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IN THE OFFICE OF PUBLIC ACCOUNTABILITY

PROCUREMENT APPEAL

In the Appeal of	)	DOCKET NO. OPA-PA 10-010
TOWN HOUSE DEPARTMENT STORES, INC., dba ISLAND BUSINESS SYSTEMS & SUPPLIES, APPELLANT	)	APPELLANT'S COMMENTS ON AGENCY REPORT

Appellant "IBSS" hereby responds to and comments upon DOE's "Appeal Response" in its Agency Report for OPA-PA-10-010, at Tab G.

The "Appeal Response" is intended to be a "statement answering the allegation of the Appeal", which "shall be fully responsive to the allegations of the Appeal". (2 GAR § 12105(g).) DOE's "Appeal Response" does neither. It simply reiterates the claims made in the Protest Decision.

The Appeal Response narrows down the issues raised in DOE's Protest Decision to only three matters:

> "1. No certification of funding,
> 2. Irrevocable time has lapsed,

3. GDOE never responded to the procurement protest in a timely manner."

The Protest Decision gave seven reasons to reject the Protest, and the Notice of Appeal dealt with all seven in turn. Since the Appeal Response limits itself to just these three issues, the other reasons identified to reject the Protest should be considered abandoned, conceded, waived and/or estopped from further consideration. These Comments will address the three issues presented in the "Appeal Response".

1. No certification of funding.

Certification is a cover up for DOE's bad faith:

The gist of the Appeal Response is that the Supply Management Administrator, "when asked", stated "he *never* **secured funding** for this purchase". In DOE's Protest Decision, this was further described as "never reserved or obtained **prior to** ... processing" the bid. It is the *personal* duty of those reporting to the Head of the Purchasing Agency, including the Supply Management Administrator, to perform their administrative mandates.

The Protest and Notice of Appeal allege an award was not made due to breach of the duty of bad faith. DOE's response is, without discussing bad faith, that the failure to award was incompetent neglect.

The Appellant is not convinced that it was incompetence that compelled DOE to find money to pay Xerox for the supply of its machines without any authority, yet not be able to prioritize the lawful purchase of these machines under DOE IFB 006, especially when, under penalty of perjury, the Superintendent stated that these document management services are "integral for the functioning of the department".

It must be pointed out here that the price of the low bid for IFB 006 was less than $230,000. In January, February and March of 2010 DOE paid Xerox approximately $400,000 without even the pretext of legal authority, some significant portion of which was applied to the provision of these copiers. In May and July of 2010, again with no pretext of legal authority, DOE paid another $270,000 to Xerox, including payment to provide copiers covered by IFB 006. Until November of 2010, in the five months not already mentioned, under cover of a rolling series of highly dubious declarations of emergency, DOE paid Xerox another $400,000 for copier services, again including money for copiers which could have been secured by IFB 006.

In total, by November of 2010, DOE has paid Xerox over One Million Seventy Thousand Dollars for copiers, including copiers which could have been obtained legally under IFB 006, with no legal authority, at worse, and dubious and doubtful authority, at best.

Yet, DOE bases its failure to award IFB 006, legally issued, solely on the neglect of the Supply Management Administrator to secure funding. Given the choice between securing funding to pay

for these copiers by way of a legal procurement, or securing funding to pay for copiers without any legal authority at all, DOE chose to secure funding for the illegally procured copiers.

Given the choice between acting legally or illegally to acquire copiers specified in IFB 006, DOE chose to act illegally. "Good faith means honesty in fact in the conduct or transaction concerned." (13 GCA § 1201(13).) "Specific findings showing **reckless disregard of clearly applicable laws or regulations** must **support a finding of bad faith**." (2 GAR § 9104(a)(3).)

The Public Auditor will find that GSA, acting for DOE, purchased the copiers described by IFB 006 in January and February under Purchase Orders issued to Xerox justified as an extension of the "old" Xerox contract, which the Public Auditor has previously ruled to have been made and renewed without legal authority, and which, by its own terms, expired without renewal options on December 31, 2009.

The Public Auditor will find that DOE purchased the copiers described by IFB 006 in April and June 2010 under highly dubious Declarations of Emergency. The premise of these Declarations was that the copiers were critically needed to allow DOE to provide every child to a public education, but "*the previous contract* for document management services **was protested which delayed the establishment of a new contract**". This is alleged causation is factually preposterous and legally damning.

