



**Office of the Attorney General**  
**Leonardo M. Rapadas**  
 Attorney General of Guam  
 Civil Litigation Division  
 287 West O'Brien Drive  
 Hagåtña, Guam 96910 • USA  
 Tel. (671) 475-3324 • Fax (671) 472-2493  
 babrams@guamag.org

**RECEIVED**  
 OFFICE OF PUBLIC ACCOUNTABILITY  
 PROCUREMENT APPEALS

DATE: 10/15/12  
 TIME: 3:50  AM  PM BY: JH  
 FILE NO OPA-PA: 12 007

Attorneys for the General Services Administration,  
 Department of Administration, Government of Guam

**BEFORE THE GUAM PUBLIC AUDITOR**  
**Procurement Appeal**

IN THE APPEAL OF:	)	DOCKET NO. OPA-PA 12-007
	)	
	)	
	)	
DATA MANAGEMENT RESOURCES, LLC.	)	<b>APPLICATION FOR</b>
	)	<b>SUBPOENA</b>
	)	
Appellant.	)	

Application is hereby made, pursuant to 5 GCA §9217 for issuance of a subpoena for the below listed witnesses, to appear before the Guam Public Auditor at the commencement of the hearing on the merits of this matter on 22 October 2012 at 9:00 am and to give sworn testimony:

1. Benigno Camacho, Department of Administration
2. Benita Manglona, Department of Administration
3. Claudia Acfalle, General Services Agency, Department of Administration
4. Ed C. Cruz, Bureau of Information Technology, Office of the Governor
5. Thomas Ashe, formerly Bureau of Information Technology, Office of the Governor

**ORIGINAL**

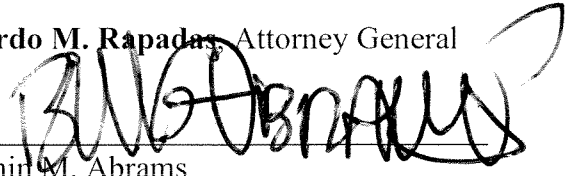
Dated: 12 October 2012

OFFICE OF THE ATTORNEY GENERAL

Leonardo M. Rapadas, Attorney General

By: \_\_\_\_\_

Benjamin M. Abrams  
Assistant Attorney General



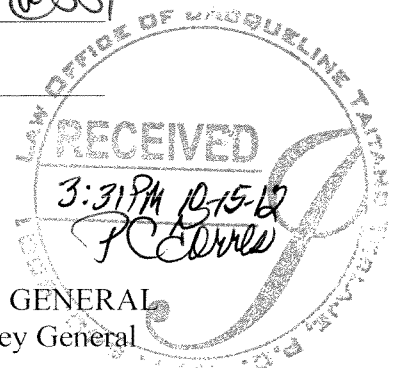
**RETURN OF SERVICE:**

I served this Application for Subpoena by delivering a copy thereof to the following persons personally:

Name of Person	Address	Date and Time
Priscilla C. Torres	Law Office of	10/15/12 @ 3:31
Priscilla C. Torres	Jacqueline Terlate Hagatha, Guam	

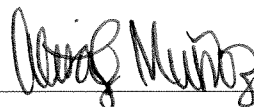
I declare under penalty that the foregoing is true and correct.

Dated: 10/15/12



OFFICE OF THE ATTORNEY GENERAL  
Leonardo M. Rapadas, Attorney General

By: \_\_\_\_\_



Pursuant to the Guam Rules of Civil Procedure, Rule 45(a)(1)(D), you are advised of the following:

**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, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all the of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitle 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; or

(ii) requires disclosure or privileged or other protected matter and no exception or waiver applies; or

(iii) 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 addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **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 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 or 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.

**(e) Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed in contempt of the court from which the subpoena issued.