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05/22/26 E-FILING: In the Procurement Appeal of General Pacific Services, LLC, OPA-PA-26-001

Tawnia Katsuren <tkatsuren@civilletang.com> Fri, May 22, 2026 at 4:01 PM
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Dear Jerrick:

Please find the attached ***Interested Party Core Tech International Corporation's Reply to Appellant's Opposition to Motion to Dismiss*** for e-filing in the above-captioned matter dated May 22, 2026.

Kindly confirm receipt of this filing.

Thank you,

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 **2026-05-22 Interested Party's Reply to GPS' Opp. to DPW Motion to Dismiss (FINAL).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
REPLY TO APPELLANT'S OPPOSITION
TO MOTION TO DISMISS**

Appellant General Pacific Services, LLC's ("GPS") Opposition does not raise new arguments or authority. Because the Department of Public Works ("DPW") has not issued any written agency decision required under 5 G.C.A. § 5425(c), the Public Auditor does not have jurisdiction to proceed with the appeal.

Interested Party, Core Tech International Corporation ("CTI") responds to GPS's opposition below.

1. CTI's Joinder Is Properly Before the Hearing Officer.

GPS argues that CTI waived its right to file a joinder because CTI participated in the proceeding relating to the Substantial Interest Determination ("SID") is unavailing. The DPW Motion to Dismiss was filed on February 12, 2026, months before the SID hearing. At the Status

Hearing on May 6, 2026, the parties discussed and agreed CTI would file its Joinder to the DPW Motion to Dismiss by no later than May 7, 2026. Following the hearing, on May 6, 2026 at 3:39 p.m., the Hearing Officer issued a Scheduling Order confirming the briefing schedule allowing CTI to file its Joinder by May 7, 2026 at 5:00 p.m. *See Scheduling Order (5/6/26)* at 2. GPS did not object, if fact, counsel reserved the right to seek additional time to respond depending on CTI's Joinder. *Transcript of Status Hearing, OPA-PA-26-001 (May 6, 2026)* at 00:05:19–00:07:50.

In any event, subject-matter jurisdiction may be raised at any time by any party or by the tribunal. *See Sumitomo Constr., Co. v. Gov't of Guam, 2001 Guam 23 ¶ 22 (subject matter jurisdiction "can be raised at any time, either by a party or by the court")*; *see also SH Enters., 2025 Guam 10 ¶ 23* (“Administrative tribunals have jurisdiction to entertain an appeal only if an appeal is prescribed by statute.”). Indeed, the Hearing Officer independently identified the jurisdictional defect at the May 6, 2026 status hearing, observing that § 5425(e) provides for appeals from decisions and that no decision exists in this case.¹ GPS's argument that CTI waived the right to challenge jurisdiction should be rejected.

2. The SID Proceeding Does Not Confer Jurisdiction over the Appeal.

GPS's argument that the Hearing Officer review of DPW's Substantial Interest Determination confers jurisdiction over the Appeal is without merit. *Opp.* at 2. The SID review under § 5425(g) is a distinct statutory proceeding triggered by DPW's written determination to override the automatic stay, not by any protest decision. Section 5425(g) does not confer jurisdiction for the Appeal and cannot be a substitute for the statutory requirement of a written decision on a protest issued pursuant to §5425(c).

¹Transcript of Status Hearing at 00:02:10–00:02:44 (“[W]hen I look at the code section 5425E, it does state that decisions may be appealed. And there's no decision in this case.”).

GPS conflates the two distinct proceedings that share a docket number but have separate jurisdictional foundations. The bottom line is that the appeal from a protest requires a written agency decision required under §5425(c), and such decision has not been issued. The SID proceeding does not and cannot provide the jurisdictional basis for an appeal from a written decision on a protest.

3. The Absence of a Constructive Denial Provision in § 5425 Is Dispositive.

GPS concedes that the constructive denial provision of §5427(f) does not apply by its terms to pre-award protests under §5425. Opp. at 8. That concession should end the inquiry. The Legislature created an express constructive denial mechanism for post-award contractor controversies and intentionally omitted a similar provision for pre-award protests. Under the *expressio unius* canon, the omission is intentional, not a gap to be filled by the Hearing Officer.

