

# CIVILLE & TANG, PLLC

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September 11, 2013

## VIA HAND DELIVERY

Doris Flores Brooks  
*Public Auditor*  
**OFFICE OF PUBLIC  
ACCOUNTABILITY**  
Suite 401 DNA Building  
238 Archbishop Flores Street  
Hagåtña, Guam 96910

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

DATE:

9/11/13

TIME:

4:07

AM

PM

BY:

*Thyze*

FILE NO OPA-PA:

13-010

**Re: JMI-Edison Procurement Appeal- Department of Education**  
**OPA Case No: OPA-PA 13-010**

Madam Public Auditor,

As you are aware, JMI-Edison (JMI), the appellant in OPA PA 13-010, filed a *Motion for Expedited Relief to Declare Stay in Effect* on August 9, 2013. The motion was submitted because of the ongoing contract performance being undertaken by interested party J&B Modern Tech and the practical realities that such performance would have on any future relief to which JMI may be entitled. Both the interested party and the procuring agency have submitted their briefing on the matter.

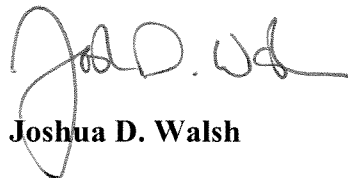
The issues presented by the motion— the ability of an agency to unilaterally lift the statutory stay, the duration of the stay, and the power of the OPA to meaningfully address protest appeals— are important and will help bring clarity to Guam procurement law. The OPA's decision on the matter will advance procurement law *vis a vis* the statutory stay initiated when an agency level protest is filed. JMI's motion was discussed during the prehearing conference held on August 26, 2013, and the OPA stated that it would "respond to it promptly." The OPA also expressed its desire to deal with the motion "before the hearing on the merits." It has been a month since the submission of JMI's motion, the hearing on the merits is forthcoming, and the parties continue to await a decision. A decision is needed. Simply put, the parties to this protest must be allowed to understand the OPA's position on the procedural stance of the instant procurement well before the hearing on the merits of JMI's protest.

Please inform the parties if a decision on JMI's motion is indeed coming, and when that decision is expected. JMI appreciates both the complex nature of the issue it presents and the

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inordinate workload that faces the OPA. Nevertheless, the prejudice to JMI continues to mount so long as clarity regarding the procurement stay remains unaddressed.

Sincerely,

A handwritten signature in black ink, appearing to read "J.D. Walsh". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**Joshua D. Walsh**

Cc: Via Facsimile

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