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 OFFICE OF THE PUBLIC AUDITOR
 PROCUREMENT APPEALS

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Attorneys for the Department of Public Works

BEFORE THE GUAM PUBLIC AUDITOR
Procurement Appeal

IN THE APPEAL OF:)	DOCKET NO. OPA-PA 09-005
)	
)	
)	
GUAM COMMUNITY IMPROVEMENT)	ADMISSIONS OF FACT
FOUNDATION, INC.)	LIST OF CONTESTED ISSUES
)	
Appellant.)	
)	

Admissions of Fact anticipated by the Purchasing Agency (without prejudice to any subsequent objections):

1. All factual allegations contained in the 2 page, 26 August 2009 Notice of Appeal herein by Appellant.
2. On or about June 19, 2009 there were reports in the local news media relating to Lawrence P. Perez.
3. On or about July 31, 2009, it was reported in the Guam news media to the effect that GEDA was on the mainland United States in connection with IBC's effort to obtain project finance.
4. The content of the January 16, 2009 letter from Lawrence P. Perez to Mr. Anthony Sgro.
5. As a direct result of Appellant's August 5, 2009 Protest, while in New York for the purpose of doing so, IBC's nearly completed finance procurement was halted and so they were unable to provide 100% project financing.



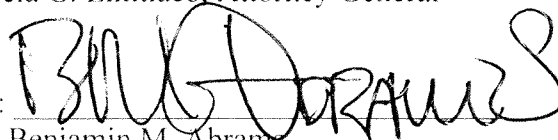
Contested issues of fact anticipated by the Purchasing Agency (without prejudice to any subsequent objections):

1. Whether there was non-compliance by IBC with RFP financing requirements?
2. Whether the Government changed the RFP to exclude financing.
3. Whether DPW was going forward despite non-compliance with RFP financing requirements by IBC?
3. Whether DPW was going forward despite having changed the RFP to exclude financing?
4. Whether up until 5 August 2009, IBC had fully complied with the RFP and was hours away from signing a financing package for the project which met the RFP requirements.
5. Whether the Government was providing project financing for IBC or whether IBC was providing project financing with the support of the Government between July and 5 August 2009.
7. Whether Appellant's 5 August 2009 protest was basically an eleventh hour tactic to thwart the imminent conclusion of project finance leading to an Award?
8. Whether the end-game of Appellant is to keep it's protest appeal alive, to prevent the other two bidders from securing project finance, and then to drop it's appeal to facilitate it's own successful project finance and win the award by default.

Dated this 15th day of October 2009.

OFFICE OF THE ATTORNEY GENERAL
Alicia G. Lintiaco, Attorney General

By:



Benjamin M. Abrams
Assistant Attorney General