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Guam Educational Facilities Foundation, Inc.*

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

IN THE APPEAL OF:

CORE TECH INTERNATIONAL CORP.,

Appellant.

CONSOLIDATED APPEAL NOS.:
OPA-PA-16-007
OPA-PA-16-011

**COMMENTS OF INTERESTED PARTY,
GUAM EDUCATIONAL FACILITIES
FOUNDATION, ON DPW'S AGENCY
REPORT FILED AUGUST 23, 2016**

GUAM EDUCATIONAL FACILITIES FOUNDATION, INC. ("GEFF"), an interested party and the offeror selected as the most qualified in the instant procurement, concurs with virtually all of the points contained in the Agency Report filed by the Department of Public Works ("DPW") on August 23, 2016.

ORIGINAL

1 GEFF provides herein additional comments and observations, in response to both the
2 Agency Report and the Notice of Appeal (“Appeal”) filed by Core Tech International Corporation
3 (“Core Tech”) on August 10, 2016.¹ Core Tech’s instant Appeal is without merit. Accordingly,
4 for the reasons stated herein and in DPW’s Agency Report, the Public Auditor should deny Core
5 Tech’s Appeal.

6 **I. THE NEGOTIATED IDIQ CONTRACT IS CONSISTENT WITH THE**
7 **TERMS OF THE RFP AND AUTHORIZING LEGISLATION WITH**
8 **REGARD TO THE \$100 MILLION CAP**

9 Core Tech’s Appeal alleges that DPW, the Guam Department of Education (“GDOE”)
10 and GEFF agreed to a final version of the IDIQ contract (specifically § 3.1 of the IDIQ) “which
11 included provisions allowing the offeror, GEFF, to circumvent the \$100 million contract
12 limitation in the RFP.” *See* Appeal at 3, lines 26-27, and 4, lines 1-2. Core Tech’s assertion is
13 without merit and is based on a fundamental misunderstanding of the IDIQ, the RFP and the
14 authorizing laws.

15 The RFP was authorized by Public Law 32-120. *See* RFP Addendum No. 6 Section 2.0
16 (Procurement Record at Tab 4). The RFP provides that scope under the RFP includes financing
17 for various school improvements “with a total cost of up to One Hundred Million Dollars
18 (\$100,000,000.00).” *See id.* at RFP Addendum No. 6 Section 4.0. The RFP also provides,
19 however, that to the extent there is any conflict between the RFP and a public law (such as Public
20 Laws 32-120 and 32-121), the public laws control. *See id.* at RFP Addendum No. 6 Section 2.0.
21 Core Tech was well aware of the controlling status of Public Laws 32-120 and 32-121 since at
22 least September 25, 2015, when Addendum No. 6 was issued.

23 Neither Public Law 32-120 nor Public Law 32-121 mandate a \$100 million cap on the
24 procurement. *See* Public Law 32-120 (Feb. 10, 2014) and 32-121 (Feb. 10, 2014). If the
25 Legislature had intended to include a cap, it could have easily done so as it had done previously in

26 ¹ Core Tech’s August 10 Appeal was consolidated with Core Tech’s June 23, 2016 Notice
27 of Appeal (OPA-PA-16-007) by order dated August 22, 2016.

1 Public Law 31-229, a prior law related to the rehabilitation of Guam’s public schools. *See* 2B
2 Sutherland Statutory Construction § 51:2 (7th ed.) (“Generally, though, courts presume a different
3 intent when a legislature omits words used in a prior statute on a similar subject. More broadly,
4 where a legislature inserts a provision in only one of two statutes that deal with a closely related
5 subject, courts construe the omission as deliberate rather than inadvertent. California, for
6 example, concluded that ‘where a statute, with reference to one subject contains a given
7 provision, the omission of such provision from a similar statute concerning a related subject is
8 significant to show that a different intention existed.’” (Footnotes omitted)). Public Law 31-229
9 authorized lease financings for school improvements and included a limitation that the lease
10 financing authorized by that law “shall not exceed the aggregate amount of One Hundred Million
11 Dollars (\$100,000,000).” *See* Public Law 31-229, section 12 (June 18, 2012). The absence of a
12 cap in Public Laws 32-120 and 32-121 evidences the Legislature’s intent to deliberately omit
13 such language; and since Public Laws 32-120 and 32-121 supersede the RFP in cases of conflict,
14 the \$100 million limit does not apply to this procurement.

15 Further, as acknowledged by Core Tech (*see* Appeal at 6, lines 3-19), and confirmed by
16 Speaker Won Pat (*see* April 13, 2016 Letter from Speaker Won Pat (Procurement Record at Tab
17 17 and July 15, 2016 Supplemental to Procurement Record at Tab 2)), rather than set a cap, what
18 the Legislature chose to do is identify sources of funding and the amounts available from such
19 sources that can be used for the lease-back payments. For example, Public Law 32-120, section 3
20 (codified at 5 GCA § 22425(q)(4)) provides that \$1,707,652 is continuously appropriated
21 annually to GDOE for the renovation or construction of a new SSHS. Public Law 32-121, also
22 identifies other sources of funding available for the remaining 35 public schools. *See e.g.*, Public
23 Law 32-121 (codified at 5 GCA § 58E107) (rental payments may be secured by a pledge or other
24 reservation of revenues collected by the Government in the amount of \$4.8 million from the
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1 maturity of Business Privilege Tax Bond Series 2013C available annually beginning FY2019).²
2 Thus, it is clear that the Legislature did not intend to limit the financing capacity for the direly
3 needed school projects authorized by Public Laws 32-120 and 32-121.

4 Even though a cap is not mandated by Public Law 32-120 or Public Law 32-121, the IDIQ
5 contract still includes a cap of \$100 million. Section 3.1 of the IDIQ contract provides with
6 regard to the \$100 million cap as follows:

7
8 **3.1. Compensation and Payment for Services.** The Government will
9 compensate the Developer for services rendered for Task Orders issued as
10 provided in this Contract based on available funds and not to exceed One
11 Hundred Million and 00/100 Dollars (\$100,000,000.00) pursuant to Section I
(Scope of Contract), unless otherwise directed by the Director of DPW in writing
and permitted by Public Laws 32-120 and 32-121 or any other law. The first and
second Task Orders will be for Simon Sanchez High School and the CCIP.

12 The above provision is consistent with the RFP as both the contract language and the RFP
13 provide that the authorizing laws control. Core Tech's claim that Section 3.1 gives GEFF "a
14 blank check" skews the plain language of Section 3.1, which requires both the DPW's Director's
15 written consent and legislative authorization to exceed \$100 million. Further, Core Tech's
16 assertion that Section 3.1 is contrary to legislative policy on safeguarding public funds is
17 unsupported since it is the Legislature that declined to impose a cap as it had done previously in
18 Public Law 31-229. *See also* April 13, 2016 Letter from Speaker Won Pat (Procurement Record
19 at Tab 17 and July 15, 2016 Supplemental to Procurement Record at Tab 2).

20 In any event, as correctly pointed out by DPW, the IDIQ contract has yet to be executed
21 by the Governor or approved by the Attorney General. Thus, if it is determined that the RFP and
22 Public Laws 32-120 and 32-121 mandate a \$100 million cap, revising the draft IDIQ contract to
23 strike "unless otherwise directed by the Director of DPW in writing and permitted by Public Laws

24
25 _____
26 ² Based on GEFF's calculations, the sources and amount of funding identified in Public
27 Laws 32-120 and 32-121 make more than \$100 million available for all the schools (GEFF
estimates upwards of \$160 million). *See* March 21, 2016 Letter from Janalynn Cruz Damian
(July 15, 2016 Supplemental to Procurement Record at Tab 1).

