



March 12, 2007

OFFICE OF THE PUBLIC AUDITOR

MEDIA RELEASE

To: All Media

From: Doris Flores Brooks, CPA, CGFM
Public Auditor

Subject: **Decision on Appeal OPA-PA-06-003 of L.P. Ganacias Enterprises, Inc. dba RadioCom Relative to Procurement of Early Warning System**

Today the Public Auditor Doris Flores Brooks released her decision on the procurement appeal filed by L.P. Ganacias Enterprises, Inc. dba RadioCom regarding the Office of Homeland Security's (OHS) sole source procurement of an Early Warning System. Two purchase orders were sole sourced by the government's General Services Agency (GSA) to S.E.S. USA, Inc. on June 27, 2006, and June 28, 2006, totaling \$739,814.

The Public Auditor disagreed with the decision by the Chief Procurement Officer (CPO) on RadioCom's underlying protest. The Public Auditor found GSA's justification of the sole source procurement inconsistent with Guam Procurement Law. Specifically, the Public Auditor questioned GSA's reliance on a determination by the sole source vendor that it was the only company who could meet the government's specifications, without independently reviewing the agency needs.

According to the decision,

GSA must make an independent assessment of the availability of potential suppliers based on appropriate methods, such as a survey of the local businesses, or inquiry with the using agency and other procuring entities as to any known interest in bidding for this or similar projects on Guam. It is unreasonable to rely on a single, unsupported statement by a vendor that it is the sole provider of equipment (that it does not manufacture) that will meet the needs of the government to the exclusion of all other businesses when that same vendor wrote the specifications, made the needs assessment, and is the sole bidder in an unsolicited procurement.

OPA recommends GSA obtain the assistance of the Office of the Attorney General to terminate the agreement with SES at minimum cost to the government in accordance with 2 GAR §9106, including negotiating with SES for recovery of the advanced payment, and returning any delivered items to SES, where possible. Additionally, should OHS wish to proceed with the procurement of an early warning system after termination of the current agreement, OPA recommends that the specifications be redone and closely monitored by the CPO to ensure maximum competition between vendors of early warning systems; and that the project be competitively bid.

This is the first decision issued by the Public Auditor on a procurement appeal since the functions of the Procurement Appeals Board were transferred to OPA in the FY 2007 budget. The Public Auditor's entire decision can be read on www.guamopa.org.