



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

JAN 05 2010

TIME: 12:15 BY: [Signature]
FILE NO. OPA-PA: 10-010

1 DEPARTMENT OF EDUCATION
2 Laura J. Mooney, Legal Counsel
3 P.O. BOX DE
4 HAGATNA, GUAM 96932
5 TEL: 300-1537
6 FAX: 472-5003
7 lymooney@gdoe.net

8 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
9 **PROCUREMENT APPEAL**

10 **IN THE APPEAL OF:**

11 **TOWNHOUSE DEPARTMENT**
12 **STORES, INC., dba**
13 **ISLAND BUSINESS SYSTEMS**
14 **Party-In-Interest**
15 **Xerox Corporation**

16 **APPEAL NO: OPA-PA 10-010**
17 **Purchasing Agent, DOE's**
18 **Motion to Lift the Automatic Stay**
19 **to Proceed with an Award to**
20 **Appellant of Items #1 & # 3 in**
21 **IFB 006-2010**

22 Purchasing Agency, Department of Education, "DOE" (PL 30-050:2, July 14, 2009, changed the
23 agency's name to Department of Education. DOE is a line agency of the Government of Guam,
24 as defined by 5 GCA 6103(c), and in addition to DOE also references itself in its procurements
25 as "GDOE", to distinguish itself from the United States Department of Education (which also
uses "DOE").

Now comes DOE and moves the Public Auditor and Hearing Officer for Procurement Appeals
for a limited lifting of the automatic stay in this matter in order to be able to proceed with award
of bids, in GDOE IFB 006-2010 Small Multifunction Copier Machines, issued May 3, 2010, bid
opening May 21, 2010, and not awarded to date by DOE.

Appellant, IBSS and Party-in-Interest, Xerox Corporation, are the only bidders in GDOE IFB
006-2010, although the package was picked up by four companies.

DOE pursuant to its authority under 5 GCA Chapter 5, Section 5425 (b), would like to mutually
resolve the issues in this matter and has identified funding and wants to proceed with awarding
the bids in GDOE IFB 006-2010. An automatic stay is in place in GDOE IFB 006-2010
pursuant to 5 GCA Chapter 5, Section 5425 (g).

1 In order to move forward with a mutual resolution of the issues in this matter, DOE is moving
2 the OPA for a limited lifting of the automatic stay in place, so that DOE may proceed with the
3 process of awarding bid Items #1 and # 3 in GDOE IFB 006-2010 to Appellant, IBSS.

4
5 Appellant, IBSS is not comfortable entering into a Stipulated Entry of Dismissal for the award
6 process to proceed, although acknowledging that upon award being made, the issues in the
7 matter would be moot.

8 DOE is not comfortable in entering into a Stipulated Decision Judgment Entry with Appellant,
9 IBSS without also being able to proceed with DOE's procurement processes as to issuance of
10 notice of award, and then purchase order or in the alternative to have Party-In-Interest, Xerox
11 Corporation also be part of the Stipulation. Appellant, IBSS and Party-In-Interest, Xerox
12 Corporation at this time have not agreed to a Stipulated Decision Judgment Entry and so DOE is
13 making the within motion to be able to proceed with a limited lifting of the automatic stay.

14 DOE moves the OPA for a limited lifting of the stay in OPA-PA 10-010 in order to permit DOE
15 to proceed with an award of the bids, or in the alternative for the OPA to provide Appellant,
16 IBSS assurance that a Stipulated Entry of Dismissal requested by the parties to be without
17 prejudice, would be well received and ordered by the OPA as "without prejudice". Appellant,
18 IBSS is concerned that the entry by OPA would be "with prejudice".

19
20 Dated this 5th day of January, 2011.

21 **DEPARTMENT OF EDUCATION**

22 

23 **Laura J. Mooney**
24 DOE Legal Counsel
25