1 32-120 and 32-121 or any other law” could be an appropriate remedy under those circumstances.³
2 The Procurement Law allows a proposed award to be “revised to comply with the law.” See 5
3 GCA § 5451 (“Remedies Prior to an Award. If prior to award it is determined that a solicitation
4 or proposed award of a contract is in violation of law, then the solicitation *or proposed award*
5 shall be: (a) cancelled; or (b) *revised to comply with the law.*”) (emphasis added).
6

7 **II. DPW’S GOOD FAITH MAINTENANCE OF THE CURRENT**
8 **PROCUREMENT RECORD SUBSTANTIALLY COMPLIES WITH**
9 **APPLICABLE LAW**

10 Core Tech claims that the procurement record at issue is “fatally flawed.” However, as
11 pointed out by DPW, the 3,000-page procurement record as it currently exists is replete with
12 drafts, communications, minutes of meetings, evaluations, and a detailed memorandum of the
13 negotiations between the Government and GEF. This voluminous procurement record clearly
14 portrays the good faith efforts of the Government in carrying out this procurement and in
15 substantially complying with applicable law. Further, Core Tech has made no showing that the
16 procurement record actually and currently maintained by DPW tarnishes the integrity of the
17 procurement process.

18 Core Tech points to two types of records that are purportedly missing – a log of
19 communications required by 5 GCA § 5249(a) and audio recordings of negotiation meetings
20 required by 5 GCA § 5249(c). However, these items are not fatal to the procurement.

21 ³ In any event, Core Tech’s argument that the IDIQ contract is supposedly “in violation”
22 of the RFP is legally unsustainable. Section V of the IDIQ contract (“Contract Documents’
23 Defined”) identifies a list of documents that together “constitute the Contract Documents, all of
24 which are made part hereof; and collectively evidenced and constitute the Contract between the
25 parties hereto, and they are as fully a part of this Contract, as if they were set out verbatim and in
26 full herein:....” IDIQ Contract, § V (August 3, 2016 Supplemental to Procurement Record at Tab
27 1). Included in the list of documents identified in Section V that are part of the Contract are: (1)
28 the “Request for Proposals and all attachments, forms, or exhibits thereto” and (2) “All
Amendments or Addenda to the Request for Proposals.” Therefore the RFP itself and all of its
attachments, amendments, and addenda are “made part” of the IDIQ contract and together with
the other documents identified constitute “the Contract between the parties hereto.” IDIQ
Contract, § V. Section 3.1 cannot therefore be read or interpreted to “violate” the RFP, as Core
Tech contends, because the RFP is part of the IDIQ contract.

1 With regard to Core Tech’s allegations relating to the lack of a “communications log,” the
2 Procurement Law provides that the procurement record shall include:

3
4 (a) the date, time, subject matter, and names of participants at any
5 meeting including government employees that is in any way related to a particular
6 procurement;

7 (b) a log of all communications between government employees and any
8 member of the public, potential bidder, vendor or manufacturer which is any way
9 related to the procurement.

10 5 GCA § 5429.

11 The procurement record submitted to the OPA includes minutes of meetings that include
12 the date, time, subject matter, and attendees. *See* attendance sheets and minutes of meetings
13 (Procurement Record at Tabs 6, 8, 12, 17). Thus, DPW has complied with the requirements of
14 subsection (a). Further, a communication log can still be generated prior to certification of the
15 record and award of the IDIQ contract. DPW has stated that it will complete the communication
16 log required by subsection (b) once the stay is lifted and prior to any contract award and that it
17 has maintained a record of all communications relating to the Procurement. *See* Agency Report
18 at 6-7. Significantly, the procurement record has yet to be certified by DPW. *See id.* Certification
19 of the record is required before award and as DPW points out in its Agency Report, no award has
20 been made as the procurement is stayed and the AG has yet to approve and the Governor has yet
21 to sign the IDIQ contract. *See id.* Core Tech has not presented any evidence to doubt DPW’s
22 assertion that the Government “maintains voluminous pages of communications and documents
23 that have transpired in this procurement.” Agency Report at 7. *Cf Teleguam Holdings LLC v.*
24 *Territory of Guam, et al.*, Superior Court of Guam Civil Case No. 334-13 (Decision & Order
25 Aug. 8, 2014) (finding a materially deficient record where record was declared to be complete but
26 was missing records determined to exist via testimony).

27 Core Tech’s complaint regarding DPW’s lack of sound recordings of contract negotiations
28 between DPW and GEF is without merit. Audio recordings of negotiation meetings are not
mandatory under a reasonable reading and interpretation of the statute. Core Tech notes that the

1 original text of 5GCA § 5249 as enacted by the legislature (Public Law 18-44), contains an
2 internal separating comma, rather than a semicolon, and reads as follows:

3
4 Each procurement officer shall maintain a complete record of each
procurement. The record shall include the following:

5 ...

6 **(c) sound recordings of all pre-bid conferences, negotiations**
7 **arising from a request for proposals and discussions with**
8 **vendors concerning small purchase procurement;....**

9 Core Tech further observes that the published version (as published by the Compiler of
10 Laws), replaces the comma with a semicolon, and reads as follows:

11 **(c) sound recordings of all pre-bid conferences; negotiations**
12 **arising from a request for proposals and discussions with**
13 **vendors concerning small purchase procurement;....**

14 Although Core Tech calls this a “typographical error” (Appeal at 10) by the Compiler of
15 Laws, this change to a semicolon was more likely a *typographical correction*. Guam law
16 empowers the Compiler of Laws to make adjustments in order to “[c]orrect manifest clerical
17 errors or typographical errors.” See 1 GCA § 1606(g) (“In preparing the Guam Code Annotated,
18 the Guam Administrative Rules and Regulations, court reports and other publications of the
19 Office, the Compiler of Laws may: (g) Correct manifest clerical errors or typographical
20 errors.”). It is likely that the Compiler realized that the original comma that the Legislature
21 placed between the words “conferences” and “negotiations” should more appropriately be a
22 semicolon in order to clarify the independent nature of the adjacent clauses. Thus, § 5249 section
23 read in its entirety would only require the procurement “record” to include “sound recordings” for
24 “pre-bid conferences” and *only* “pre-bid conferences.” Indeed this is also consistent with the
25 legislative history of the statute. The original version of the bill as introduced in the 18th Guam
Legislature on January 22, 1986 required *only* sound recordings *for pre-bid conferences*:

26 § 6964.4. Record of Procurement Actions Taken Pursuant to This
27 Title. The process of procurement shall be **documented** at each
28 step of the process, regardless of the manner of procurement
authorized for the particular goods or services to be delivered to the
government.

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(a) All pre-bid conferences shall be tape recorded and a transcript of the tape recordings shall be made available to any member of the public who requests it within ten (10) days of the pre-bid conference.

....

