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OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS

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FILE No. OPA-PA -09-010

OFFICE OF PUBLIC ACCOUNTABILITY - GUAM

IN THE APPEAL OF

ASC TRUST CORPORATION,

Appellant.

APPEAL NO. OPA-PA-09-010

**NOTICE OF FILING OF
PROCUREMENT RECORD AND
CONFIDENTIAL PORTIONS OF
PROCUREMENT RECORD**

Appellee Government of Guam Retirement Fund (“GGRF”), by and through undersigned counsel, hereby files with the Office of Public Auditor a complete copy of the procurement record relevant to the above-captioned appeal in the form prescribed by 2 GAR 12104(c)(3).

Appellee has furthermore separated and submitted to the Office of Public Accountability separately and under seal portions of the record which are confidential and/or proprietary.¹ The confidential portions are designated in italics in the below table of contents to the record.

¹ See Notice of Filing Under Seal - Notice of Filing of Procurement Record and Confidential Portions of Procurement Record dated November 9, 2009.

CHRONOLOGY OF EVENTS

TAB

September 28, 2006:	RFP No. GGRF-028-06.	1
October 23, 2006:	Responses to questions relating to RFP.	2
November 3, 2006:	<i>Proposal for: Sections 401(A0, 457, and Welfare Benefit Plan Investment Management and Administration Services.</i>	3
December 7, 2006:	Registration of Proposals in Response to RFP No. GGRP-028-06	4
December 11, 2006:	Letter sent to all offerors inviting them to participate in discussion meeting at GGRF Office.	5
January 18, 2007:	Property Issue Receipt	6
February 7, 2007:	Summary Evaluation Sheet for RFP No. GGRF-028-06.	7
February 26, 2007:	Evaluation scores tallied and GWRS determined to be best qualified offeror.	8
March 6, 2007:	<i>Letter sent to GWRS informing them that they were the best qualified offeror to provide the required services and to request for cost or pricing data inclusive of specifics relating to custodial services and pricing.</i>	9
March 13, 2007:	<i>Received response from GWRS providing price proposal.</i>	10
March 18, 2007:	Letter sent to GWRS informing them that cost pricing was not accepted. In addition, GGRF made request for best and final offer.	11
March 21, 2007:	<i>Received response from GWRS with modified price proposal.</i>	12
April 27, 2007:	Letter sent to GWRS notifying them that best and final offer was not fair and reasonable and that negotiations would be terminated. In addition, GWRS was also informed that negotiations would take place with next qualified firm.	13
April 27, 2007:	<i>Termination of Negotiations memorandum</i>	14

April 27, 2007:	<i>Comparative of Third Party Administrator Fees</i>	15
May 7, 2007:	Letter sent to ASC informing them that they were next qualified offeror to provide required services and to request for submission of cost or pricing data inclusive of specifics relating to custodial services and pricing.	16
May 9, 2007:	RFP protest received from GWRS.	17
May 11, 2007:	Stay of Procurement letter/memorandum issued to all three (3) interested parties, Attorney General (AG) and Office of the Public Auditor (OPA).	18
May 14, 2007:	E-mail notification sent to all three (3) interested parties regarding Stay of Procurement.	19
May 14, 2007:	<i>Response from ASC providing price proposal</i>	20
June 1, 2007:	Letter sent to GWRS denying protest and indicating that this was GGRF's final decision.	21
June 8, 2007:	Letter sent to all interested parties, AG and OPA informing them that GGRF declared GWRS protest to be without merit and that Stay of Procurement was lifted.	22
June 15, 2007:	Letter sent to ASC requesting for best and final offer.	23
June 18, 2007:	Letter received from ASC requesting for update on status of RFP.	24
June 21, 2007:	Letter received from ASC submitting their best and final offer for required services.	25
June 22, 2007:	Received copy of Appeal filed by GWRS with the OPA.	26
June 22, 2007:	Received facsimile from the OPA advising GGRF that an appeal has been filed by GWRS.	27
June 22, 2007:	Letters sent to all interested parties informing them of Notice of Appeal filed by GWRS. Stay of Procurement issued until resolution of GWRS' appeal.	28
June 25, 2007:	E-mail notification and facsimile sent to all interested parties regarding Notice of Appeal.	29