The so-called "previous contract" refers to the "old" Xerox contract from the year 2000, which has already been the subject of two OPA appeals, 08-003 and 08-011. This fact is admitted in the correspondence from Xerox to DOE, copies of which have been submitted in this Appeal as well as the previous Petition to Compel Decision, etc., (OPA-PA-10-006).

Particularly, in her letter to the Superintendent, Deputy Superintendent and Supply Administrator, dated July 30, 2010, the General Manager of Xerox, reminded the addressees, "Xerox is continuing to provide document management services under GDOE/XMS Agreement that effectively expired on December 31, 2009."

The "previous contract" was protested in 2007, and heard and determined by the Public Auditor in 2008, and, as noted in that letter, "effectively expired on December 31, 2009". Factually, it is breathtakingly preposterous to claim, let alone declare under penalty of perjury, that the 2007 protest was the cause of any "delay" in the establishment of a new contract.

Furthermore, the Superintendent, herself, in her letter to the Xerox General Manager in December 2008 (Exhibit 16 in OPA-PA-10-006), explained that the contract would continue to run if Xerox appealed the Public Auditor's Decision in OPA-PA-08-011, and, as mentioned, the contract term lasted only until December 31, 2009, with no renewal option.

If a new contract was to be established, it must have been ready by January 1, 2010 because *everyone* knew the "previous contract" would expire on December 31, 2009. The protest had

absolutely nothing to do with the need to have a new contract in place before January 2010. It is a bare untruth to claim otherwise. It is a reckless deceit to make such a claim.

It is perjury to make such an implausibly untrue statement in a Declaration of Emergency, which must requires "a written determination of the basis for the emergency, made under penalty of perjury by the ... Head of the Purchasing Agency...." (5 GCA § 5215.) These are unlawful acts which evidence bad faith.

DOE flatly *disregarded its legal duty* to come forward with a new procurement in adequate time before the "previous contract" expired. 5 GCA § 5010 requires "[a]ll procurements of supplies and services shall, where possible, be made sufficiently in advance of need for delivery or performance to promote maximum competition and good management of resources."

"Reckless disregard of clearly applicable laws or regulations" supports a finding of bad faith. (2 GAR § 9104(a)(3).)

Furthermore, the failure of DOE to act long before the events of the year 2010 to establish a new contract to follow on the expiration of the "previous contract" precludes DOE from invoking an "emergency".

"*Emergency* means a condition posing an eminent threat ... which could not have been foreseen through the use of reasonable and prudent management procedures...." (2 GAR § 1106(47).) Under the legal definition of emergency, management neglect does not justify an emergency, regardless of the nature of the "eminent threat".

When the government invokes emergency procurement source selection method, it is improper if there is, in fact, no "emergency". It is a *reckless disregard* of the law, an act of bad faith, to operate under an emergency declaration whose very plainly expressed premise discloses, *belies*, conditions which were patently foreseeable through the use of any "reasonable and prudent management procedures". DOE acted in bad faith when it acquired the copiers identified in IFB 006 under bogus declarations of emergency rather than under the authority of the IFB.

The Public Auditor would find that DOE itself (after GSA's delegation back) procured copiers described by IFB 006 in March, May and July under purchase orders issued to Xerox with no legal authority at all, and, for the rest of 2010 up at least until November, under dubious "emergency" declarations. These were willful acts, not "mere" recklessness, taken in plain disregard of the law.

Appellant believes it is an act of bad faith, when funds could seemingly be obtained without legal authority, to hide behind the funding "error" claimed in the Appeal Response. The Superintendent told IBSS' counsel on July 7, 2010, that "the Department is in the process of requesting a supplemental budget **to secure funding** to award IFB 006-2010". The Superintendent is the Head of the Purchasing Agency, delegated with full procurement power

when GSA returned procurement authority to DOE in March of 2010. And now, after all this time and after representations that DOE was taking steps to "secure funding", DOE is claiming some kind of funding error that prevents it from making any award at any time under the IFB? Is that incompetence, or bad faith?

It smacks loudly of a post-facto, contrived excuse either way, and not one fairly arrived at. This excuse was not offered by a good faith evaluation of the IFB when the bids were opened. It was a convenience, overlooked in many other instances, but pounced on to deprive IBSS of the award of the first lawful solicitation conducted for copiers in over a decade.

