



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

PROCUREMENT APPEALS

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6 IN THE APPEAL OF,)
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8 G4S SECURITY SYSTEMS, (GUAM) INC.,) **APPEAL NO: OPA-PA-14-004**
9) **ORDER AFTER HEARING**
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Appellant

To: **Purchasing Agency:**
Department of Public Works, Government of Guam
C/O Laura J. Mooney, Esq.
Office of the Attorney General, Civil Division
590 South Marine Corps Drive, Suite 706
Tamuning, Guam, 96913

Appellant:
G4S Security Systems, (Guam) Inc.
C/O Kevin Fowler, Esq.
DOOLEY ROBERTS & FOWLER LLP
865 South Marine Corps Drive, Suite 201
Tamuning, Guam, 96913
E-Mail: fowler@guamlawoffice.com

THIS MATTER came before the Hearing Officer for a hearing on June 24, 2014 pursuant to the Appellant's (Hereafter Referred to as "G4S") June 13, 2014 Motion to Set Hearing Date and Preclude Consideration of the Purchasing Agency's (Hereafter Referred to as "DPW") Arguments, and G4S' June 17, 2014 Motion to Produce Procurement Record. No representative of G4S was present and G4S was represented by its Counsel of Record, Kevin Fowler, Esq. DPW's Director, Carl V. Dominguez was present and represented by DPW's Counsel of Record, Laura J. Mooney, Esq. After hearing the arguments of the Parties, and for good cause shown, the Hearing Officer hereby FINDS and ORDERS the following:

1 1. G4S' June 13, 2014 Motion to Set Hearing Date and Preclude Consideration of
2 DPW's Arguments is hereby GRANTED in part, and DENIED in part as follows. In its motion,
3 G4S requests the OPA to set a hearing date for G4S' appeal as soon as practical in consideration
4 of the OPA and the Hearing Officer.¹ This matter concerns G4S's appeal of DPW's May 2,
5 2014 Notice of Termination of Contract. The OPA has the jurisdiction over appeals concerning
6 a purchasing agency's decision regarding a contract or breach of contract controversy. 5 G.C.A.
7 §5706 and 2 G.A.R., Div. 4, Chap. 12, §12301(a). To perfect an appellant's right to hearing on
8 such an appeal, the appellant must request a hearing in writing prior to the expiration of the time
9 period allowed for filing comments on the agency report. 2 G.A.R., Div. 4, Chap. 12, §12108(a).
10 If an appellant perfects his or her right to a hearing by making a timely written request for a
11 hearing, the hearing shall be scheduled by the Hearing Officer. 2 G.A.R., Div. 4, Chap. 12,
12 §12108(b). Here, G4S filed their written request for a hearing on May 21, 2014, the day after
13 they filed their Notice of Appeal and well before the time to comment on DPW's Agency Report
14 would expire. Therefore, the Hearing Officer finds that G4S complied with the requirements of
15 2 G.A.R., Div. 4, Chap. 12, §12108(a) and shall schedule a hearing for G4S' appeal.

16 G4S also argues that DPW should be precluded from answering the appeal because it
17 failed to file its Procurement Record and Agency Report. DPW's Director is responsible for
18 submitting a complete copy of the procurement record relevant to the appeal within five (5)
19 working days of receiving a notice of an appeal and the purchasing agency's Agency Report
20 shall be submitted within twenty (20) working days after receipt of a notice of appeal concerning
21 a contract dispute. 2 G.A.R., Div. 4, Chap. 12, §12104(c)(3). Here, DPW received notice of
22 G4S' appeal on May 22, 2014.² After receiving this notice, DPW had until May 30, 2014 to file
23 the procurement record relevant to G4S' appeal and it had until June 11, 2014 to file its Agency
24 Report.³ DPW failed to meet both deadlines and as of June 24, 2014, the date the G4S's motions
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27 ¹ Page 2, G4S' Motion to Set Hearing Date and to Preclude Consideration of
DPW's Arguments filed on June 13, 2014