June 27, 2007:	Carlsmith Ball LLP submits Appellee's Statement of Interested Parties in Civil Case No. OPA-PA-07-006 to OPA.	30
	Carlsmith Ball LLP submits Entry of Appearance on behalf of Government of Guam Retirement Fund, as Appellee, to OPA.	
June 29, 2007:	Carlsmith Ball LLP submits Notice of Filing Under Seal – Notice of Filing of Procurement Record and Confidential Portions of Procurement Record to OPA and Law Office of Anthony R. Camacho, Esq.	31
	Carlsmith Ball LLP submits Notice of Filing of Procurement Record and Confidential Portions of Procurement Record to OPA and Law Office of Anthony R. Camacho, Esq.	
July 6, 2007:	Law Firm of Arriola, Cowan & Arriola submits Entry of Appearance and Request for Notice on behalf of Administrative Services Corporation, an Interested Party in appeal, to OPA.	32
	Carlsmith Ball LLP submits Declaration Regarding Court Action to OPA.	
July 6, 2007:	Carlsmith Ball LLP submits Agency Report to OPA.	33
July 16, 2007:	Law Offices of Somerfleck & Camacho submits Appellant GWRS' Comment on Agency Report to OPA.	34
July 23, 2007:	Carlsmith Ball LLP submits Appellee GGRF's Rebuttal to Appellant's Comment on Agency Report to OPA.	35
July 23, 2007:	Carlsmith Ball LLP submits Notice of Filing Under Seal – Notice of Filing of Supplemental Procurement Record and Confidential Portions of Procurement Record to OPA.	36
	Carlsmith Ball LLP submits Notice of Filing of Supplemental Procurement Record and Confidential Portions of Procurement Record to OPA.	
August 13, 2007:	Law Offices of Somerfleck & Camacho submits Appellant GWRS' Motion to Lift Seal and Compel Production of Documents to OPA.	37

August 17, 2007:	Carlsmith Ball LLP submits Appellee GGRF's Opposition to Appellant's Motion to Lift Seal and Compel Production of Documents and Memorandum of Points and Authorities in Support Thereof to OPA.	38
January 10, 2008:	Law Offices of Somerfleck & Camacho submits Substitution of Counsel. Appellant GWRS substitutes The Thomas McKee Tarpley Law Firm P.C. as its counsel of record in appeal matter.	39
January 10, 2008:	GGRF receives fax notice from OPA regarding Notice of Hearing scheduled on Monday, January 21, 2008.	40
February 19, 2008:	Carlsmith Ball LLP submits Notice of Filing Under Seal – Notice of Filing of Second Supplemental Procurement Record and Confidential Portions of Procurement Record to OPA.	41
	Carlsmith Ball LLP submits Notice of Filing of Second Supplemental Procurement Record and Confidential Portions of Procurement Record to OPA.	
February 20, 2008:	GGRF received fax notice from OPA regarding Status of Decision. Public Auditor has delayed the issuance of the decision pending review of additional information from GGRF.	42
March 12, 2008:	OPA Hearing Officer submits Findings and Recommendations to Public Auditor.	43
March 13, 2008:	Public Auditor renders Final Administrative Decision and Findings of Fact on Appeal No. OPA-PA-07-006: GWRS' Appeal is sustained and GGRF's Decision denying GWRS' protest is overruled. GGRF should continue negotiating with GWRS in an attempt to reach an agreement. The Public Auditor also recommended that due to a conflict of interest the Board Chairman should not participate in the negotiations with ASC and a substitute negotiator should be appointed by GGRF.	44
March 20, 2008:	Carlsmith Ball LLP submits GGRF's Motion to Amend Final Administrative Decision to OPA.	45
April 2, 2008:	GGRF resumes negotiations with GWRS and requests for them to submit their best and final offer.	46