See Bill No. 743 (LS) (18th Guam Legis., 1st Reg. Sess.) (1/22/1986) at 9 (emphasis added) attached hereto as **Exhibit 1**.⁴ There are two additional noteworthy points about the language of Bill No. 743: First, although subsection (a) requires sound recordings for pre-bid conferences, only the **“transcript”** of the recordings is required to be kept and made available to the public. Second, the paragraph antecedent to subsection (a) only requires that the procurement process overall shall be **“documented”** – the meaning of which is self-evident – i.e., the procurement process shall be supported or evidenced by **“writings.”** See Black’s Law Dictionary (6th ed.) at 481 (defining *document* (n) as “An instrument on which is recorded, by means of letters, figures, or marks, the original, official, or legal form of something, which may be evidentially used. In this sense the term ‘document’ applies to *writings*;....” (emphasis added); see also New Int’l Webster’s Dictionary & Thesaurus of the English Language (2002) at 288 (defining “document” (n) as “1. an original piece of *written or printed matter* conveying authoritative information or evidence” (emphasis added)). See **Exhibit 2** attached hereto.

Yet, even if the Compiler chose to keep the comma between “conferences” and “negotiations,” the clauses could be still read independently, contrary to Core Tech’s wishful interpretation:

The **record shall include** the following:

...

(c) sound recordings of all pre-bid conferences, negotiations arising from a request for proposals and discussions with vendors concerning small purchase procurement;....

⁴ As retrieved from http://guamlegislature.com/Public_Laws_18th/P.L.%2018-44%20SBill%20No.%20743.pdf on 9/1/2016 (highlights added).

1 Thus, the “procurement record” shall include *first*, “sound recordings of all pre-bid conferences”
2 and *second*, “negotiations arising from a request for proposals and discussions with vendors
3 concerning small purchase procurement.” Under Core Tech’s reading, “sound recordings”
4 would not be limited to pre-bid conferences, but instead would apply to the remaining items in
5 subsection (c). In other words, as Core Tech would have it, procurement officials are required to
6 tape record (1) “all pre-bid conferences,” (2) all “negotiations arising from a request for
7 proposals,” and (3) all “discussions with vendors concerning small purchase procurement.”
8 However, reading the statute in that fashion requires something that is neither in the original text
9 of Public Law 18-44 nor in the text published by the Compiler of Laws – a comma between
10 “proposals” and the word “and” in the second line. Indeed, Core Tech included this non-existent
11 comma, but only in its June 15, 2016 protest letter:

12
13 **(c) sound recordings of all pre-bid conferences; negotiations**
14 **arising from a request for proposal[,] and discussions with**
15 **vendors concerning small purchase procurement;**

16 *See* Core Tech Protest Letter (6/15/2016) at 5. Notably, Core Tech abandoned its newly-found
17 comma in its subsequent Notice of Appeal with the OPA (*see* Notice of Appeal filed 8/10/2016,
18 at 7 & 10), and instead reverted to the original text of the public law and the text published by the
19 Compiler of Laws – neither of which contains Core Tech’s phantom comma.

20 In light of the above discussion, a more appropriate reading and interpretation of the
21 statute describes two different types of records that an agency must maintain under subsection (c):
22 (1) “sound recordings of all pre-bid conferences”, and (2) “negotiations arising from a request for
23 proposals and discussions with vendors concerning small purchase procurement.” Thus, the
24 plain language does *not require* DPW to maintain sound recordings of contract negotiations
25 arising from an RFP, nor does it require sound recordings of discussions with vendors concerning
26 small purchase procurement. *See Pangelinan v. Gutierrez*, 2000 Guam 11, ¶ 23 (“In cases
27 involving statutory construction, the plain language of a statute must be the starting point.”).
28

1 Instead, under a plain reading of the statute, the term “sound recordings” would apply only to
2 “pre-bid conferences.”⁵ Consequently, it was neither arbitrary nor capricious for DPW to read §
3 5249(c) in such a way, and such a reading of subsection (c) does not lead to absurd or impractical
4 consequences, untenable distinctions or unreasonable results. *See Carlson v. Guam Tel. Auth.*,
5 2002 Guam 15, ¶ 17 (“Deference is given to the agency interpretation so long as that
6 interpretation neither contravenes clear legislative intent nor frustrates the policy that legislature
7 sought to implement.”); *Guerrero v. Santo Thomas*, 2010 Guam 11, ¶ 39 (“We afford deference
8 to an agency’s interpretation of a statute when the agency has specialized knowledge in the area,
9 but accord the agency interpretation less weight where technical knowledge is not necessary in
10 interpreting a statute.”); 5 GCA § 5113 (“The Director of Public Works shall serve as the central
11 procurement officer of the Territory with respect to construction.”); *Sumitomo Constr., Co. v.*
12 *Gov’t of Guam*, 2001 Guam 23, ¶ 17 (“[N]otwithstanding the deference due the plain-meaning of
13 statutory language, ... such language need not be followed where the result would lead to absurd
14 or impractical consequences, untenable distinctions, or unreasonable results.” (alteration in
15 original) (internal quotation marks omitted)).

16 Finally, Core Tech has not demonstrated how it is somehow prejudiced by any lack of
17 sound recordings. Nor could Core Tech make such a showing because the negotiations were
18 extensively memorialized in a detailed negotiations memo. *See* May 13, 2016 Memorandum
19 from Negotiating Committee (Procurement Record at Tab 16). This memorandum discusses in
20 detail the negotiations between the Government and GEF. The preparation and inclusion of a
21 negotiation memorandum in the procurement record is consistent with the plain language of
22 subsection (c) and demonstrates DPW’s good faith effort to comply with the requirements of
23

24 ⁵ Indeed, the plain language requires sound recordings **only** as to “*pre-bid conferences*,”
25 which do **not** apply to the instant *RFP process*. “Pre-bid conferences” occur only in an Invitation
26 for Bid (IFB) process, and **not** an RFP. The Guam Procurement Regulations distinguish between
27 “**pre-bid conferences**” in the IFB process, and “**pre-proposal conferences**” in an RFP process.
28 *See* 2 GAR Div. 4 § 3109 (g)(4) (explaining “pre-bid conferences” in the IFB process), § 3114 (g)
(explaining “pre-proposal conferences” in the RFP process).

1 subsection (c).⁶ Moreover, further documentation of negotiation meetings was maintained by the
2 government in the form of written meeting notes, summaries, and minutes.

3 **III. CORE'S TECH'S JULY 15, 2016 PROTEST RELATING TO THE \$100**
4 **MILLION CAP IS UNTIMELY**

5 Core Tech's protest ground relating to the purported \$100 million cap is based on the
6 language of the RFP and Public Laws 32-120 and 32-121. And its challenge to the language of
7 section 3.1 is based on the proposed IDIQ Contract between the Government and GEF, a copy
8 of which Core Tech claims to have received only on July 1, 2016. However, Core Tech knew as
9 early as May 13, 2016, that such a contract existed when it received DPW's Notice of Intent to
10 Award. *See* Notice of Intent to Award at 1 ("The **Contract** is in an amount not exceed one
11 hundred million and 00/100 dollars (\$100,000,000.00). A Task Order has been negotiated for the
12 Reconstruction of Simon Sanchez High School at a price not to exceed seventy six million eight
13 hundred sixty seven thousand and three hundred thirty-five and 00/100 dollars
14 (\$76,867,335.00).") (emphasis added). Upon its review of the Notice on May 13, 2016, Core
15 Tech should have *promptly* requested inspection of such a contract and any other related
16 documents from DPW. Under Guam's Sunshine Act, any member of the public is allowed to
17 request inspection of a public document. 5 GCA § 10103. Instead of promptly requesting
18 inspection of the IDIQ Contract, Core Tech waited *more than a month* after it received the May
19 13, 2016 Notice of Intent to Award – i.e., until June 14, 2016 – to make a request to DPW under
20 the Sunshine Act. Core Tech was clearly able to make such a request *much earlier* than June 14,
21 2016, and should have done so. Instead, Core Tech unreasonably delayed and waited too long,
22 and didn't file its protest until July 15, 2016. Core Tech "should have known" of the facts
23 constituting the basis of its protest *prior to* July 1, 2016 (the date when Core Tech claims it