If there was error, it was curable, and bad faith not to do so:

Even if it is assumed, solely for purposes of argument, that there was an error to certify funds before the IFB was issued, and before the bids were opened, it would nevertheless be bad faith to willingly *fail to cure the error* by (1) reprogramming money to the "highest priority" need, or (2) doing what the Superintendent claimed to be doing by requesting a supplemental budget, or (3) by including the funding request for this integral need in the other funding requests made over the last few months, or (4) by taking any of the myriad other steps DOE has proven adept at to obtain funds for particular needs when it meant to. Again, this was not any old procurement; this was one made under Declaration of Emergency circumstances, however bogus[1], which the Superintendent herself specifically swore to.

If there was an administrative error, it was bad faith on the part of DOE to *fail to cure* the error. Goodness knows, DOE has made plenty of other errors which it has conveniently overlooked. But Appellant is not saying here that, if there was an error, it was bad faith not to overlook it. Appellant is simply claiming the error, if it did in good faith exist, was merely administrative and was curable, and DOE did nothing it could have done, and should have done, to cure the error.

Appellant is also suggesting it is bad faith, in the sense of vindictive discrimination, to overlook gross error in favor of its competitors yet insist on strict compliance after it protested the solicitation. The bad faith exists in the discriminatory insistence on strict compliance.

DOE's Appeal Response does not deny or refute the allegations of bad faith. It does not even mention the emergency conditions attending this procurement. It does not mention that this procurement was conducted to implement an express settlement proposal to resolve a prior protest over the illegal renewal of the copier services under an expired, terminated and illegal contract. It completely ignores the multiple acts of impropriety that has been the hallmark of the copier services procurement at DOE for years, but lands squarely and indignantly on the ground

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[1] As noted above, the emergency declaration was bogus based on its premise that it was *caused* by a protest of the "previous contract". Appellant does not dispute the other statements in the declarations concerning the critical need for the copiers.

that there was one curable error in this particular solicitation that allows it to simply ignore it.

DOE does not come to this action with clean hands. They are filthy. They are encrusted with years of denial and stonewalling, claiming all the while it has done nothing untoward and could basically do as it liked.

Within days of the OPA Decision declaring that the Xerox contract was improper and terminated, the Superintendent wrote to Xerox to advise that DOE would not appeal that decision, but DOE would continue to obtain services from Xerox on a month to month basis until a new bid was put out, or continue to run the contract if Xerox would only appeal the Decision.

That was in December 2008. It then did *nothing* to prepare for the expiration of the contract in 2009 as required by law (5 GCA § 5010). It issued IFB 006 in May 2009 to accommodate part of its copiers needs, and then ignored the IFB, subsuming the acquisition of the very same copiers under DOE IFB 022 (refer to Exhibit 2 in OPA-PA-10-006). Is that good faith?

Doe cannot walk away from the IFB:

DOE is attempting to walk away from IFB 006; to once again wash its hands of its responsibilities because it discovered funding was not "secured" prior to issuance of the IFB.

One appropriate way to analyse whether this "incompetence defence" stacks up is to look to what the law would *allow* DOE to do if it had done something, *anything,* with IFB 006 *other than* simply ignore it.

Procurement policy requires that agencies respond to and not simply ignore or walk away from an IFB. 2 GAR § 3115(b) states this policy as well as the policy reasons behind it.

The policy *reasoning* is:

> "Preparing and distributing a solicitation requires the expenditure of time and funds. Businesses likewise incur expense in examining and responding to solicitations. Therefore, *although issuance of a solicitation does not compel award of a contract, a solicitation is to be cancelled only when there are cogent and compelling reasons to believe that the cancellation is in the territory's best interests.*"

It is not *cogent and compelling reasoning* to cancel IFB 006 solicitation when, on May 21st, the very day the bids were opened, the Superintendent advised the Governor, in order to convince him to certify her Declaration of Emergency and thereby "ensure the functioning of the Department", that DOE had issued the IFB to accommodate its larger solicitation of copiers.

It could hardly be said that cancellation of the protested IFB is *in the best interests of the territory*

when, at the same time, the Superintendent was declaring, under penalty of perjury, that GDOE was "in a state of emergency jeopardizing the functioning of [GDOE]", and that she was authorizing "*the emergency procurement of document management services* ***as necessary*** *to ensure the continued functioning within the department and in our schools*".

It must be kept in mind that, in all the emergency declarations, the Superintendent did not once condition the procurement of copier services on availability or security of funds. She did not ask the Governor or the Legislature to provide or secure funding for this emergency procurement. The Superintendent acted as Head of the Purchasing Agency, with full delegated procurement authority. She specifically intended that copier services were meant to be obtained as of the "highest priority". IFB 006 should have gone to the head of the class.