GPS further argues that because § 5425(c) uses the word “shall,” DPW’s duty to issue a decision is mandatory and its failure to act cannot be excused. Opp. at 6. CTI does not dispute that § 5425(c) imposes an obligation on DPW. Absent express language including the constructive denial language found in §5427(f), the inclusion of the word “shall” does not extend the construction denial provision to §5425(c). Until there is a §5425(c) decision, there is nothing for the OPA to review.

GPS also attempts to distinguish *Pacific Data Systems*, OPA-PA-15-005, arguing that case involved a genuinely premature appeal rather than prolonged inaction. Opp. at 6–7. But *Pacific Data Systems* reinforces the jurisdictional bar: the Public Auditor recognized that absent an agency decision – that is, the appeal was not ripe for Public Auditor’s review. That principle does not change based on how long the agency has taken to act.

GPS asks OPA to treat DPW's silence as a denial and exercise jurisdiction the statute does not confer. But the OPA is a creature of statute whose jurisdiction is strictly construed.²

4. OPA Lacks Authority to Compel Agency Action.

GPS asks the Hearing Officer to order DPW to issue written protest decisions by a date certain. Opp. at 11. GPS cites no statutory provision authorizing such an order. The procurement code gives the OPA appellate review authority over decisions; it does not grant supervisory mandamus power over agencies. Ordering DPW to act by a deadline is injunctive relief that belongs in Superior Court, not before the OPA. GPS's suggestion that the Hearing Officer has already recognized this authority (Opp. at 7 n.2) is contradicted by the record: the Hearing Officer expressly stated at the May 6, 2026 hearing that he has not issued any order directing DPW to decide GPS's protests.³

GPS incorrectly claims that dismissal would let any agency nullify the protest process by refusing to decide. Opp. at 5, 10. But even accepting GPS's premise that its three filings are valid protests triggering the automatic stay under 5 G.C.A. § 5425(g), a premise CTI does not concede, GPS's concern is unfounded. Under GPS's own theory, the stay is in effect. DPW acknowledged as much by filing its Substantial Interest Determination to override the stay, and the Hearing Officer rejected that determination on April 28, 2026. Hearing Officer's Review of DPW's Substantial Interest Determination, OPA-PA-26-001, at 25–26. The dismissal of this appeal returns the matter to the agency level where § 5425(c) requires it has to be resolved first.

²*SH Enters., Inc. v. Territory of Guam*, 2025 Guam 10, ¶¶ 23, 25, 31. The Guam Supreme Court held that OPA is a “creature[] of legislation,” whose “authority is limited to the powers delineated within its enabling statute,” and that “statutes governing appellate jurisdiction are to be strictly construed.” *Id.* ¶ 23. The court further held: “Authority to hear an appeal after a written decision to debar is issued under subsection (c) does not imply authority to hear an appeal in the absence of such a decision.” *Id.* ¶ 31.

³Transcript of Status Hearing at 00:03:54–00:04:01. GPS's Opposition at 7 n.2 relies on an exchange at the March 20, 2026 SID hearing to suggest the Hearing Officer recognized authority to compel DPW to decide. At the May 6 hearing, the Hearing Officer expressly disclaimed having issued any such order.

The policy argument also cuts the other way. If OPA exercises jurisdiction absent the statutory prerequisite, any protester could bypass agency-level review entirely by filing a premature appeal and asking OPA to take over. The statute contemplates a structured sequence: protest, agency decision, appeal. *See* 5 G.C.A. §§ 5425(a), (c), (e). GPS is asking the Hearing Officer to ignore the plainly written law and skip steps the Legislature has required.

CONCLUSION

The Opposition offers no legal authority to overcome the jurisdictional bar. No written decision under § 5425(c) has been issued, thus the OPA's jurisdiction has not been triggered. The Motion to Dismiss should be granted.

Respectfully submitted this 22nd day of May, 2026.

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By:



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