24
25 ⁶ Good faith and lack of fraud on part of the parties is significant as even illegal contracts
26 can be ratified. *See* 5 GCA § 5452(a) ("Remedies After an Award. (a) If after an award it is
27 determined that a solicitation or award of a contract is in violation of law, then: (1) if the person
28 awarded the contract has not acted fraudulently or in bad faith: (A) the contract may be ratified
and affirmed, provided it is determined that doing so is in the best interests of the Territory...").

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actually received the IDIQ Contract). See 2 GAR Div. 4 § 9101 (protests shall be in writing and shall be “filed within 14 days after the protestor knows or *should have known* of the facts giving rise thereto..... Protest filed after the 14 day period shall not be considered.”) (emphasis added).

Core Tech’s protest was therefore untimely.

IV. CONCLUSION

Core Tech’s Appeal and July 15, 2016 protest are without merit. Accordingly, for the reasons stated herein and in DPW’s Agency Report, GEF respectfully requests that the Public Auditor DENY Core Tech’s Appeal.

Dated: September 2, 2016.

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Attorneys for Guam Educational Facilities Foundation, Inc.

EXHIBIT 1

Introduced

JAN 22 '86

EIGHTEENTH GUAM LEGISLATURE
1985 (FIRST) Regular Session

Bill No. 743(LG)

Introduced by:

C. T. C. Gutierrez

AN ACT TO ADD A NEW CHAPTER 12 AND TO AMEND
CERTAIN CODE SECTIONS CONTAINED IN TITLE VII-A
OF THE GOVERNMENT CODE, RELATIVE TO
ESTABLISHING A PROCUREMENT APPEALS BOARD AND
TO AMEND THE PROCUREMENT LAWS OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. A new Chapter 12 is added to Title VII-A of the
3 Government Code to read:

4 "CHAPTER 12

5 Procurement Appeals Board

6 Article A

7 Section 6983. Creation of the Procurement Appeals Board. There
8 is established an independent entity to be known as the 'Procurement
9 Appeals Board' to be composed of a Chairperson and at least two (2)
10 other members, but not more than seven (7) members. The
11 Chairperson and members of the Board shall be appointed by the
12 Governor and confirmed with the advice and consent of the Legislature
13 and shall serve full-time.

14 Section 6983.1. Terms and qualifications of members of the
15 Procurement Appeals Board.

16 (a) Term. The term of office of the Chairperson and each
17 member of the Procurement Appeals Board shall be six (6) years
18 except that in making the initial appointments, the Governor shall
19 appoint one (1) member for a term of two (2) years, one (1) member
20 for a term of four (4) years, and the Chairperson for a term of six
21 (6) years, so that a term of office shall expire every two years.
22 Thereafter, their successors shall be appointed for terms of six (6)
23 years, or for the balance of any unexpired term, but members may

1 continue to serve beyond their terms until their successors take office.
2 Members may be reappointed for succeeding terms. If there is no
3 chairperson, or if such officer is absent or unable to serve, the senior
4 member in length of service shall be temporary chairperson.

5 (b) Authority of the Chairperson. The Chairperson may adopt
6 operational procedures and issue such orders, not inconsistent with his
7 title, as may be necessary in the execution of the Board's functions.
8 The Chairperson's authority may be delegated to the Board's members
9 and employees, but only members of the Board may issue decisions on
10 appeals.

11 (c) Administrative Support. The Civil Service Commission is
12 authorized to provide for the Board such services as the Chairperson
13 requests, on such basis, reimbursable or otherwise, as may be agreed
14 upon between the Civil Service Commission and the Chairperson.

15 (c) Qualifications for Board Membership. The Chairperson and
16 members of the Board shall be:

17 (1) Members in good standing of the Guam Bar for at least
18 five (5) years, and experienced in contracts or commercial
19 matters; or

20 (2) Members of the public who have demonstrated
21 experience of at least five (5) years in procurement.

22 Section 6983.2. Rules of Procedure. The Procurement Appeals
23 Board shall adopt rules of procedure which, to the fullest extent
24 possible, will provide for the expeditious resolution of controversies.
25 The Board may adopt Small Claims Procedures for the resolution of
26 controversies involving claims of less than Twenty-Five Thousand
27 Dollars (\$25,000).

28 Section 6983.3. Decisions of the Procurement Appeals Board.
29 Acting by one or more of its members, the Procurement Appeals Board
30 shall issue a decision in writing or take other appropriate action on
31 each appeal submitted. A copy of any decision shall be provided to all
32 parties, the Chief Procurement Officer, the Director of Public Works
33 and the head of a Purchasing Agency.

1 Section 6983.4. Jurisdiction of the Procurement Appeals Board.
2 Unless an action has been initiated previously in the Superior Court
3 for essentially the same cause of action, unless within fifteen (15)
4 days after the action is brought before the Procurement Appeals
5 Board, written objection is made by either the aggrieved bidder,
6 offeror or contractor, prospective or actual, or the Chief procurement
7 officer, the Director of Public Works or head of a Purchasing Agency
8 with the concurrence of the Attorney General, the Board shall have
9 jurisdiction to review and determine de novo:

10 (a) Any protest of a solicitation or award of a contract
11 addressed to the Board or by an aggrieved actual or prospective
12 bidder or offeror, or a contractor; and

13 (b) Any appeal by an aggrieved party from a determination by
14 the Chief procurement officer, the Director of Public Works, the head
15 of a Purchasing Agency, or a designee of either officer which is
16 authorized by Article A of Chapter 9 of this Title.

17 Section 6983.5. Protest of Solicitations or Awards.

18 (a) Scope. This Section applies to:

19 (1) A protest of a solicitation or award of a contract
20 addressed to the Procurement Appeals Board an aggrieved actual
21 or prospective bidder or offeror, or a contractor, and

22 (2) An appeal addressed to the Board of a decision under
23 Section 6975(c).

24 (b) Time limitations on filing a protest or an appeal.

25 (1) For a protest under Subsection (a)(1) of this Section,
26 the aggrieved person shall file a protest with the Board within
27 fourteen (14) days after the aggrieved person knew or should
28 have known of the facts and circumstances upon which the
29 protest is based.

30 (2) For an appeal under Subsection (a)(2) of this Section,
31 the aggrieved person shall file an appeal within seven (7) days of
32 receipt of a decision under Section 6975(c).

1 (c) Decision. On any direct protest under Subsection (a)(1) of
2 this Section or appeal under Subsection (a)(2) of this Section, the
3 Board shall promptly decide whether the solicitation or award was in
4 accordance with the statutes, regulations, and the terms of the
5 conditions of the solicitation. The proceeding shall be de novo. Any
6 prior determinations by administrative officials shall not be final or
7 conclusive.

