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9 **BEFORE THE PUBLIC AUDITOR**
10 **PROCUREMENT APPEALS**
11 **TERRITORY OF GUAM**

12 IN THE MATTER OF
13 MORRICO EQUIPMENT, LLC,

14 Appellant,

15 and

16 GUAM SOLID WASTE AUTHORITY

17 Purchasing Agency.

) Docket OPA PA-15-014

) **AGENCY REPORT &**
) **AGENCY STATEMENT**

18 **AGENCY REPORT**

19 The purchasing agency, the Guam Solid Waste Authority (“GSWA”), by and through its
20 attorney Vanessa L. Williams, Esq., hereby submits its Agency Report required under 2 GAR §
21 12105 as follows:

22 (a) Copy of Protest. Morrico submitted two letters labeled “protests” to GSWA
23 prior to the filing of this Appeal. The GSWA submitted copies of both protest to the Office of
24 Public Accountability (“OPA”) on December 16, 2015 as part of the procurement record
25 required by 2 G.A.R. § 12104(c)(3). See Submission of Procurement Record, December 16,
26 2015, which is incorporated herein by reference.;

27 (b) Copy of the Bid or Offer submitted by the Appellant and a copy of the Bid that is
28 being considered for Award. The GSWA submitted a copy of the bid or offer considered for
award to the OPA on December 16, 2015 as part of the procurement record required by 2

1 G.A.R. § 12104(c)(3). *See* Submission of Procurement Record, December 16, 2015, which is
2 incorporated herein by reference;

3 (c) Copy of the Solicitation. GSWA submitted a copy of the solicitation, including
4 the specification relevant to the protest, to the OPA on December 16, 2015 as part of the
5 procurement record required by 2 G.A.R. § 12104(c)(3). *See* Submission of Procurement
6 Record, December 16, 2015, which is incorporated herein by reference;

7 (d) Copy of the Abstract of Bids or Offers or Portions thereof Relevant to the
8 Protest.

9 GSWA submitted a copy of abstract of bids or offers or portions thereof relevant to the
10 protest to the OPA on December 16, 2015 as part of the procurement record required by 2
11 G.A.R. § 12104(c)(3). *See* Submission of Procurement Record, December 16, 2015, which is
12 incorporated herein by reference;

13 (e) Any other Documents Relevant to the Protest. GSWA submitted documents
14 relevant to the protest to the OPA on December 16, 2015 as part of the procurement record
15 required by 2 G.A.R. § 12104(c)(3). *See* Submission of Procurement Record, which is
16 incorporated herein by reference.

17 (f) Decision from which the Appeal is Taken. GSWA submitted the decision from
18 which Morrico's Appeal is taken to the OPA on December 16, 2015 as part of the procurement
19 record required by 2 G.A.R. § 12104(c)(3). *See* Submission of Procurement Record, December
20 16, 2015, which is incorporated herein by reference;

21 (g) Statement Answering the Allegation of the Appeal. A statement answering the
22 allegations of the Appeal and setting forth findings, actions, and recommendations in this
23 matter, together with additional evidence or information necessary to determine the validity of
24 Morrico's Appeal is attached;

25 (h) Determination of Award pursuant to 2 G.A.R. § 92101(e). GSWA submitted
26 the determination of award to the OPA on December 16, 2015 as part of the procurement record
27 required by 2 G.A.R. § 12104(c)(3). *See* Submission of Procurement Record, December 16,
28 2015, which is incorporated herein by reference;

1 (i) Statement Regarding Court Proceeding. A statement indicating whether the
2 matter is the subject of a court proceeding is being filed concurrently herewith, and is
3 incorporated herein by reference.

4 Respectfully submitted this 23rd day of December, 2015.

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8 VANESSA L. WILLIAMS, ESQ.
9 *Attorney for Guam Solid Waste Authority*

1 **AGENCY STATEMENT**

2 GSWA denies the allegations in Morrico’s appeal. The appeal should be dismissed. The
3 Public Auditor lacks jurisdiction over disputes not “properly submitted” to her. 5 G.C.A. §
4 5703; 2 G.A.R. § 12103. The appeal is not “properly submitted” to the OPA because both the
5 underlying protest and appeal are untimely. *See TRC Environment Corporation v. Office of the*
6 *Public Auditor*, Superior Court of Guam Case No. SP160-07, Decision and Order p.5, Nov. 24,
7 2008 (matters not submitted in strict compliance with 5 G.C.A. § 5425 are not “properly
8 submitted” to the OPA). Even if the Public Auditor finds she has jurisdiction over the appeal,
9 the matter must still be dismissed based on the Public Auditor’s recusal or disqualification from
10 hearing the matter. 2 G.A.R. § 12601. A Motion to Dismiss has been filed concurrently
11 herewith. GSWA incorporates the Memorandum of Points and Authority in the Motion to
12 Dismiss into this Agency Statement by reference.

13 **CONCLUSION**

14 The matter should be dismissed based on the Public Auditor’s lack of jurisdiction or
15 disqualification and recusal from hearing the appeal.

16 Respectfully submitted this 23rd day of December, 2015.

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19 VANESSA L. WILLIAMS, ESQ.
20 *Attorney for Guam Solid Waste Authority*
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