Bearing in mind the reasons for the no-cancellation policy ("[t]his Chapter shall be construed and *applied* to promote its underlying purposes and policies"; 5 GCA § 5001(a)), the express policy in 2 GAR § 3115(b) is:

> "Solicitations should only be issued when there is a valid procurement need unless the solicitation states that it is for informational purposes only."

In her Declarations of Emergency, the Superintendent swears, under penalty of perjury, that the statement of emergency "is not being used solely *for the purpose of avoiding* Chapter 3 of the Procurement *Regulations*", which includes regulation 2 GAR § 3115.

In this case, the validity of the procurement need is emphasized by the Declarations of Emergency. The IFB was not for informational purposes only.

The policy continues:

> "**The solicitation shall give the status of funding** for the procurement."

The solicitation in IFB 006 did not express any condition or limitation on the status of funding for the procurement. It must be presumed, therefore, that funding would reasonably be expected to be available. Jumping ahead for a moment, this is critical to understanding the sleight of hand DOE is pulling with its "funding error" claim [2].

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[2] In its Protest Decision, DOE said "Certification of funds was never **reserved or obtained prior to** for (sic) the processing of GDOE IFB 006-2010". The Appeal Response says the Supply Management Administrator "never **secured** funding". The regulation does not require that funds be set aside ("reserved" or "obtained" or "secured") before an IFB issues; it merely requires that the IFB give notice of the *status* of funding, and allows cancellation if "the territory no longer can reasonably expect to fund the procurement". (2 GAR § 3115(b) and 3115(d)(1)(B)(ii).)

"[A] solicitation ***may*** be cancelled" if "the territory ***no longer*** can **reasonably expect *to fund*** the procurement" (2 GAR § 3115(d)(1)(B)(ii)). The law obviously implies that *the issuance* of an IFB signifies, at the minimum, a *reasonable expectation of ability to fund*, and allows, **but does not require**, cancellation of the solicitation if the government *"no longer* can reasonably expect to fund".

The Protest Decision lays the basis for the "funding error" defense, saying Certification of Funds was never reserved or obtained *prior to* the processing of the IFB. If the law does not require cancellation of a bid when funds are no longer reasonably expected, how can failure to award be justified on the basis that funds were not secured before the IFB was processed?

If funds are meant to be "reserved" or "secured" upon the issuance of an IFB, there would never be need for the funding cancellation condition granted by the regulation, because by definition, funds would always be reasonably expected to fund the procurement by virtue of the act of reserving or securing funding. It is improper to *imply* any obligation of procurement process that negates a specific procurement regulation. The "funding error" justification for denying the Protest, therefore, lacks legal authority under the procurement law.

There are undoubtedly internal financial controls which justify fund certification, but insofar as the integrity of the procurement law is concerned, and in dealing in good faith with bidders under an issued IFB, after bid opening, actual reservation of funds is not a precondition or legal impediment to the IFB, unless the bidder is notified of the conditional *status* of funding. DOE has not claimed any such conditional status, only an internal administrative error.

There are only two ways to walk away from a solicitation:

Given the policy and background discussed above, the Procurement Regulations allow an agency to walk away from an IFB only in two ways: first, it might *cancel* the solicitation, or second, it might *reject all bids* (2 GAR § 3115(d)).

Critically, the reasons allowed for justifying a cancellation of a solicitation are not applicable to a rejection of all bids. They may be somewhat similar, but the distinctions underline critical differences.

They are the same, however, in that both cancellation and rejection of all bids require a determination that it is in the best interests of the territory; here, the best interests of the territory, based on the sworn statements of the Superintendent, were to alleviate an emergency crisis posed by the unavailability of copiers. Given that "a solicitation is to be cancelled only when there are cogent and compelling reasons to believe that the cancellation is in the territory's best interests" it would be inappropriate to cancel IFB 006, which was intended as an accommodation towards the acquisition of all the copiers needed to address the emergency.

Cancellation of IFB 006 is not an option for DOE, however, since bids were opened, and

cancellation is only available as a pre-opening event. (2 GAR § 3115(d)(1)(B).)

After bid opening, the reasons allowed to walk away from a bid, that is to "reject all bids", narrow. It is logical, however, that the same limitation applies here as in respect to cancellation, namely, that rejection of all bids is to occur only when there are cogent and compelling reasons to believe that doing so is in the best interests of the territory.