April 10, 2008:	<i>GWRS submits their best and final offer to GGRF.</i>	47
April 25, 2008:	<i>GGRF letter to GWRS re. fees and offers.</i>	48
April 30, 2008:	<i>GWRS letter to GGRF re. fees and offers.</i>	49
July 31, 2009:	GGRF Board approves the amended Investment Management and Plan Administration Services Agreement and Service Level Guarantees with GWRS during the regular Board meeting.	50
August 21, 2009:	Investment Management And Plan Administration Services Agreement	51
August 21, 2009	Notification of Award sent to all interested offerors.	52
September 10, 2009:	Letter from Law Offices of Blair Sterling Johnson Martinez & Leon Guerrero, representing ASC, requesting GGRF to produce the GGRF evaluation sheet with respect to ASC's proposal submitted in response to RFP.	53
September 15, 2009:	GGRF letter to ASC attorney regarding request for production of documents.	54
September 21, 2009:	Letter from ASC attorney in response to GGRF letter dated 09-15-09, again requesting for GGRF to produce ASC's documents.	55
September 29, 2009:	Letter from Carlsmith Ball LLP to Blair Sterling Johnson Martinez & Leon Guerrero reiterating the Fund's position under the Freedom of Information Act not to disclose confidential information to the public including ASC.	56
October 5, 2009:	Blair Sterling Johnson Martinez & Leon Guerrero submits Memorandum of Points and Authorities in Support of Petition for Writ of Mandate, Special Proceeding Case No. SP 0193-09, in the Superior Court of Guam.	57
	Blair Sterling Johnson Martinez & Leon Guerrero submits Petition for Writ of Mandate Under Sunshine Reform Act of 1999, Special Proceeding Case No. SP 0193-09, in the Superior Court of Guam.	58
October 6, 2009:	Carlsmith Ball LLP sent letter to Blair Sterling Johnson Martinez & Leon Guerrero in response to ASC's revised	59

request for evaluation sheets. GGRF will provide the requested documents to ASC in its capacity as an offeror and with the understanding that ASC will withdraw its Petition for Writ of Mandate.

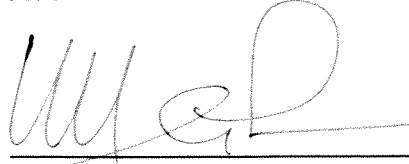
October 7, 2009:	Blair Sterling Johnson Martinez & Leon Guerrero submits Notice of Dismissal in the Superior Court of Guam.	60
October 15, 2009:	GGRF receives Notice of Protest of Award of Contract from Blair Sterling Johnson Martinez & Leon Guerrero, representing ASC Trust Corporation.	61
October 19, 2009:	Memorandum sent to AG informing them of "Notice of Protest of Award of Contract" for information purposes only.	62
October 26, 2009:	GGRF Response to ASC's Protest of RFP No. GGRF-028-06	63
October 29, 2009:	Blair Sterling Johnson Martinez & Leon Guerrero submits Notice of Appeal No. OPA-PA-09-010 to the OPA.	64
October 29, 2009:	GGRF receives fax notice from OPA regarding Notice of Appeal.	65
October 30, 2009:	E-mail notification sent to all three (3) interested parties regarding Notice of Appeal and Stay of Contract of Award until resolution of appeal.	66
October 30, 2009:	Fax notice from OPA regarding Notice of Receipt of Appeal.	67
October 30, 2009:	Letter from the Public Auditor advising the Fund to provide notice of appeal to required parties and submit copy of Procurement Record to OPA by Friday, November 6, 2009.	68
November 3, 2009:	E-mail notification sent to all three (3) interested parties regarding Amended Notice of Appeal indicating that the contract between GGRF and GWRS, with an effective date of August 21, 2009, is not stayed and the parties thereto are bound to execute their respective obligations.	69
November 3, 2009:	Carlsmith Ball LLP submits Entry of Appearance as counsel of record for GGRF.	70
November 3, 2009:	Carlsmith Ball LLP sent letter to the Public Auditor seeking clarification on due dates of the Procurement Record and Agency Report due to the observance of the All Soul's Day	71

holiday on November 2, 2009.

November 3, 2009: Notice from OPA regarding Notice of Revised Due Dates for Procurement Record and Agency Report to OPA. 72

DATED: Hagåtña, Guam, November 9, 2009.

CARLSMITH BALL LLP



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Government of Guam Retirement Fund