28 ² FAX Transaction Report dated May 22, 2014, page 4, Amended Notice of Receipt
of Appeal dated May 22, 2014

³ The Notice of Appeal erroneously stated that DPW had ten (10) working days
to submit the Agency report expiring on June 6, 2014

1 were heard by the OPA, neither DPW's procurement record or its agency report had been filed.
2 Albeit, the Hearing Officer does have the authority, pursuant to 2 G.A.R., Div. 4, Chap. 12,
3 §12104(c)(5), to proceed with hearing G4S' appeal without consideration of DPW's unfiled
4 procurement record or agency report, DPW shall be given additional time to file its procurement
5 record and agency report and G4S shall be given additional time to respond to the same. Hence,
6 pursuant 2 G.A.R., Div. 4, Chap. 12, §12109(a) and (g), which authorizes the Hearing Officer to
7 fix procedural issues and time limits on filing written document, the parties shall comply with the
8 following filing schedule:

9
10 **Filing Deadline for the
11 Procurement Record:**

July 2, 2014 at 12:00 P.M.

12 DPW shall file the procurement record relevant to this appeal and
13 shall serve a copy of the same on G4S no later than this date and
14 time

14 **Filing Deadline for the
15 Agency Report:**

July 7, 2014 at 5:00 P.M.

16 DPW shall file and serve on G4S, its Agency Report no later than
17 this date and time.

17 **Filing Deadline for
18 Comments on the
19 Agency Report:**

July 14, 2014 at 5:00 P.M.

20 G4S and any Interested Parties shall file and serve on the other
21 parties, Comments on the Agency Report, if any, no later than this
22 date and time.

21 **Filing Deadline for
22 Rebuttal to Comments
23 on the Agency Report:**

July 18, 2014 at 5:00 P.M.

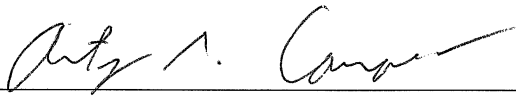
24 DPW shall file serve on G4S and any Interested Parties its Rebuttal
25 to Comments on the Agency Report, if any, no later than this date
26 and time.

26 DPW is hereby ON NOTICE that its failure to file the procurement record and agency
27 report as set forth above will result in any and all information in the procurement record and any
28 defenses it might have raised in its agency report being precluded and this matter shall be

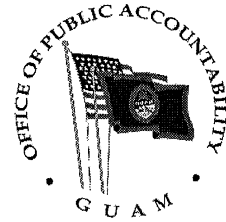
1 decided without consideration of such information or defenses pursuant to 2 G.A.R., Div. 4,
2 Chap. 12, §12104(c)(5).

3 2. G4S' June 17, 2014 Motion to Produce Procurement Record is hereby GRANTED.
4 As stated above, in granting G4S' Motion to Set the Hearing Date, DPW was ordered to file the
5 procurement record relevant to this appeal with the OPA and serve a copy of it on G4S no later
6 than July, 2, 2014 at 12:00 p.m.

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8 **SO ORDERED *NUNC PRO TUNC*** as of June 24, 2014 this 27th day of June, 2014 by:

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13 ANTHONY R. CAMACHO, ESQ.
14 Hearing Officer
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238 Archbishop Flores St.
Hagåtña, Guam 96910



FAX

To:	Laura J. Mooney Assistant Attorney General Office of the Attorney General for Department of Public Works	From:	Doris Flores Brooks Guam Public Auditor Office of Public Accountability
Phone: Fax:	(671) 475-3324 (671) 472-2493	Pages:	5 (including cover page)
CC:	Kevin J. Fowler Attorneys for G4S Security Systems, (Guam) Inc.	Date:	July 1, 2014
Phone: Fax:	(671) 646-1222 (671) 646-1223	Phone: Fax:	475-0390 x. 218 472-7951

Re: OPA-PA-14-004 Order After Hearing

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,
Llewelyn Terlaje
Audit Supervisor
lterlaje@guamopa.org

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