After bid opening, the government can only walk away from an IFB by *rejecting all bids*. (2 GAR § 3115(d)(2)(A).) And, again, it can only do so for specifically described reasons. The only reason in the regulation that involves money does *not* condition the rejection on the *availability* of reasonably expected **funding** (the reason allowed for cancellation). To *reject* all bids, **the focus is on *bid pricing*, not funding:**.

> All bids can be rejected if "**prices** exceed available funds and it would not be appropriate to adjust quantities *to come within available funds*." (2 GAR § 3115(d)(2)(A)(iv).)

Funds might be "available" from a variety of sources or means, now or as reasonably expected in the future. Here, no objection has ever been made to bid prices in IFB 006. The only substantive "reason" relied upon in DOE's Protest Decision and Appeal Response is *funding*. It cannot reject all bids based on that reason.

Since DOE cannot, under procurement regulations, walk away from IFB 006 by cancelling it or rejecting all bids, it should not be allowed to do so by ignoring it until the matter is protested and appealed. DOE must not be allowed to accomplish by incompetence or design, and certainly not by bad faith, what the law would not allow otherwise. That would be an affront to the integrity of the procurement system and a disregard of the relevant regulations.

2. Irrevocable bid:

In the same confusing manner as the Protest Decision, in the Appeal Response, DOE claims, as its second Appeal Response, some kind of significance from the fact that the bid required irrevocability for 90 days (from date of bid). This is not well taken for at least two reasons.

First, DOE created the quantum of the irrevocable term as well as controlled the conditions by which it may be invoked. IBSS did not protest the IFB or the bids, nor did Xerox (formally). The only party who had any control over the 90 day period was DOE.

DOE should not be allowed to defeat a Protest Appeal on grounds over which it alone has control. There is no way for an appellant in such circumstance to protect its interests. If the government could simply walk away from a bid by doing nothing, it would defeat the whole intent of 2 GAR § 3115(b) and (d), already discussed. (See, e.g., Maxims of Jurisprudence, 20

GCA §§ 15109, 15112, etc.)

Furthermore, if such a rule (based on the period of revocability) were to be recognized, the entire review process would be undermined, as any protest, administrative appeal and court appeal that outran the revocability period would be rendered moot by the mere passage of time.

Second, this argument ignores 2 GAR §3102, which gives the government the power to ask "bidders or offerors to extend the time during which the territory may accept their bids or proposals, provided that, with regard to bids, no other change is permitted. The reasons for requesting such extension shall be documented."

DOE has not availed itself of that solution to the problem of its making. (E.g., this maxim: "One must so use his own rights as not to infringe upon the rights of another"; 20 GCA § 15106.)

3. No timely response to protest:

GDOE finally justifies its Protest Decision because, "GDOE never responded to the procurement protest in a timely manner". Amazing, both on the facts and whatever its reasoning might be.

GDOE did, in fact, fail to timely respond to IBSS' protest, *initially*. That left Appellant with the only recourse of bringing an action before OPA to compel GDOE to render a protest decision, which it did in OPA-PA-10-006. GDOE formally appeared in that action in the person of Laura Mooney, Legal Counsel.

The Public Auditor issued her Order in that matter November 8, 2010, finding GDOE's failure to timely render a protest decision was *an act of bad faith* (yet another one), and ordering GDOE to render its decision.

Subsequently, on November 23, 2010, DOE Supply Manager Administrator, Acting, did issue DOE's Decision to Appellant's protest, stating "[t]his is an official response to your letter of protest...." It concluded in rejecting "your protest" and gave notice of right to review as required by 5 GCA § 5425.

The Protest Decision is part of DOE's Agency Report, Tabs E, F. What can be meant, therefore, by the claim that "GDOE never responded to the procurement protest ..."? It did respond, and an Appeal of that Protest Decision is proper if timely brought after the Decision, regardless whether the Protest Decision itself was timely (5 GCA § 5425(e)).

Appellant's General Counsel admits to being mystified by this claim, which was not raised in the Protest Decision, and reserves the right to Comment on it when, if ever, it is explained in such manner as to be answerable.

CONCLUSION:

Respondent GDOE has "answered" the Appeal, but not in the manner required by regulations. In reverse numerical order to the Responses made, it's third answer is incomprehensible, and it's second answer is flawed logic, seeks to leverage its own wrongdoing and fails to avail itself of a ready remedy.

