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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: 10/23/12
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**THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM
HAGÁTÑA, GUAM**

In the Appeal of) DOCKET NUMBER. **OPA-PA-12-007**

DATA MANAGEMENT RESOURCES, LLC,)

Appellant.)

DECLARATION OF SERVICE

HAGÁTÑA, GUAM) s:

I, TATIANA-MARIE P. AGUSTIN, hereby declare as follows:

1. That I am a U.S. citizen over the age of eighteen (18) years and am an employee of a freelance contractor of administrative services for the Law Office of Jacqueline Taitano Terlaje, P.C.

2. That on October 22, 2012, at approximately 11:29a.m., I served a Subpoena on Claudia Acfalle, by delivering one ORIGINAL to Robert Kono on behalf of Claudia Acfalle, Counsel for General Services Agency, Government of Guam, Piti, Guam.

I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct to the best of my knowledge.

EXECUTED on this 22nd day of October, 2012.

ORIGINAL

Tatiana-Marie P. Agustin
TATIANA-MARIE P. AGUSTIN

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10 *Data Management Resources, LLC.*

11 **THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM**
12 **HAGÁTÑA, GUAM**

13 In the Appeal of) DOCKET NUMBER. **OPA-PA-12-007**
14)
15)
16)
17 DATA MANAGEMENT RESOURCES, LLC,) **SUBPOENA**
18)
19 Appellant.)
20)
21)
22)

23 **TO: CLAUDIA S. ACFALLE, GENERAL SERVICES AGENCY,**
24 **DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM**

25 **YOU ARE HEREBY COMMANDED and ORDERED** to appear and testify on behalf of the
26 Appellant in a Hearing on the Merits before the Hearing Officer of the Public Auditor, Office Of Public
27 Accountability, DNA Building Ninth Floor, Suite 907, 238 Archbishop Flores Street, Hagåtña, Guam on
28 **Monday, October 22, 2012 at 9:00a.m. and Tuesday, October 23, 2012 at 9:00a.m.** related to
RFP/DOA-014-11 Point-Of-Sale (POS).

The Guam Rules of Civil Procedure, Rule 45(a)(1)(D), as amended, and the test of Rule 45(c) and (d) is
attached hereto to EXHIBIT A and made a part hereof.

DATED: October 1, 2012

Original Signed by
PHILLIP TORRES

PHILLIP TORRES, ESQ.
Hearing Officer

COPY

EXHIBIT A

Pursuant to Guam Rules of Civil Procedure, Rule 45(a)(1)(D), as amended, and effective June 1, 2007:

(c) protection of persons subject to subpoena.

(1) a party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(a) a person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(b) subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, served upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(a) on timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (i) requires disclosure of privileged and other protected matter and no exception or waiver applies, or
 - (iv) subjects a person to undue burden.
- (b) if a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is address will be

reasonably compensated, the court may order appearance or production only upon specific conditions.

(d) duties in responding to subpoena.

(1) a person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(a) when information subject to a subpoena is withheld on a claim that it is i privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(b) if information is produced in response to a subpoena that is subject to a claim of privilege of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.