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PROCUREMENT APPEALS

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FILE No. OPA-PA - 08-011

BEFORE THE OFFICE OF THE PUBLIC AUDITOR

In the Appeal of)	DOCKET NO. OPA-PA 08-011
)	
TOWN HOUSE DEPARTMENT STORES,)	
INC., dba)	REQUEST FOR RULINGS AND
ISLAND BUSINESS SYSTEMS)	DECISION
& SUPPLIES,)	
APPELLANT)	
_____)	

On August 1, 2008, Appellee GPSS filed its Procurement Record, Agency Report and an Objection to the Public Auditor's hearing of this matter, all in response to the Notice of Appeal filed July 24, 2008.

On August 4, 2008, Appellant IBSS filed its Opposition to GPSS' Objection, and on August 6th its Comment on GPSS' Agency Report.

GPSS has not rebutted IBSS' comment on the Agency Report.¹

¹ "Any rebuttal an Agency may care to make shall be filed with the Public Auditor within five (5) working days after receipt by the Public Auditor of the comments to which rebuttal is directed...." 2 GAR §12104(c)(4).

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On August 14, 2008, Interested Party Xerox Corporation's counsel noticed Entry of Appearance and its Request for Extension of Time to comment on the Agency Report.

On August 15th, Appellant IBSS filed its Opposition to Xerox' appearance and request for more time.

Without awaiting an answer to its request to allow it to comment on the Agency Report, on August 22, 2008, Xerox lodged its Comment on the Agency Report.

In its Notice of Appeal (at page 3), IBSS reiterated its waiver of request for a hearing in this matter.

"[T]he parties shall either request a hearing in writing or waive their right to a hearing and submit the case on the record without a hearing. Request for a hearing shall be made prior to the expiration of the time period allowed for filing comments on the agency report...." (2 GAR §12108(a).)

I. REQUEST FOR RULING ON OBJECTION

IBSS requests that the Hearing Officer in this Appeal issue its ruling on GPSS' Objection to the Public Auditor's hearing of this matter. The issues and arguments in this matter have been duly identified and briefed by Appellee and Appellant. This threshold issue ought to be addressed.

II. REQUEST FOR RULING ON ENTRY OF APPEARANCE OF XEROX AND EXTENSION OF TIME TO COMMENT

IBSS has made known its Opposition to Xerox' belated appearance and filing of comments on the Agency Report unless Xerox is required to produce its own record of the contract(s) mentioned in the procurement record. If Xerox is allowed to appear based on such a condition of disclosure, Appellant IBSS requests adequate time to review and comment thereon.

Xerox has seen fit to nevertheless lodge its comments on the Agency Report. IBSS must further, therefore, argue that if the Hearing Officer allows Xerox' comments to be made part of the record in this Appeal, then IBSS should be allowed to rebut them. To expedite the resolution of this Appeal, IBSS has attached its proposed Rebuttal of Interested Party Comments on Agency Report, to be made a part of the record in this Appeal if Xerox' comments are accepted.

III. REQUEST FOR DECISION ON RECORD SUBMITTED WITH HEARING ON REMEDIES TO FOLLOW IF APPROPRIATE

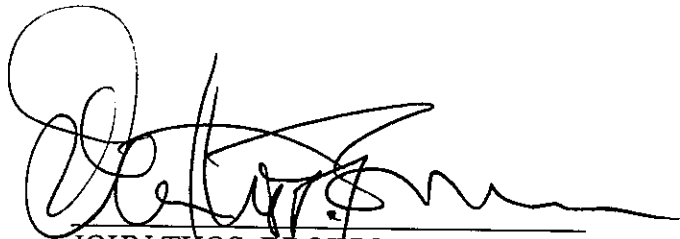
No party or interested party has requested a hearing in this matter. As noted above, the

regulations dispense with a hearing if the parties do not timely request one, and the time therefor has now well and truly lapsed. IBSS requests that this matter be submitted for a Decision on the merits of the Appeal, based on the record submitted, subject to the further submission of documents and comments allowed pursuant to Request Number II above.

Separately, if the Public Auditor finds that the copier contracts have been improperly procured, that then a separate hearing be conducted to determine the remedies, including inquiring whether Xerox has acted in bad faith.

Respectfully submitted,

Dated: September 2, 2008



JOHN THOS. BROWN

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