Its first Response has only a blush of reasonableness. It seeks to ignore IFB 006 because of an administrative neglect, the "funding error" excuse, which is a reason that is not available under the procurement law or regulation. Allowing DOE to avoid its obligations under IFB 006 in this manner, contrary to existing law and regulation, would work an injustice on and violate the integrity of the procurement process, as well as prejudice Appellant as explained in the Notice of Appeal.

The facts of this case are full of instances of bad faith, and DOE simply ignores them, with the same indifference it has shown to the IFB. Appellant argues that DOE's failure to award a contract in consequence of the IFB was not taken in good faith, and DOE, given the opportunity to answer the allegation in a fully responsive way in its Appeal Response, fails to respond to the Appeal.

Appellant's Protest and Notice of Appeal, and other communications throughout 2010, raised these matters of bad faith, yet DOE continues to provide nothing but excuses. It continues to argue for leniency and exception from its duties under the procurement regime due to its errors, its neglectful incompetence; but its actions over the years proves it is mainly incompetent with a clever design. Its design is to ignore its incompetence and brush off complaints until the pesky complaints go away.

Incompetence may be behind, or the root cause of, the "reckless disregard of clearly applicable laws or regulations", but as 2 GAR § 9104(a)(3) explains, **such reckless disregard is also basis for a finding of bad faith**. GDOE cannot avoid its legal duty to act in good faith by entrusting management of its procurement system to people who recklessly disregard clearly applicable laws or regulations.

The Public Auditor is to review the Protest Decision de novo. She need not take into account any claim made in the Appeal Response because it fails entirely to be responsive to the allegations.

The Notice of Appeal alleged IFB 006 was properly solicited, and Appellant was the low bidder; no question or doubt has been raised in either the Protest Decision or the Appeal Response, or in any formal communication with Appellant, as to Appellant's bid responsiveness nor its responsibility. Appellant has alleged that DOE should have and could have awarded the contract but did not do so, in violation of its legal duty of good faith.

There is compelling reason to award IFB 006 especially in light of the declared emergency conditions, if not the declared cause of the conditions. As is clear from the Protest Decision and Appeal Response, the sole reason for failure to award the bid is the administrative failure to secure funding. As argued, particularly in light of the best interests of the territory clearly expressed by the Superintendent in her Declarations of Emergency, that is an inadequate reason to either cancel the solicitation or reject all bids.

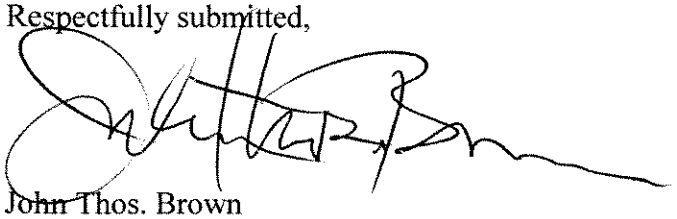
The Public Auditor need not review the whole procurement record to make a determination to award the contract under IFB 006. DOE's Appeal Response admits, "[t]his bid was opened as scheduled with IBSS showing a lower price" on the copiers. Neither the Appeal response nor the Protest Decision claim any issue of nonresponsibility or nonresponsiveness.

Appellant specifically claims GDOE has acted in bad faith, in violation of its legal duty under 5 GCA § 5003. The Procurement Act is broader than that. It is the intent of the Procurement Act that it be construed and *applied to promote* its purposes and policies, one of which is *"to ensure the fair and equitable treatment* of all persons who deal with the procurement system of this Territory". (5 GCA § 5001.) The events of this procurement, as revealed in this Appeal as well as OPA-PA-10-006, show that Appellant has not been fairly or equitably dealt with; indeed, it has been discriminated against where its competitor has been coddled and feared.

While the Procurement Act is to be *applied* to promote and ensure fairness and equitable treatment, the Public Auditor is to utilize her jurisdiction to promote the integrity of the procurement processes, as well as the purposes of the Procurement Act. (5 GCA § 5703.) She thus shares the obligation to utilize her jurisdiction "to ensure the fair and equitable treatment of all persons who deal with the procurement system".

In the circumstances, the only way to salvage the integrity of the procurement process in this Appeal, and ensure the fair and equitable treatment of the low, responsive and responsible bidder for the copier machines, is for the Public Auditor to award the contract for the copiers under GDOE IFB 006 to Appellant, and order GDOE to take all steps necessary to obtain and certify funds therefor, consistent with the many sworn Declarations of Emergency by the Superintendent of GDOE certifying that "the continuance of document management services is the highest priority".

Respectfully submitted,



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