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OCT 04 2010

TIME: 5:00 PM BY: AC
FILE NO. OPA-PA: 10-004

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**BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEAL**

IN THE MATTER OF THE APPEAL OF) APPEAL NO.: OPA-PA-010-004

MOTION FOR DISCOVERY

HARBOR CENTER GUAM CO. LTD.,
And HARBOUR CENTRE PORT
TERMINAL, INC.

COMES NOW, Harbor Center Guam, by and through its attorneys, Cabot Mantanona LLP, moves the Public Auditor to issue a discovery order for this appeal pursuant to 2 G.A.R. Div. 4. § 12104(c)(7). This Motion is based upon this pleading and the Memorandum of Points and Authorities in Support of Motion for Public Auditor to Recuse Herself, set out below.

Respectfully submitted this 4 day of October, 2010.

CABOT MANTANONA LLP
Attorneys for Harbor Center Guam

By:


SARAH STROCK

ORIGINAL

MEMORANDUM OF POINTS AND AUTHORITIES

Appellant Harbor Center Guam requests that the Hearings Officer order discovery in this appeal. The form of material witness depositions. The Hearings Officer may require evidence in addition to that offered by the parties. 2 G.A.R. Div. 4. § 12104(c)(7). Furthermore, on the verified petition of any party, an agency may order that the testimony of any material witness be taken by deposition in the manner prescribed by law for depositions in civil matters. 5 G.C.A. § 9218.

This appeal is complicated and requires the depositions and testimony of the following material witnesses:

1. Claudia Acfalle, Chief Procurement Officer, General Services Agency
2. Alma Javier, Chief Procurement Officer, Port Authority of Guam
3. John B. Santos, Operations Manager
4. Ernie Candoleta, Maintenance Manager
5. Joaquin Pangelinan, Equipment Support Services Manager
6. Ray B. Santos, Transportation Superintendent
7. Francine T. Rocio, Personnel Services Administrator
8. Sooja L. Suk, Systems Manager
9. Glenn B. Nelson, Commercial Manager
10. Jovyna Lujan, Board Member
11. Bill Berry, Board Member;
12. Dora Jean Perez, Planner IV, Alternate Evaluator

Guam Procurement law allows the Hearings Officer to "compel attendance and testimony of and production of documents by an employee of the government of Guam, including any employee of any autonomous agency, public corporation or board or commission." 2 G.A.R. Div. 4. § 12109(i). In this appeal, one of the main material witnesses, Claudia Acfalle, is off island and is being uncooperative. See Exhibit "A" of Motion for Continued Hearing Date. The testimony of all twelve material witnesses is essential for Appellant's case in chief. Appellant is simultaneously requesting a one month continuance for the hearing date in order to complete the twelve depositions and obtain additional discovery for this appeal. See Appellant's Motion to Continue Hearing Date.

Therefore, Appellant requests that the Hearings Officer compel the attendance and testimony (whether it be telephonic or in person) by all twelve material witnesses, for both depositions and the hearing date pursuant to 2 G.A.R. Div. 4. § 12109(i), 2 G.A.R. Div. 4. § 12104(c)(7), and 5 G.C.A. § 9218.

Respectfully submitted this 4 day of October, 2010.

CABOT MANTANONA LLP
Attorneys for Harbor Center Guam

By:


SARAH STROCK