8 (d) Standard of review for factual issues. A determination of an
9 issue of fact by the Board under Subsection (c) of this Section shall
10 be final and conclusive unless arbitrary, capricious, fraudulent, or
11 clearly erroneous.

12 Section 6983.6. Suspension or Debarment Proceedings. (a)
13 Scope. This Section applies to a review of the Procurement Appeals
14 Board of a decision under Section 6975.1 of this Title.

15 (b) Time limitation on filing an appeal. The aggrieved person
16 shall file its appeal with the Board within sixty (60) days of the
17 receipt of a decision under 6975.1(c).

18 (c) Decision. The Board shall promptly decide whether, or the
19 extent to which, the debarment or suspension was in accordance with
20 the statutes, regulations and the best interest of the territory, and
21 was fair. The proceeding shall be de novo. Any prior determinations
22 by administrative officials shall not be final or conclusive.

23 (d) Standard or review for factual issues. A determination of an
24 issue of fact by the Board under Subsection (c) of this Section shall
25 be final and conclusive unless arbitrary, capricious, fraudulent or
26 clearly erroneous.

27 Section 6983.7. Contract and Breach of Contract Controversies.

28 (a) Scope. This Section applies to a review by the Procurement
29 Appeals Board of a decision under Section 6975.2 of this Title.

30 (b) Time limitation on filing an appeal. The aggrieved
31 contractor shall file its appeal with the Board within sixty (60) days of
32 the receipt of the decision under Section 6975.2(c) of this Title.

33 (c) Decision. The Board shall promptly decide the contract or
34 breach of contract controversy. The proceeding shall be de novo.

1 (d) Standard of review for factual issues. A determination of an
2 issue of fact by the Board under Subsection (c) of this Section shall
3 be final and conclusive unless arbitrary, capricious, fraudulent, or
4 clearly erroneous.

5 Section 6983.8. No Finality to a Decision on a Issue of Law. No
6 determination by the Procurement Appeals Board on an issue of law
7 shall be final or conclusive.

8 Section 6983.9. Appeal and Review of Procurement Appeals Board
9 Decisions.

10 (a) Appeal. Any person receiving an adverse decision, the
11 territory, or both may appeal from a decision by the Procurement
12 Appeals Board to the Superior Court of the territory of Guam.

13 (b) Authorization of appeal by the territory. No such appeals
14 shall be made by the territory unless recommended by the Chief
15 Procurement Officer, the Director of Public Works, or the head of the
16 Purchasing Agency involved and approved by the Attorney General.

17 Section 6970. Discontinuance of Contractor's Appeal. After
18 notice of an appeal to the Procurement Appeals Board has been filed
19 by the Chief Procurement Officer, the Director of Public Works or the
20 head of a Purchasing Agency, a contractor may not discontinue such
21 appeal without prejudice, except as authorized by the Board."

22 Section 2. Subsection (c) of Section 6975 of the Government Code is
23 amended to read:

24 "(c) Decision. If the protest is not resolved by mutual
25 agreement, the Chief procurement officer, the Director of Public
26 Works, the head of a purchasing agency, or a designee of one of these
27 officers shall promptly issue a decision in writing. The decision shall:

28 (1) State the reasons for the action taken; and

29 (2) Inform the protestant of its right to judicial or
30 administrative review as provided in this [Chapter] Title."

31 Section 3. Subsection (e) of Section 6975 of the Government Code is
32 amended to read:

33 "(e) Finality of decision. A decision under Subsection (c) of
34 this Section shall be final and conclusive unless fraudulent, or (1) any

1 person adversely affected by the decision commences an action in
2 Court in accordance with Section 6978(a) of this Chapter; or (2) any
3 person adversely affected by the decision appeals administratively to
4 the Procurement Appeals Board in accordance with Section 6983.5 of
5 this Title."

6 Section 4. Subsection (f) of Section 6975 of the Government Code is
7 amended to read:

8 "(f) Stay of procurements during protest. In the event of a
9 timely protest under Subsection (a) of this Section [or] , under
10 Section 6978(a) of this Chapter, or under Section 6983.5 of this Title,
11 the territory shall not proceed further with the solicitation or with the
12 award of the contract until the Chief Procurement Officer or the
13 Director of Public Works, after consultation with the head of the using
14 agency or the head of a Purchasing Agency, makes a written
15 determination that the award of a contract without delay is necessary
16 to protect substantial interests of the territory."

17 Section 5. Subsection (c) of Section 6975.1 of the Government Code is
18 amended to read:

19 "(c) Decision. The Chief Procurement Officer, the Director of
20 Public Works or the head of a Purchasing Agency shall issue a written
21 decision to debar or suspend. The decision shall:

22 (1) State the reasons for the action taken; and

23 (2) Inform the debarred or the suspended person involved
24 of its rights to judicial or administrative review as provided in
25 this [Chapter] Title."

26 Section 6. Subsection (e) of Section 6975.1 is amended to read:

27 "(e) Finality of Decision. A decision under Subsection (c) of
28 this Section shall be final and conclusive, unless fraudulent, or (1)
29 the debarred or suspended person commences an action in court in
30 accordance with Section 6978(b) of this Chapter; or (2) the debarred
31 or suspended person appeals administratively to the Procurement
32 Appeals Board in accordance with Section 6983.6 of this Title."

33 Section 7. Subsection (c) of Section 6975.2 of the Government Code is
34 amended to read:

1 "(c) Decision. If such a controversy is not resolved by mutual
2 agreement, the Chief Procurement Officer, the Director of Public
3 Works, the head of a Purchasing Agency or the designee of one of
4 these officers shall promptly assure a decision in writing. The
5 decision shall:

6 (1) State the reasons for the action taken; and

7 (2) Inform the contractor of its right to judicial or
8 administrative review as provided in this [Chapter] Title."

9 Section 8. Subsection (e) of Section 6975.2 of the Government Code is
10 amended to read:

11 "(e) Finality of Decision. The decision under Subsection (c) of
12 this Section shall be final and conclusive unless fraudulent, or; (a)
13 The contractor commences an action in Court in accordance with
14 Section 6978(c) of this Chapter; or (b) The Contractor appeals
15 administratively to the Procurement Appeals Board in accordance with
16 Section 6983.7 of this Title."

17 Section 9. Subsection (d) of Section 6978 of the Government Code is
18 amended to read:

19 "(d) Limited Finality for Administrative Determinations. In any
20 judicial action under this Section, factual or legal determinations by
21 employees, agents or other persons appointed by the territory shall
22 have no finality and shall not be conclusive, notwithstanding any
23 contract provision, or regulation, except to the extent provided in
24 §§6964, 6983.5(d), 6983.6(d), and 6983.7(d) of this Title."

25 Section 10. Subsection (a) of Section 6978.1 of the Government Code
26 is amended to read:

27 "6978.1. Time limitations on actions.

28 (a) Protested Solicitations and Awards. Any action under
29 Section 6978(a) of this Chapter shall be initiated as follows:

30 (1) Within thirty (30) days after the aggrieved person
31 knows or should have known of the facts giving rise to the
32 action; or

1 (2) Within fourteen (14) days after receipt of a final
2 administrative decision pursuant to Section 6975 of this Chapter
3 or Section 6983.5(c), whichever is applicable."

