

1 didn't hear Mr. Taitano. Perhaps he didn't; but that is no fault of the Airport.

2 Appellant claims that he was not provided a portion of the procurement record. That is
3 not precisely true. The Procurement Record filed in this matter specifically informed all,
4 including Appellant, that the tape was available at the Office of Public Accountability (OPA).
5 Had the Agency the capability of reproducing the tape, it would have. It didn't have the
6 capability, so it made that portion of the record available to all at the OPA¹. Appellant's counsel
7 is candid when he states he was aware of the existence of the tape recording and that it was in the
8 possession of the Office of Public Accountability. He is equally candid when he admits he did
9 not listen to the tape made available to him (and the Agency) at the Office. But he argues that
10 had he known what was on the tape, he might have listened to it. That may be, but his failure to
11 do so was no fault of the Airport.


12 Appellant argues that the Agency ought not to be allowed to rely on a portion of the
13 Record he was unaware of. In his Comments though, he states "[a]t the time and place the bids
14 were to be submitted and opened, K CLEANING did not believe there was any ambiguity and
15 that the process was to take place at the conference room." *See Appellant's Comments at p. 2.*
16 There is no reason the Agency should not be allowed to rely on evidence to the contrary, nor
17 should Appellant be surprised when it does.

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24 ¹ Appellant states he was required to receive a copy of the Procurement Record. This is not
25 the law. *See 2 Guam Admin. R. & Reg. §12104(c)(3)*. The law requires he receive a copy of
the Agency Report, not the Procurement Record.

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To reiterate; the Agency does not object to further comments, nor, if Appellant has the ability, that he take the tape from the OPA and copy it. Otherwise he might consider visiting the OPA and listening to the tape. There is no basis however for striking an Agency Reply.


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