

**CABOT
MANTANONA LLP**
Edge Building, Second Floor
929 South Marine Corps Drive
Tamuning, Guam 96913
Telephone: (671) 646-2001
Facsimile: (671) 646-0777

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OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

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FILE No. OPA-PA 09-009

*Attorneys for Appellees
Department of Chamorro Affairs*

PROCUREMENT APPEAL

IN THE APPEAL OF)	DOCKET NO. OPA-PA09-009
)	
)	MEMORANDUM OF POINTS
GUAM CLEANING MASTERS,)	AND AUTHORITIES IN SUPPORT
)	OF MOTION TO DISMISS
APPELLANT.)	
_____)	

Appellees Department of Chamorro Affairs (hereinafter referred to as "DCA"), hereby submits this memorandum of points and authorities in support of its motion to dismiss the appeal filed by Appellant Guam Cleaning Masters (hereinafter referred to as "GCM").

STATEMENT OF FACTS

The DCA issued a procurement DCA RFP CV10-002 for janitorial and maintenance services for the Chamorro village. Publications for procurement was published on the 4th, 7th and 11th of September, 2009. The appellants GCM picked up the procurement packet on September 8, 2009. A pre-bid conference was held on the procurement on September 11, 2009. The openings and the submission of the bids were on September 22, 2009. On September 29, 2009, GCM received a notice of non award. On September 30, 2009, GCM filed its bid protest. On October 22, 2009, GCM filed its Notice of Appeal with the Office

of the Public Auditor. On November 13, 2009, the DCA filed its agency report to the Offices of the Public Auditor. On November 23, 2009, GCM filed its comments on the agency report.

ARGUMENT

The Public Auditor shall have the power to review and determine de novo any matter properly submitted to her pursuant to 5 GCA §5703. The Public Auditor's jurisdiction shall be utilized to promote the integrity of the procurement process and the purposes of 5 GCA Chapter 5.

Appellee asserts that the procurement at the center of the case, DCA RFP CV10-002 contained minor procedural errors. DCA asserts the minor errors do not rise to the level of substantial prejudice. Further, DCA asserts that GCM was not substantially prejudiced in this procurement. Nonetheless, the DCA believes that it is in the best interest of the Territory and also necessary to preserve and maintain the integrity of the procurement process to cancel the existing contract and rebid the procurement. Appellee asserts since the appellants sought prayer for relief was the cancellation of the invitation to bid that the appeal is now "moot" and the appeal should be dismissed by Madam Public Auditor for judicial economy.

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CONCLUSION

Appellee respectfully request that its motion to dismiss be granted and appeal dismissed.

Dated this 21st day of December, 2009.

CABOT MANTANONA LLP



By:

RAWLEN M.T. MANTANONA

RMTM:scc

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