4 Section 11. Subsection (b) of Section 6978.1 of the Government Code
5 is amended to read:

6 "(b) Debarments and Suspensions for Cause. Any action under
7 Section 6978(b) of this Chapter shall be commenced six (6) months
8 after receipt of the decision of the Chief Procurement Officer, the
9 Director of Public works, or head of a Purchasing Agency under
10 Section 6975.1(c) of this Chapter [or], the decision of the Policy
11 Office under Section 6981.1 of this Title, or the decision of the
12 Procurement Appeals Board under Section 6983.6(c) of this Title,
13 whichever is applicable."

14 Section 12. Subsection (c) of Section 6978.1 of the Government Code
15 is amended to read:

16 "(c) Actions Under Contracts or for Breach of Contract. Any
17 action commenced under Section 6978(c) of this Chapter shall be
18 commenced within six (6) months of the date the claim arose, or within
19 six (6) months the claimant knew or should have known, that a claim
20 existed against the other party, except notice of appeals from the
21 Procurement Appeals Board pursuant to Section 6983.9 concerning
22 actions on a contract or for breach of contract shall be filed within
23 twelve (12) months after the date of the Procurement Appeals Board
24 decision."

25 Section 13. Section 6976 of the Government Code is amended to read:

26 "\$6976. Applicability of this article. The provisions of this
27 Article apply where it is determined administratively, or upon
28 administrative or judicial review, that a solicitation or award of a
29 contract is in violation of law."

30 Section 14. A new subsection (d) is added to §6980.6 of the
31 Government Code to read:

32 "(d). Favors to the Territory. It shall be a breach of ethical
33 standards for any person who is or may become a contractor, a
34 subcontractor under a contract to the prime contractor or higher tier

1 contractor, or any person associated therewith, to offer, give or agree
2 to give to any employee or agent of the territory, or for any employee
3 or agent of the territory to accept, a favor or gratuity on behalf of
4 the territory whether or not such favor or gratuity may be considered
5 a reimbursable expense of the territory, during the pendency of any
6 matter related to procurement from such person or any entity
7 represented by such person."

8 Section 15. Subsection (c) of §6980.6 of the Government Code is
9 amended to read:

10 "(c). Contract Clause. The prohibition against gratuities [and]
11 , kickbacks and favors to the territory prescribed in this section shall
12 be conspicuously set forth in every contract and solicitation therefor."

13 Section 16. A new §6964.4 is added to the Government Code to read:

14 "6964.4. Record of Procurement Actions Taken Pursuant to This
15 Title. The process of procurement shall be documented at each step
16 of the process, regardless of the manner of procurement authorized for
17 the particular goods or services to be delivered to the government.

18 (a) All pre-bid conferences shall be tape recorded and a
19 transcript of the tape recordings shall be made available to any
20 member of the public who requests it within ten (10) days of the
21 pre-bid conference.

22 (b) All specifications drawn up by the government for
23 procurement purposes shall state within the specifications themselves
24 what sources were used for drawing them up, who was consulted about
25 their preparation, and who drew up the specifications.

26 (c) All decisions made concerning procurement shall be in writing
27 and shall contain the bases for the decision, including a record of the
28 underlying reasoning and process of deliberations. Copies of any
29 decision shall be available to any member of the public who requests it
30 immediately after the issuance of such decision."

31 Section 17. Section 6969.5 of the Government Code is amended to
32 read:

33 "§6959.5. Emergency Procurements.

1 Notwithstanding any other provision of this Title, the Chief
2 Procurement Officer, the Director of Public Works, the head of a
3 purchasing agency, or a designee of either officer may make or
4 authorize others to make emergency procurements when there exists a
5 threat to public health, welfare, or safety under emergency conditions
6 as defined in regulations promulgated by the Policy Office; provided
7 that such emergency procurements shall be made with such competition
8 as is practicable under the circumstances. A written determination of
9 the basis for the emergency and for the selection of the particular
10 contractor shall be included in the contract file. The requirements for
11 a written determination for the emergency shall be met if the
12 procurements are being made on the basis of the Governor's
13 declaration of an emergency situation by Executive Order if such
14 Order states that emergency procurement may be resorted to for the
15 purposes of the Order.

16 No situation shall be considered an emergency unless clear and
17 compelling evidence for such emergency exists and no situation shall
18 be considered an emergency where reasonable and prudent
19 administrative and management procedures should have foreseen and
20 precluded the emergency."

EXHIBIT 2

BLACK'S LAW DICTIONARY®

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

SIXTH EDITION

BY

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inception to its conclusion. The name of "docket" or "trial docket" is sometimes given to the list or calendar of causes set to be tried at a specified term, prepared by the clerks for the use of the court and bar.

General Classification

An *appearance docket* is one in which the appearances in actions are entered, containing also a brief abstract of the successive steps in each action. A *bar docket* is an unofficial paper consisting of a transcript of the docket for a term of court, printed for distribution to members of the bar. An *execution docket* is a list of the executions sued out or pending in the sheriff's office. A *judgment docket* is a list or docket of the judgments entered in a given court, methodically kept by the clerk or other proper officer, open to public inspection, and intended to afford official notice to interested parties of the existence or lien of judgments. *See also* Judgment docket; Preferred dockets.

Civil docket. Fed.R. Civil P. 79(a), and analogous state rules, requires that the clerk keep a "civil docket" of all actions pending before the court. Actions shall be assigned consecutive file numbers. The file number of each action shall be noted on the folio of the docket whereon the first entry of the actions is made. All papers filed with the clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. The entry of an order or judgment shall show the date the entry is made. When in an action trial by jury has been properly demanded or ordered the clerk shall enter the word "jury" on the folio assigned to that action.

Docket fee. An attorney's fee, of a fixed sum, chargeable with or as a part of the costs of the action, for the attorney of the successful party; so called because chargeable on the docket, not as a fee for making docket entries.

Dock-master. In England, an officer invested with powers within the docks, and a certain distance therefrom, to direct the mooring and removing of ships, so as to prevent obstruction to the dock entrances.

Dock receipt. Also known as dock warrant. A type of interim certificate issued by maritime shipping company upon delivery of goods at the dock, often entitling the designated person to have a bill of lading issued to him. Trade usage may in some cases entitle such paper to be treated as a document of title. If the receipt actually represents a storage obligation undertaken by the shipping company, then it is a warehouse receipt. *See also* Document (*Document of title*); Warehouse receipt.

Dock sale. Exists where a purchaser uses its owned or rented vehicles to take possession of the product at the seller's shipping dock. In most states, the sale is apportioned to the operating state of the purchaser, rather than the seller.

Dock warrant. *See* Dock receipt.

Doctor, v. To prescribe or treat medically or to treat as a doctor or physician.

Doctor, n. A learned man; one qualified to give instruction of the higher order in a science or art, particularly, one who has received the highest academical degree in his art or faculty, as, a doctor of laws, medicine, or theology. In colloquial language, however, the term is practically restricted to practitioners of medicine; *i.e.* physicians, surgeons.

Doctor-patient privilege. In law of evidence, right of patient to exclude from evidence communications made by him to his physician; recognized in most jurisdictions but sometimes limited; *e.g.* to communications to psychotherapist.

Doctrinal interpretation. *See* Interpretation.

Doctrine. A rule, principle, theory, or tenet of the law; as, *e.g.* Abstention doctrine; Clean hands doctrine, etc.

