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OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT
FEB 13 2009
TIME: 8:43 AM
FILE NO. 08-008

5 **BEFORE THE OFFICE OF THE PUBLIC AUDITOR**
6 **PROCUREMENT APPEAL**

7 IN THE APPEAL OF LATTE TREATMENT) Docket No. OPA-PA-08-008
8)
9 CENTER, INC.)
10 Procurement Appeal No. OPA-AP-06-003) **APPELLANT'S BRIEF**
11 OPA-PA-08-008) **REGARDING REMEDIES**
12)
13)

14 **NOW COMES APPELLANT** Latte Treatment Center and submits a brief on available
15 remedies. Appellant asserts that it has demonstrated widespread non-compliance with
16 procurement laws on the part of the Agency Department of Mental Health and Social Services.
17 Where there is such non-compliance, the Public Auditor should void the award. 5 Guam Code
18 Ann. §5452 provides

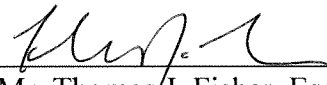
- 19 “ (a) If after an award it is determined that a solicitation or award of a contract is in
20 violation of law, then:
21 (1) if the person awarded the contract has not acted fraudulently or
22 in bad faith:
23 (i) the contract may be ratified and affirmed, provided it is
24 determined that doing so is in the best interests of the Territory; or
25 (ii) the contract may be terminated and the person awarded
the contract shall be compensated for the actual expenses
reasonably incurred under the contract, plus a reasonable profit,
prior to the termination.
(2) if the person awarded the contract has acted fraudulently or in bad faith:
(i) the contract may be declared null and void; or
(ii) the contract may be ratified and affirmed if such action is

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in the best interests of the Territory, without prejudice to the Territory's rights to such damages as may be appropriate. Government Employees).Facts relevant to this determination include the following"

In this case it is abundantly clear that the award may not be maintained if for no other reason than that no certification of compliance with procurement law was ever done. Beyond this, the Public Auditor should consider the Agency's serial publishing and withdrawal of requests for proposals without explanation; the Awardee's furnishing of a gift to an Agency employee and the dubious responsibility of the Awardee.

Based upon the record, the Public Auditor should declare the contract terminated and would be acting well within her discretion to declare it null and void.

By: 
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Attorney for Latte Treatment Center, Inc.