



OFFICE OF PUBLIC ACCOUNTABILITY  
Doris Flores Brooks, CPA, CGFM  
Public Auditor

**PROCUREMENT APPEALS**

IN THE APPEAL OF,

KORANDO CORPORATION,

Appellant

) **APPEAL NO: OPA-PA-15-009**

) **DECISION AND ORDER RE**  
) **PURCHASING AGENCY'S MOTION**  
) **FOR SUMMARY JUDGMENT**

To: **Purchasing Agency:**  
Department of Public Works, Government of Guam  
C/O Thomas P. Keeler, Esq., Assistant Attorney General  
Office of the Attorney General, Civil Solicitor Division  
ITC Bldg., Ste. 706  
Tamuning, Guam, 96913  
Facsimile: (671) 472-2493

**Appellant:**  
Korando Corporation  
C/O Joyce C.H. Tang, Esq.  
Civille & Tang PLLC  
330 Hernan Cortez Ave., Ste. 200  
Hagåtña, Guam, 96910  
Facsimile: (671) 477-2511

**THIS MATTER** came before the Hearing Officer on November 24, 2015 for a hearing for the Purchasing Agency's Motion for Summary Judgment. Byong Ho and Kiwook Hahn were present on behalf of Appellant and were represented by Appellant's Counsel of Record, Joyce Tang, Esq. The Purchasing Agency was represented by its counsel of record, Assistant Attorney General Tom Keeler, Esq. After reviewing the record in this matter and after hearing the arguments of the parties, the Hearing Officer hereby FINDS and ORDERS the following:

1. Rule 56, Guam Rules of Civil Procedure (GRCP) cited by the Purchasing Agency in support of its motion for Summary Judgment is inapplicable to this matter. Procurement Appeals hearing shall be as informal and as may be reasonable and appropriate under the circumstances and shall not be bound by statutory rules of evidence or by technical or formal rules of procedure. 2 G.A.R., Div. 4, Chap. 12, §12108(d). Hence, summary judgment as

1 permitted by Rule 56, GRCP, in civil cases being heard before the Superior Court of Guam and  
2 the cases interpreting that rule are inapplicable to this matter because this proceeding is an  
3 informal procurement appeal that is not bound by such formal rules of procedure.

4 2. The Hearing Officer may find that there are no genuine issues of material fact  
5 concerning an issue when the facts are clear from the record and not in dispute. Generally, the  
6 Hearing Officer has the authority to settle, simplify, or fix the issues in a proceeding, or to  
7 consider other matters that may aid in the expeditious disposition of a proceedings either by  
8 consent of the parties or upon such officer's own motion. 2 G.A.R., Div. 4, Chap. 12, §12109(a).  
9 Additionally, such authority may be used to find that there are no genuine issues of material fact  
10 concerning an issue when the facts are clear from the record and the parties do not dispute them.  
11 *In the Appeal of Guam Pacific Enterprises, Inc.*, OPA-PA-09-003, Decision and Order Denying  
12 Appellant's Motion for Summary Judgment dated September 18, 2009, (Office of Public  
13 Accountability).

14 3. There are some facts alleged in the Purchasing Agency's motion that are clear from  
15 the record and which are not disputed by the parties. Applying the aforementioned standard, the  
16 Hearing Officer hereby finds that there is only one issue raised by the Purchasing's motion for  
17 Summary Judgment which is clear in the record and which the parties do not dispute. That fact  
18 is that work on the project and the project's ultimate completion was delayed.

19 4. The Hearing Officer finds that all the other issues that were the subject of the  
20 Purchasing Agency's Motion for Summary Judgment, are either not clear in the record, or are  
21 disputed by the parties, or are both not clear in the record and disputed by the parties. The  
22 parties may still stipulate to those facts pursuant to 2 G.A.R., Div. 4, Chap. 12, §12108(d) at or

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1 prior to the hearing. Otherwise, the Purchasing Agency will have to prove their existence at the  
2 December 9, 2015 hearing in this matter.

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4 **SO ORDERED THIS 3<sup>rd</sup> day of December, 2015 by:**

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8 ANTHONY R. CAMACHO, ESQ.  
9 Hearing Officer  
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