Document. An instrument on which is recorded, by means of letters, figures, or marks, the original, official, or legal form of something, which may be evidentially used. In this sense the term "document" applies to writings; to words printed, lithographed, or photographed; to maps or plans; to seals, plates, or even stones on which inscriptions are cut or engraved. In the plural, the deeds, agreements, title-papers, letters, receipts, and other written instruments used to prove a fact. As used as a verb, to support with documentary evidence or authorities.

Within meaning of the best evidence rule, document is any physical embodiment of information or ideas; *e.g.* a letter, a contract, a receipt, a book of account, a blueprint, or an X-ray plate. *Strico v. Cotto*, 67 Misc.2d 636, 324 N.Y.S.2d 483, 486. *See also* Documentary evidence.

See also Instrument.

Ancient documents. Deeds, wills, and other writings more than thirty years (twenty years under Fed.Evid.R. 803(16)) old are so called; they are presumed to be genuine without express proof, when coming from the proper custody.

Commercial law. Under U.C.C., any paper including document of title, security, invoice, certificate, notice of default and the like. U.C.C. § 5-103. *See also* Documentary draft.

Conflicts of law. (1) Whether a right is embodied in a document is determined by the law which governs the right. (2) As between persons who are not both parties to the conveyance, (a) the effect of a conveyance of a right embodied in a document depends upon the effect of the conveyance of the document; and (b) the effect of a conveyance of an interest in a document in which a right is embodied is determined by the law that would be applied by the courts of the state where the document was at the time of the conveyance. These courts would usually apply their own local law in determining such questions. Restatement, Second, Conflicts, § 249.

Document of title. A written description, identification or declaration of goods "which in the regular course of business or financing is treated as adequately evidencing

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fishing. 10 *Obs.* A person of great learning qualified to instruct. —*v.t.* *Colloq.* 1 To prescribe for or treat medicinally. 2 To repair. 3 To alter; falsify, as evidence. —*v.i.* *Colloq.* 4 To practice medicine. 5 To take medicine or undergo medicinal treatment. [*<L, a teacher <docere teach*] —*doc'tor-al adj.*

doc'tor-ate (dok'tor-it) *n.* The degree, status, or title of a doctor.

doc'tri-naire (dok'trē-nār') *adj.* Theoretical; visionary. —*n.* One whose views are derived from theories rather than from facts; a scholastic or impractical theorist. —*doc'tri-nair'ism n.*

doc'tri-nal (dok'trē-nəl, also *Brit.* dok'trī-nəl) *adj.* 1 Pertaining to or characterized by doctrine. 2 Having to do with teaching; instructive. See synonyms under DOGMATIC. —*doc'tri-nal-ly adv.*

doc'trine (dok'trin) *n.* 1 That which is taught or set forth for acceptance or belief; that which is held to be true by any person, sect, or school; especially, in religion, a tenet, or body of tenets; belief; dogma. 2 *Obs.* Instruction; teaching. [*<OF <L doctrina teaching <docere teach*]

Synonyms: article, belief, dogma, precept, principle, teaching, tenet. *Doctrine* primarily signifies that which is taught; *principle*, the fundamental basis on which the teaching rests. A *doctrine* is reasoned out, and may be defended by reasoning; a *dogma* rests on authority, as of the decision of the church, etc. A *doctrine* or *dogma* is a statement of some one item of belief; a *creed* is a summary of *doctrines* or *dogmas*. *Dogma* has commonly the signification of a belief arrogantly asserted. *Tenet* is simply that which is held, and is applied to a single item of belief. Compare FAITH, LAW.

doc'u-dra-ma (dok'yə-drā-mə, -dra') *n.* A television drama or series based on fact but presented in the style of a documentary.

doc'u-ment (dok'yə-mənt) *n.* 1 An original piece of written or printed matter conveying authoritative information or evidence. 2 One of the several papers affixed to a documentary bill and testifying to or effecting the transfer of goods, as a bill of lading, certificate of insurance, etc. 3 A documentary. 4 *Obs.* A cautionary example. 5 *Obs.* Instruction. 6 *Obs.* Evidence. See synonyms under RECORD. —*v.t.* 1 To furnish with documents. 2 To prove by documentary evidence. 3 To supply with references and notes to authoritative material: to document a text. [*<OF <L documentum a lesson <docere teach*] —*doc'u-ment-al adj.*

doc'u-men-tal-ist (dok'yə-men'təl-ist) *n.* A specialist in the assembling, classifying, and organizing of documents; an archivist with special training in the field of documentation.

doc'u-men-tar-y (dok'yə-men'tar-ē) *adj.* Of, pertaining to, supported by, or based upon documents: also *doc'u-ment'al*. —*n. pl.* -ries A motion-picture film that records or exhibits a phase of regional, social, or cultural life without fictionalization.

doc'u-men-ta-tion (dok'yə-men'tā'shən) *n.* 1 The preparation or supplying of documents, references, records, etc. 2 The documents thus furnished. 3 The act of citing sources in a literary work.

dod-der¹ (dod'tər) *v.i.* To tremble or totter, as from age. [*Cf. ME didder tremble*]

dod-der² (dod'tər) *n.* Any of several leafless, twining herbs of the genus *Cuscuta*, parasitic on various plants to which they adhere by suckers. [*ME dodder*]

dod-dered (dod'ərd) *adj.* 1 Having lost the top or branches through age or decay: said of trees. 2 Shattered; infirm. [*ME dodden clip*]

dod-der-ing (dod'ər-ing) *adj.* Shaky; infirm; hence, senile.

dodeca- *combining form* Twelve; of or having twelve: *dodecagon*. Also, before vowels, *dodec-*. [*<Gk. dōdeka twelve*]

do-dec-a-gon (dō-dek'ə-gon) *n. Geom.* A figure, especially a plane figure, with twelve sides and twelve angles. [*<Gk. dōdekagōnon*] —*do-dec-a-gon-al* (dō-de-kag'ə-nəl) *adj.*

do-dec-a-phon-ic (dō-dek'ə-fon'ik) *adj. Music* Twelve-tone.

dodge (dodj) *v.* dodged, dodg-ing *v.t.* 1 To avoid; as a blow, by a sudden turn or twist. 2 To evade, as a duty or issue, by cunning or trickery. —*v.i.* 3 To move quickly to one

side or change position suddenly, as to avoid a blow. 4 To practice trickery; be deceitful. —*n.* An act of dodging; evasion; hence, a trick to deceive or cheat; any trick. See synonyms under ARTIFICE. [Origin unknown]

dodg-er (dodj'ər) *n.* 1 One who dodges; a tricky fellow. 2 A small handbill. 3 A cooked cake of Indian meal; corn dodger.

do-do (dō'dō) *n. pl.* -does or -dos A large, extinct bird, (genus *Rapheco*) of Mauritius and Réunion, about the size of a turkey, with rudimentary, functionless wings. [*<Pg. doudo foolish*]

doe (dō) *n.* The female of the deer, antelope, hare, rabbit, or kangaroo. ♦ Homophone: *dough*. [OE *dā*]

do-er (dō'ər) *n.* One who acts, does, or performs; an agent. See synonyms under AGENT.

