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RECEIVED
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PROCUREMENT APPEALS

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FILE NO OPA-PA: 16-007, 16-011

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Attorneys for Interested Party
Guam Educational Facilities Foundation, Inc.

12
13 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**
14 **PROCUREMENT APPEALS**

15
16 IN THE APPEAL OF:

17
18 CORE TECH INTERNATIONAL CORP.,
19
20 Appellant.

CONSOLIDATED APPEALS NOS.:
OPA-PA-16-007 AND OPA-PA-16-011

INTERESTED PARTY GUAM
EDUCATIONAL FACILITIES
FOUNDATION, INC.'S LIST OF ISSUES

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ORIGINAL

1 **GUAM EDUCATIONAL FACILITIES FOUNDATION, INC.** (“GEFF”), an
2 interested party and the offeror selected as the most qualified in the instant procurement, joins in
3 DPW’s list of issues to be determined by the OPA. In addition, GEFF respectfully submits the
4 following list of issues:

5 **LIST OF ISSUES**

6 *With regard to Core Tech’s protest which is the subject of Appeal No. OPA-PA-16-007:*

7 1. Whether, after GEFF’s selection as the most qualified offeror, DPW’s consideration
8 of GEFF’s alternative price estimates for construction of the new Simon Sanchez High School
9 constituted permissible negotiations in accordance with the terms of the RFP, which permitted
10 negotiations concerning fee estimates and scope of work?

11 2. Whether Core Tech’s May 27, 2016 protest ground relative to DPW’s consideration
12 of GEFF’s four alternative price estimates was *untimely* asserted because Core Tech knew or
13 should have known since at least September 23, 2015 (the issuance date of Addendum 6 to the
14 RFP) that the terms of the RFP permitted negotiations concerning a fee estimate and scope of
15 work *after* selection of the most qualified offeror?

16 3. Whether Core Tech’s protest relative to a performance and payment bond is without
17 merit, because it is undisputed that (a) the RFP states that either the awardee *or its prime*
18 *contractor* must provide a performance and payment bond, (b) GEFF’s prime contractor, Hensel
19 Phelps, is bondable up to \$1 billion, and (c) in any event, a bond is not due at this time until plans
20 and specifications are completed in conjunction with the first Task Order under an executed
21 IDIQ?

22 4. Whether Core Tech’s attempt to inject *new* issues in this appeal that were *not* raised
23 its Core Tech’s protest or in DPW’s decision denying the protest (for example, issues mentioned
24 in Core Tech’s Comments on DPW’s Agency Report relative to the proposed subcontractual
25 arrangement between GEFF and GEDP, GDOE’s 4/19/16 internal memorandum, and Core
26 Tech’s cost-comparison analysis based on an exhibit it failed to submit) should be disregarded as
27 outside the scope of the OPA’s jurisdiction?
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1 5. Whether Core Tech's arguments regarding "best value" are outside the scope of the
2 OPA's jurisdiction because they were raised in Core Tech's first protest of January 7, 2016,
3 which was denied by DPW on January 19, 2016, and not appealed by Core Tech to the OPA?

4 *With regard to Core Tech's protest which is the subject of Appeal No. OPA-PA-16-011:*

5 6. Whether the negotiated, but unexecuted, IDIQ contract is consistent with the terms of
6 the RFP with regard to the \$100 million funding cap?

7 7. Whether DPW's good-faith maintenance of a 3,000-page procurement record for the
8 RFP substantially complied with applicable requirements of Guam's procurement law?

9 8. Whether Core Tech's protest grounds were untimely asserted?

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11 GEFF reserves its right to amend or supplement this list.

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13 Dated: August 26, 2016.

14 **THE LAW OFFICES OF
15 IGNACIO CRUZ AGUIGUI**

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