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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

MAR 10 2011

TYPE: 2147 BY: MW
FILE NO. OPA-PA: (1-00)

4 *Attorneys for Appellant JMI-EDISON*

7 BEFORE THE PUBLIC AUDITOR
8 PROCUREMENT APPEAL

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10 IN THE APPEAL OF
11 JMI - EDISON,

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Appellant.

DOCKET NO. OPA-PA-11-001

**APPELLANT'S OBJECTION TO
PORTIONS OF THE
GOVERNMENT'S STATEMENT ON
REMEDIES AND MOTION TO
STRIKE; CERTIFICATE OF
SERVICE**

15 I. **MOTION TO STRIKE**

16 Now comes, JMI Edison ("JMI"), Appellant and moves to strike a portion of the General
17 Services Agency's ("GSA") Memorandum on Remedies specifically, Section I of the brief beginning
18 on page 1 and ending on page 3. This portion of the brief should not be part of the record on this
19 Appeal.

20 On March 3, 2011, the Office of the Public Auditor ("OPA") through Administrative Hearing
21 Officer Anthony Camacho, ordered that the parties to the instant bid protest appeal may submit
22 additional briefing to the OPA on the limited issue of remedies. The OPA's written Order was clear,
23 and mirrored its oral edict regarding the same.^{1/} Specifically, the OPA Order After Pre-Hearing
24 Conference ("Order") stated that "additional briefs on the issue of Remedies..." could be submitted.
25 See Order at P.2 ¶ 3 L.16-18, filed on March 3, 2011.

26
27 ^{1/} At the Prehearing Conference Appellant consented to the allowance of additional briefing on the
28 limited issue of remedies, but preserved on the record its objection to any briefing that sought to address
the merits of the Appeal beyond those timely submissions allowed by the Procurement Code and
regulations.

1 On Tuesday March 8, 2011, Appellant JMI Edison submitted its statement regarding
2 remedies. The General Services Agency ("GSA"), represented by the Office of the Attorney
3 General, submitted a "Memorandum on Remedies." It's a four and a half (4 ½) page memorandum
4 containing a two (2) page discussion on appropriate remedies, and a lengthier attempt to provide
5 argument regarding the merits of Appellant's Appeal. In effect, the Government has placed before
6 the OPA a further round of argument and briefing that was not contemplated by the Procurement
7 Code, leaving Appellant with no procedural method through which to respond, and violates the
8 explicit commands of the Hearing Officer in this matter.

9 Appellant JMI Edison submits the instant objection to those portions of the Government's
10 memorandum that violates the OPA Order of March 3, 2011, and requests that the office of the OPA
11 strike from the record the portion of the brief from Section I, page 1-3.

12 Respectfully submitted this 10th day of March 2011 at Hagatna, Guam.

13
14 **TEKER TORRES & TEKER, P.C.**

15
16 By 
17 **JOSEPH C. RALZANO, ESQ.**
Attorneys for Appellant JMI-EDISON

1 CERTIFICATE OF SERVICE

2 I, JOSEPH C. RAZZANO, do hereby certify that on the 10th day of March 2011, I will cause
3 to be served a true and correct copy of the **APPELLANT'S OBJECTION TO PORTIONS OF**
4 **THE GOVERNMENT'S STATEMENT ON REMEDIES AND MOTION TO STRIKE;**
5 **CERTIFICATE OF SERVICE** *via* hand delivery upon the following Counsels of record:
6

7 OFFICE OF THE ATTORNEY GENERAL
8 Civil Litigation Division
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11 *Attorneys for General Services Administration and Department of
Public Health & Social Services*

12 *and*

13 Jeffrey A. Cook, Esq.
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15 *Attorneys for MedPharm, an interested party*

16 *Executed* at Hagåtña, Guam, on March 10, 2011.

17 **TEKER TORRES & TEKER, P.C.**

18
19
20 By 
21 **JOSEPH C. RAZZANO, ESQ.**
Attorneys for Appellant JMI-EDISON

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