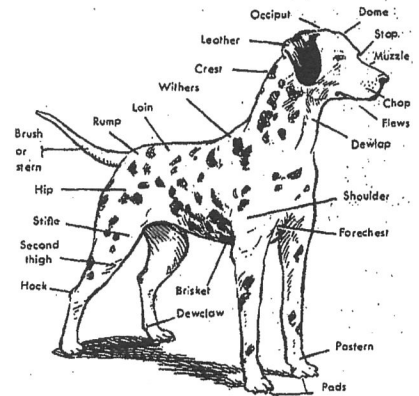
does (duz) Present tense, third person singular, of DO.

doe-skin (dō'skīn) *n.* 1 The skin of a doe, especially when dressed. 2 A heavy, twilled, cotton fabric napped on one side; also, a heavy, short-napped, woolen fabric resembling doeskin.

does-n't (duz'ənt) Does not: a contraction.

doff (dof, dōf) *v.t.* 1 To take off or remove, as clothing. 2 To take off (the hat) in salutation. 3 To throw away; discard. [Contraction of DO OFF] —*doff'er n.*

dog (dōg, dog) *n.* 1 A domesticated carnivorous mammal (*Canis familiaris*), of worldwide distribution and many varieties, noted for its adaptability and its devotion to man. ♦ Collateral adjective: *canine*. 2 One of



DOG
Nomenclature for anatomical parts

various other species of the family *Canidae*, as the dingo, etc. 3 The male of the dog and various other animals of the *Canidae*: a dog fox. 4 In the western United States, a prairie dog. 5 *Mech.* Any small device that holds or grips; a catch, detent, or pawl. 6 The hammer of a firearm. 7 An anidron. 8 *Meteorol.* A sundog or fog dog. 9 A fellow; man-about-town; a gay dog. 10 A scoundrel; rascal. 11 *U.S. Slang* A hot dog. 12 *pl.* *Slang Feet.* —*dead dog Slang* A person or thing of no use or value. —*to put on the dog U.S. Slang* To make a pretentious display. —*adv.* Very; utterly; used in combination: *dog-tired*. —*v.t.* *dogged, dog-ging* 1 To follow persistently; hound; hunt. 2 To fasten with or as with a dog or catch. [OE *dogga*]

Dog (dōg, dog) 1 Either of two southern constellations, called *Canis Major* and *Canis Minor*. See CONSTELLATION. 2 Sirius, the Dog Star.

dog-ape (dōg'ap, dog'-) *n.* A baboon or similar ape.

dog-bane (dōg'bān, dog'-) *n.* Any of a genus (*Apocynum*, family *Apocynaceae*) of smooth, reddish-stemmed herbs about 3 feet high, having an acrid, milky juice; especially, the hemp dogbane (*A. cannabinum*), used in medicine as a cardiac tonic, and the spreading dogbane (*A. androsaemifolium*) of North America.

dog-ber-ry (dōg'ber-ē, dog'-) *n. pl.* -ries 1 The European dogwood (*Cornus sanguinea*). 2 Its fruit. 3 The chokeberry. 4 The bearberry (genus *Arctostaphylos*). 5 The English dog rose.

dog-bri-er (dōg'brī-ər, dog'-) *n.* The dog-

dog-cart (dōg'kärt, dog'-) *n.* 1 A conveyance, usually two-wheeled, with the seat set back to back and, originally, an open space for dogs beneath the rear seat. 2 A cart hauled by one or more dogs.

doge (dōj) *n.* The elective chief magistrate holding princely rank, in the former republics of Venice and Genoa. [*<Ital. <L. dux chief. Doublet of DUKE.*] —*doge-dom ship n.*

dog-ear (dōg'īr, dog'-) *n.* The corner of a book, turned down to mark a place of careless use. —*v.t.* To turn or fold the corner of (a page). Also *dog's-ear*. —*dogged' adj.*

dog-fen-nel (dōg'fē-nəl, dog'-) *n.* 1 The plant. 2 The heath aster.

dog-fight (dōg'fīt, dog'-) *n.* 1 A fight or as between dogs. 2 *Mil.* Combat in the quarters between aircraft or tanks.

dog-fish (dōg'fīsh, dog'-) *n. pl.* -fish or -fishes One of various small, littoral sharks common in North American waters, and the smooth fish (genus *Muselus*).

dog-ged (dōg'id, dog'-) *adj.* Silently or persistently; stubborn; obdurate. See synonyms under MOROSE, OBSTINATE. —*dog-ged-ly adv.*

dog-ger (dōg'ər, dog'-) *n.* *Naut.* A two-masted fishing vessel, broad of beam and with a fish-well in the center, used in the North Atlantic. [*ME doggere; origin uncertain*]

dog-ger-el (dōg'ər-əl, dog'-) *n.* Trivial, unwisely written verse, usually comic, and ineffectual in effect. —*adj.* Of or composed of such verse. Also *dog-gel*. [*ME, origin unknown*] —*dog-ger-el-ist n.*

dog-gery (dōg'ər-ē, dog'-) *n. pl.* -gery Dogs collectively. 2 Canaille; the manner of a raff. 3 Doglike conduct.

dog-gish (dōg'īsh, dog'-) *adj.* 1 Like a dog; snappish. 2 *Colloq.* Showily fashionable; pretentious. —*dog-gish-ly adv.*

dog-go (dōg'ō, dog'-) *adv.* *Slang* In a concealing; in hiding; to lie doggo.

dog-gy (dōg'ē, dog'-) *adj.* -gi-er, -gi-est or pertaining to dogs; doglike: a dog-gy fellow. 2 *Colloq.* Admirable; fashionable; —*n. pl.* -gies A dog, especially a limbo dog. Also *dog'gie*.

doggy bag A bag containing left-overs which a restaurant customer may carry off for his dog.

dog house 1 A kennel. 2 The caboose of a freight train. —*in the dog house* In favor.

dog-gie (dō'gē) *n.* In the western United States, a stray or motherless calf; also spelled *dogey*. [Origin unknown]

dog in the manger One who will neither eat a thing himself nor permit others to eat it.

dog-leg-ged (dōg'leg'id, -leg'd, dog'-) *adj.* Having a bend like a dog's hind leg: said of a road, etc. Also *dog'-leg*.

dog-ma (dōg'mə, dog'-) *n. pl.* -mas or -mas-ta 1 *Theol.* A doctrine or teaching of religious truth as maintained by the Christian church or any particular sect; hence, a statement of religious faith formulated by a body possessing the authority to decree or decide. 2 A doctrine asserted and adopted on authority, distinguished from that which is the result of one's own reasoning or experience; a dogma. Any settled opinion or conviction; an ed principle, maxim, or tenet. See synonyms under DOCTRINE. [*<L <Gk. dogma opinion, tenet <dōkein think*]

dog-mat-ic (dōg-mat'ik, dog'-) *adj.* 1 Pertaining to dogma. 2 Asserted or held by positive and authoritative assertion; opinions without evidence. 3 Heavily dogmatic. —*dog-mat'i-cal-ly adv.* —*dog-mat'i-cal-ness n.*

Synonyms: arrogant, authoritative, doctrinal, domineering, imperious, opinionated, opinionated, opinionated, systematic.

dog-ma-tism (dōg'mə-tiz'm, dog'-) *n.* Dogmatic or arrogant assertion, as of belief without proof. 2 *Philos.* An uncritical faith in the assumptions of reason or a priori philosophy opposed to *scepticism*.

do-good-er (dō'gōd'ər) *n.* An idealist