests") with DPW in connection with the SSSH Procurement:

Protest No. 1 filed on Nov. 19, 2025 alleges that DPW failed to maintain a complete procurement record and was deficient in production responses to the Sunshine Act requests ("Protest 1"). *See* Notice of Appeal (Jan. 28, 2026) at Att. F.

Protest No. 2 filed on Dec. 12, 2025 alleges that Core Tech International Corporation's ("CTI") proposal was nonresponsive regarding price issues and demolition work ("Protest 2"). *See id.* at Att. I.

Protest No. 3 filed on Dec. 12, 2025 challenges the "Limited Project Scope Agreement; Simon Sanchez High School Redevelopment — FY25-26 Initial Phase Total Appropriated Value: \$16,377,125.00. ('Protest 3')" *See id.* at Att. J.

GPS filed an appeal with the OPA on January 28, 2026, and alternatively sought injunctive relief from the OPA requesting an order compelling DPW to issue decisions on the GPS Protests. *See Notice of Procurement Appeal; Alternative Motion to Compel Agency Decision* (Jan. 28, 2026) ("Appeal").

As discussed in Section III, the GPS Protests are premature and the Appeal should be dismissed.

### III. ARGUMENT

#### A. The GPS Protests Are Premature: The Public Auditor Lacks Jurisdiction

The GPS Protests are premature because DPW has yet to issue a decision on any of the GPS Protests. It is only after a decision is issued under 5 GCA § 5425(c) can GPS appeal that decision to the Public Auditor. 5 GCA § 5425(e).

Here, the OPA's jurisdiction arises only from a 5425(c) decision. *See id* ("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."); 2 GAR Div. 4, Ch. 12 §12112 ("...a protestor may Appeal a decision under 5 GCA § 5425(e) relative to the protest of a method of selection, a solicitation, an award of a contract . . . within fifteen days of receipt by protestor of the decision.").

On this ground, the Appeal should be dismissed.

#### B. The Constructive Denial Doctrine Does Not Apply

GPS argues that the lack of decisions on the GPS Protests constitutes constructive denial. *See* Notice of Appeal (Jan. 28, 2026) at 3-5. This argument fails because the Guam Legislature created two distinct remedial pathways: § 5425 for protests and § 5427 for contract controversies. *See SH Enters., Inc. v. Territory of Guam*, 2025 Guam 10 ¶¶ 18-21 (recognizing the various categories of controversies reviewable under the procurement law). Each has its own jurisdictional requirements.

The dispute in this matter is not a contract dispute between the Government of Guam and a *contractor*. A "Contractor" is defined in 5 GCA §5030(f) as "any person having a contract with a governmental body." GPS is not a contractor within the meaning of the Guam procurement law. The Section 5427(f) provision allowing a *contractor* to proceed if DPW does

not issue a written decision sixty (60) days after a written request for a final decision, does not apply because GPS is a protestor and not a *contractor*.

There was no constructive denial and GPS cannot proceed as if DPW had issued an adverse decision.

**C. The OPA's Powers Under 5 GCA §5703 Do Not Permit Injunctive Relief or Create Mandamus Authority**

GPS seeks an order in the form of injunctive relief requesting the “OPA issue an Order compelling DPW to issue a final agency ruling on GPS’s pending protest.” *See Notice of Procurement Appeal; Alternative Motion to Compel Agency Decision* at 10-11, (Jan. 28, 2026).

There is nothing in the Guam procurement law which gives the Public Auditor the ability to grant injunctive relief. The Public Auditor’s jurisdiction is limited to “matter[s] properly submitted to her or him.” 5 GCA §5703(a). The provisions of the procurement law delineate the matters that may be submitted to the Public Auditor. The Public Auditor has jurisdiction over appeals of agency protest or contract decisions. *See* 5 GCA §§ 5425(e) (appeals of protest decisions), 5426(e) (appeals of debarment decisions), 5427(e) (contract controversies); § 5429(e) (appeals of Critical Procurement Contract protest decisions). The OPA is a creature of statute, and its jurisdiction is limited to matters set forth in the statute, and such jurisdiction is strictly construed. *SH Enters., Inc. v. Territory of Guam*, 2025 Guam 10, ¶ 23, 25 (“We agree with SH that the statute does not provide a mechanism to appeal an executive decision *not* to debar or the written report under subsection 5426(f). Sections 5703, 5705, and 5426(f) do not grant the OPA express or implied authority to review decisions not to debar or to review a written report issued under subsection 5426(f).”).

There is nothing in the Guam procurement law or regulations (and GPS has not cited any authority) that gives the Public Auditor ability to issue injunctive relief, particularly, as here

where it lacks jurisdiction over the appeals. An appeal that does not meet the § 5425(e) jurisdictional prerequisites is not “*properly submitted.*”

Because the OPA lacks jurisdiction, GPS’s request for alternative relief should be denied and the Appeal must be dismissed. 5 GCA §5703(a). No further relief may be granted.

#### **IV. REQUESTED RELIEF**

For the reasons set forth above and in DPW’s Motion, GPS’s Appeal should be dismissed.

Respectfully submitted this 7<sup>th</sup> day of May, 2026.

**CIVILLE & TANG, PLLC**

By: /s/ Joyce C. H. Tang  
**JOYCE C.H. TANG**  
*Attorneys for Interested Party*  
*Core Tech International Corporation*