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PROCUREMENT APPEALS
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**THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM
HAGÁTÑA, GUAM**

In the Appeal of) DOCKET NUMBER. **OPA-PA-12-007**
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)
)
DATA MANAGEMENT RESOURCES, LLC,) **AFFIDAVIT IN SUPPORT OF APPELLANT’S**
) **MOTION FOR DISQUALIFICATION OF**
Appellant.) **PUBLIC AUDITOR**
)
)

RICHARD C. TAITANO hereby deposes and states as follows:

1. I am the authorized representative of Data Management Resources, LLC. (“DMR”); I make this Affidavit of my own personal knowledge, unless stated upon information and belief, and will testify truthfully to the contents herein if called upon to do so.
2. I am the Chief Executive Officer of DMR.
3. I make this Affidavit in support of the Motion for Disqualification of the Public Auditor to preside over these proceedings.
4. Upon information and belief, the Public Auditor has a direct conflict with DMR because the Public Auditor is the Appellant and adverse party in Supreme Court of Guam Case No. CVA12-018 captioned, In Re Data Management Resources, LLC. The Public Auditor in CVA12-018 has taken a direct adverse position to DMR as the Appellant and has asserted an interest directly adverse to DMR.

ORIGINAL

1 5. The Supreme Court of Guam case arose from the procurement of computer equipment
2 though an invitation for bid by the Real Party-In-Interest, the Guam Department of Education (“GDOE”).
3 While GDOE is the Real-Party in Interest identified in CVA12-018 and in the underlying Petition for
4 Judicial Review in Superior Court of Guam Special Proceedings Case No. SP107-11, the Public Auditor has
5 actively engaged in litigation with DMR by assuming the role of the Real Party in Interest.

6 6. In fact, it is the Public Auditor who has taken the lead in actively defending against DMR’s
7 request for judicial review. In SP107-11, GDOE in its Answer to DMR’s request for judicial review, stated,
8 “GDOE makes no objection to Petitioner’s request that the Court review the May 19, 2011 decision and
9 order of the OPA.” Upon hearing on the merits of the Petition, GDOE did not submit any opposition. It
10 was the Public Auditor who opposed any judicial review. This was acknowledged by the trial court in its
11 Findings of Fact and Conclusions of Law, Decision and Order filed March 29, 2012, “The Real-Party-In-
12 Interest, Guam Department of Education (hereinafter “GDOE”) filed an Answer admitting to the
13 allegations of the Petition, and was not present for hearing.”

14 7. The only appearance made by GDOE in the judicial review was to oppose DMR’s request
15 for attorney’s fees. GDOE in its Brief Regarding Award of Attorney’s Fees, in SP107-11 and in opposition
16 to any award of attorney’s fees to DMR stated:
17

18 Because GDOE made admissions during the OPA appeal that would essentially
19 resolve the matter, because OPA interfered with GDOE’s ability to resolve the
20 matter, and because OPA’s actions were found to be erroneous and beyond its
21 authority, OPA is the proper party to pay any award of attorney’s fees that might be
22 made (emphasis added).

23 8. Following the Superior Court of Guam’s determination in SP107-11, that the Public Auditor
24 exceeded the scope of authority granted to her, GDOE did not appeal the findings. It was the Public
25 Auditor who interjected herself in the process to appeal the Superior Court’s determination in favor of
26 DMR to the Supreme Court of Guam. Once again, the Public Auditor submitted its Opening Brief to the
27 Supreme Court of Guam. GDOE did not file any opening brief on appeal, nor did it file any Reply Brief.
28

1 9. Upon information and belief, the briefing in the Supreme Court of Guam CVA12-018 was
2 consolidated with DMR's appeal of the trial court's denial of attorney's fees in CVA12-030. Thus, the full
3 briefing on the entire appellate process is not complete. Thus, the OPA has a direct conflict with DMR,
4 and upon information and belief, should be disqualified from presiding over this appeal.

5 10. Upon information and belief, the Public Auditor's judgment is impaired because of her
6 direct conflict with DMR in the outstanding and ongoing litigation, and respectfully, she should be
7 disqualified from sitting in judgment on this procurement appeal.
8

9
10 I declare under the penalty of perjury of the laws of Guam that the foregoing is true and correct to
11 the best of my knowledge.

12
13 EXECUTED in Hagatna, Guam on this 18th day of October, 2012.

14
15 
16 RICHARD C. TAITANO

17 SUBSCRIBED AND SWORN before me on this 18th day of October, 2012.

18
19 
20 Notary Public

21 PRISCILLA CASTRO TORRES
22 NOTARY PUBLIC
23 In and for Guam, U.S.A.
24 My Commission Expires: **Mar. 05, 2016**
25 P.O. Box 1119 Hagatna, Guam 96932