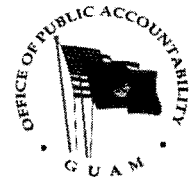


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 238 Archbishop Flores St.
 Hagåtña, Guam 96910



FAX

To:	Mr. Edward M. Birn Director Department of Administration Government of Guam P.O. Box 884 Hagåtña, Guam 96932 Fax: (671) 477-6788	From:	Anthony Camacho Hearing Officer Office of Public Accountability
	Shannon J. Taitano, Esq., Joseph Perez, Esq., & Janice Camacho, Esq. Office of the Attorney General of Guam Solicitor's Division 590 S. Marine Corps Drive, Ste. 802 Tamuning, Guam, 96913 Fax: (671) 472-2493	Pages:	4 (including cover page)
CC:	Louie J. Yanza, Esq. and Jeanette Perez TakeCare Insurance Company, Inc. 418 Chalan San Antonio Tamuning, Guam 96913 Fax: (671) 647-3551 Jeanette.perez@takecareasia.com	Date:	July 3, 2019
		Phone: Fax:	(671) 475-0390 x. 208 (671) 472-7951

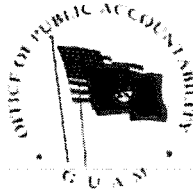
Re: OPA-PA-19-005 Order Denying Confirmation of Purchasing Agency's Notice of Substantial Interests

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 Jerrick Hernandez, Auditor
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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

IN THE APPEAL OF,

TAKECARE INSURANCE COMPANY,
INC.,

Appellant

APPEAL NO: OPA-PA-19-005

ORDER DENYING CONFIRMATION OF
PURCHASING AGENCY'S NOTICE OF
SUBSTANTIAL INTERESTS

To: **Purchasing Agency:**

Department of Administration, Government of Guam
C/O Shannon J. Taitano, Esq., Joseph Perez, Esq., and Janice Camacho, Esq.
Office of the Attorney General of Guam, Solicitor's Division
590 South Marine Corps Drive, Suite 802
Tamuning, Guam, 96913
Facsimile: (671) 472-2493

Appellant:

TakeCare Insurance Company, Inc.
C/O Louie J. Yanza, Esq.
446 South Marine Corps Drive, Suite 201
Hagåtña, Guam, 96910
Facsimile: (671) 647-3551

THIS MATTER, came before the Hearing Officer for Procurement Appeals pursuant to the Purchasing Agency's Notice of Declaration of Substantial Interest filed in this matter on June 28, 2019. For the reasons set forth below, the Hearing Officer, acting *Sua Sponte*, hereby DENIES said Declaration of Substantial Interests because the Hearing Officer FINDS the aforementioned pleading to be procedurally defective as set forth below.

1. The pleading lacks a required authorization. Generally, in the event of a timely protest, a purchasing agency shall not proceed further with the solicitation or with the award of the contract prior to final resolution of such protest, and any such further action is void unless the

1 Chief Procurement Officer after consultation with and written concurrence of the head of the
2 using or purchasing agency and the Attorney General or designated Deputy Attorney General,
3 makes a written determination that the award of the contract without delay is necessary to protect
4 substantial interest of the Government of Guam and the protester has been given two (2) days
5 notice. 5 G.C.A. §5425(g)(1) and (2). Further, if the protest is pending before the Public
6 Auditor, the Public Auditor must confirm such determination. 5 G.C.A. §5425(g)(3). Here, the
7 pleadings submitted by the Purchasing Agency in support of the Declaration of Substantial
8 Interest indicate that the declaration was made by Edward M. Birn, Director, Department of
9 Administration, Government of Guam (Hereafter Referred to as "DOA"), and said declaration
10 was concurred by Deputy Attorney General Fred Nishihira, Esq., who was the acting Attorney
11 General of Guam when he signed said concurrence on June 27, 2019. However, the
12 aforementioned pleadings lack the Chief Procurement Officer's written determination that the
13 award of the contract without delay is necessary to protect substantial interests of the
14 Government of Guam as required by 5 G.C.A. §5425(g)(1). For the procurement solicitation at
15 issue in this matter, DOA's Director serves as the chairperson of the Government of Guam's
16 Negotiating Team. 4 G.C.A. §4302(c)(1)(A) and 2 G.A.R.R., Div. 4, Chap. 13, §II.A. However,
17 DOA's Director is not authorized to provide the Chief Procurement Officer's written
18 determination required by 5 G.C.A. §5425(g)(1). Therefore, the Hearing Officer finds that the
19 pleadings submitted in support of the Purchasing Agency's Notice of Substantial Interests filed
20 in this matter on June 28, 2019 are defective because they do not contain the Chief Procurement
21 Officer's written determination that the award of the contract without delay is necessary to
22 protect substantial interests of the Government of Guam as required by 5 G.C.A. §5425(g)(1).

23 2. Accordingly, the Hearing Officer, acting *Sua Sponte*, hereby DENIES the Purchasing
24 Agency's request that the Office of Public Accountability confirm the Purchasing Agency's
25 Notice of Substantial Interests filed in this matter on June 28, 2019.

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Re: OPA-PA-19-005 Order Denying Confirmation of Purchasing Agency's Notice of Substantial Interests

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