

DOOLEY ROBERTS & FOWLER LLP  
Suite 201, Orlean Pacific Plaza  
865 South Marine Corps Drive  
Tamuning, Guam 96913  
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**RECEIVED**  
OFFICE OF THE PUBLIC AUDITOR  
PROCUREMENT APPEALS  
DEC 28 2006  
TIME: 4:28 PM  
BY: Alarino  
FILE No. OPA-PA 06-003

Attorneys for Appellant  
L.P. Ganacias Enterprises, Inc. dba RadioCom

**OFFICE OF THE PUBLIC AUDITOR**

In the Appeal of	)	<b>CERTIFICATE OF SERVICE</b>
	)	
L.P. GANACIAS ENTERPRISES, INC.	)	Docket No. OPA-PA 06-003
dba RADIOCOM	)	
	)	
Appellant.	)	
	)	

I, **KEVIN J. FOWLER**, hereby declare that on December 19, 2006, I caused a copy of Appellant L.P. Ganacias Enterprises, Inc. dba RadioCom's Notice of Appeal to be served upon the following via hand delivery:

Office of Homeland Security  
Government of Guam  
221B Chalan Palasyo  
Agana Heights, Guam 96910

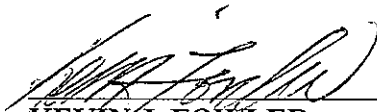
General Services Agency  
148 Route 1 Marine Drive  
Piti, Guam 96925

A copy of the proof of service is attached as Exhibit "A."

Dated this 28<sup>th</sup> day of December, 2006.

DOOLEY ROBERTS & FOWLER LLP

By:



**KEVIN J. FOWLER**  
Attorneys for Appellant  
L.P. Ganacias Enterprises, Inc.  
dba RadioCom

**ORIGINAL**

DOOLEY ROBERTS & FOWLER LLP  
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Attorneys for Appellant  
L.P. Ganacias Enterprises, Inc. dba RadioCom

**RECEIVED**  
DATE: 12-19-06 *JF 2:30pm*  
OFFICE OF THE PUBLIC AUDITOR  
GOVERNMENT OF GUAM  
SUITE 401, PACIFIC DAILY NEWS BLDG.  
238 ARCHBISHOP FLORES STREET  
HAGATNA, GUAM 96910

**OFFICE OF THE PUBLIC AUDITOR**

In the Appeal of )  
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)  
L.P. GANACIAS ENTERPRISES, INC. )  
)  
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dba RADIOCOM )  
)  
Appellant. )  
\_\_\_\_\_ )

**NOTICE OF APPEAL**

Docket No. OPA-PA 06-003

OFFICE OF CIVIL DEFENSE  
ACKNOWLEDGEMENT RECEIVED  
DATE: 12/19/06 TIME: 4:50  
RECEIVED BY: *[Signature]*

**Appellant Information:**

L.P. Ganacias Enterprises, Inc. dba RadioCom ("RadioCom")  
P.O. Box 7094  
Tamuning, Guam 96931

Telephone No. (671) 646-7197  
Facsimile No. (671) 649-4400

**Appeal Information:**

A) Guam Office of Homeland Security ("OHS") through the Guam General Services Agency ("GSA").

B) Purchase Order Nos. PO66A06288 and PO66A06304 Early Warning System or Outdoor PA System ("Warning System").

C) Award being appealed was sole sourced on June 27, 2006 and June 28, 2006 by the GSA to S.E.S. USA, Inc.

D) Appeal is made from a decision on protest of method, solicitation or award.

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**ACKNOWLEDGEMENT COPY**

RECEIVED BY: *[Signature]*

**Exhibit "A"**

DATE: 12/19/06

E) Names of competing bidders:

S.E.S. USA, Inc.  
6527 NE 192<sup>ND</sup> Pl  
Kenmore, WA 98028

**Form and Filing:**

1. On June 9, 2006, the OHS requested the GSA to award a contract for the Warning System to S.E.S. USA, Inc. ("SES") through a sole source procurement. On June 27, 2006 and June 28, 2006 the GSA issued "Purchase Order Nos. PO66A06288 and PO66A06304" for the Warning System to SES.

On December 5, 2006, within 14 days of learning of the procurement, RadioCom filed its formal protest ("Protest") of the GSA's determination to solicit the Warning System through a sole source procurement. RadioCom is a Guam corporation and is a vendor of a competing warning system. Pursuant to 5 G.C.A. § 4214, an agency may only acquire goods or services through sole source procurement when "the Chief Procurement Officer ... determines in writing that there is only one source for the required supply, service or construction item ... ." As RadioCom offers an early warning system, SES was not the only source for the system. Further, pursuant to 5 G.C.A. § 5008, "[a]ll procurement of supplies and services shall be made from among businesses licensed to do business on Guam and that maintain an office or other facility on Guam ... ." Rather than procure the warning system from RadioCom, a business licensed to conduct business on Guam, the OHS/GSA procured the Warning System from a company doing business in Washington State.

The GSA has refused to issue a prompt written decision on RadioCom's Protest as required by 5 G.C.A. § 5425(c) and RadioCom has therefore exhausted all administrative remedies.

2. RadioCom requests that the Office of Public Auditor rule that the reason given by the OHS/GSA for utilizing a sole source procurement for the warning system and for denying RadioCom's Protest constitutes an abuse of discretion and that the matter be remanded to the OHS/GSA with instructions to solicit the Warning System through a sealed bid procedure as authorized by the Guam Procurement Law.

3. RadioCom submits herewith all documents it has been able to obtain relating to the subject procurement.

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**Declaration regarding court action:**

RadioCom confirms that an action in court has not been commenced.

Dated this 19<sup>th</sup> day of December, 2006.

DOOLEY ROBERTS & FOWLER LLP

By: 

\_\_\_\_\_  
**KEVIN J. FOWLER**

Attorneys for Appellant

L.P. Ganacias Enterprises, Inc.

dba RadioCom

VERIFICATION

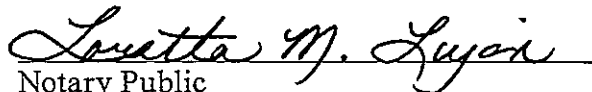
Hagåtña, Guam ) ss:

I, Victoria G. Borja, being first duly sworn, do hereby depose and state that I am the Vice President & General Manager for Appellant RadioCom and that I have read the foregoing Notice of Appeal and it is true of my own knowledge except as to those matters alleged upon information and belief and as to those matters, I believe them to be true.

Dated this 19<sup>th</sup> day of December, 2006.

  
VICTORIA G. BORJA

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of December, 2006.

  
Notary Public

**LORETTA M. LUJAN**  
**NOTARY PUBLIC**  
In and for Guam, U.S.A.  
My Commission Expires: May 22, 2010  
Suite 201 Ocean Pacific Plaza  
885 S. Marine Corps Dr. Tamuning, Guam 96913