

Suite 401 DNA Building
 238 Archbishop Flores St.
 Hagåtña, Guam 96910



FAX

To:	Michael Borja Administrative Director Chamorro Land Trust Commission	From:	Doris Flores Brooks Guam Public Auditor Office of Public Accountability
Fax: Fax:	(671) 649-5383 (671) 649-4146	Pages:	6 (including cover page)
CC:	Samantha Stern President Purestone, LLC	Date:	December 18, 2015
Phone: Fax:	(671) 689-5358 N/A	Phone: Fax:	475-0390 x. 206 472-7951

Re: OPA-PA-15-016 Notice of Receipt of Appeal

Urgent For Review Please Comment Please Reply Please Recycle

Comments:

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,
 Ashley Gaerlan
 Audit Staff
agaerlan@guamopa.org

This facsimile transmission and accompanying documents may contain confidential or privileged information. If you are not the intended recipient of this fax transmission, please call our office and notify us immediately. Do not distribute or disclose the contents to anyone. Thank you.



OFFICE OF PUBLIC ACCOUNTABILITY
Doris Flores Brooks, CPA, CGFM
Public Auditor

December 18, 2015

Micheal Borja
Administrative Director
Chamorro Land Trust Commission
P.O. Box 2950
Hagatna Guam, 96932
VIA FACSIMILE: (671) 649-4383

Mana Silva Taijeron
Acting Administrator
Guam Economic Development Authority
590 South Marine Corps Drive
Tamuning, Guam 96913
VIA FACSIMILE: (671) 649-4146

Re: Notice of Receipt of Appeal – OPA-PA-15-016

Dear Mr. Borja and Ms. Taijeron,

Please be advised that Purestone, LLC filed an appeal with the Office of Public Accountability (OPA) on December 18, 2015 regarding the Request for Proposal No.: RFP-14-002, Lajuna Point Residential Community. OPA has assigned this appeal case number OPA-PA-15-016.

Immediate action is required of GSA pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA's office and on its website at www.opaguam.org. The notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeals. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), please submit one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated, to OPA by **Monday, December 28, 2015**, five work days following receipt of this notice of appeal; and one copy of the Agency Report for each of the procurement

solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Monday, January 4, 2016**, ten work days following receipt of this notice of appeal.

When filing all other required documents with our office, please provide one original and two copies to OPA, and serve a copy to Purestone, LLC. OPA respectfully asks that CLTC/GEDA provide one original and two copies of the procurement record as the Guam Procurement Law and Regulations require only one copy. The three procurement record copies requested by OPA are distributed as follows: Copy-1: Master File; Copy-2: Public Auditor; and Copy-3: Hearing Officer.

Thank you for your prompt attention to this matter. Please contact Ashley Gaerlan at 475-0390 ext. 206, or agaerlan@guamopa.org, should you have any questions regarding this notice.

Sincerely,



Rodalyn Gerardo, CPA, CIA, CGFM, CGAP, CGMA
Audit Supervisor

Enclosure: Notice of Appeal – OPA-PA-15-016

Cc: Samantha Stern, President, Purestone, LLC

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:
Hawaiian Rock Products

Perez Brothers Inc.

Smithbridge Guam Inc.

PART IV- Form and Filing

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;
2. A statement specifying the ruling requested;
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.

PART V- Declaration Re Court Action

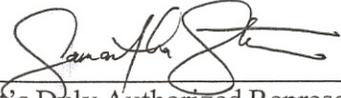
Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of Public Accountability will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of Public Accountability within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 18th day of December, 2015.

By: Purestone, LLC
APPELLANT

or

By: 
Appellant's Duly Authorized Representative
Samantha Stern, President
353 Chalan San Antonio, Unit 101, Tamuning, GU 96913
(646) 299-3894 / (671) 689-5358

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL
PART IV – FORM AND FILING

Purestone, LLC (Purestone) submitted an offer for RFP-14-002, was ranked the highest offer and negotiated a contract with the Guam Economic Development Authority (GEDA) and Chamorro Land Trust Commission (CLTC). The negotiated contract was completed September 9, 2014 and forwarded to the Attorney General's office for review prior to execution of the contract. During review of the contract, the assistant AG, CLTC, Land Management Director and GEDA with respective attorneys, suggested Purestone postpone moving forward with the project until after CLTC's commercial rules and regulations were passed.

Purestone took the recommended advice of the assistant AG, CLTC, Land Management Director and GEDA with respective attorneys in good faith and postponed any further action.

CLTC's commercial rules and regulations were signed into law by Governor Calvo November 2015 in the form of Bill 175-33. With the passage of Bill 175-33, Purestone then proceeded to contact GEDA and CLTC to execute the contract and begin the development of Lajuna Point Residential Community in Yigo, Guam.

GEDA and CLTC informed Purestone Bill 175-33 cancels RFP-14-002, all documentation (the RFP-14-002, all offers and all other documents) will be destroyed, null and voided and therefore the project will go out to rebid. CLTC emailed a letter December 6, 2015 notifying Purestone RFP-14-002 has been cancelled due to the passage of Bill 175-33 voiding this solicitation.

Purestone, LLC believes Bill 175-33 does not void RFP-14-002 and it has the right to move forward with the contract negotiated in good faith with the Guam Economic Development Authority and Chamorro Land Trust Commission.

The following documents are enclosed with this Notice of Appeal:

- a. RFP-14-002 Lajuna Point Residential Community, Yigo, Guam by Guam Economic Development Authority and Chamorro Land Trust Commission
- b. RFP-14-002 Purestone, LLC Proposal/Offer
- c. Notice of Ranking
- d. Bill No. 175-33
- e. Notice of Cancellation