

Seth Forman  
 DOOLEY ROBERTS & FOWLER LLP  
 Suite 201, Orlean Pacific Plaza  
 865 South Marine Corps Drive  
 Tamuning, Guam 96913  
 Telephone No. (671) 646-1222  
 Facsimile No. (671) 646-1223  
 E-mail: [Forman@guamlawoffice.com](mailto:Forman@guamlawoffice.com)

Attorneys for Appellant  
 G4S Security Systems (Guam) Inc.

**RECEIVED**  
 OFFICE OF PUBLIC ACCOUNTABILITY  
 BY: Ry  
 DATE: 10/22/2013  
 TIME: 2:50  AM  PM  
OPA-PA-13-013

**OFFICE OF PUBLIC ACCOUNTABILITY  
 PROCUREMENT APPEAL**

In the Appeal of )  
 )  
 G4S Security Systems (Guam) Inc., )  
 )  
 Appellant. )  
 \_\_\_\_\_ )

**REPLY MEMORANDUM IN  
 SUPPORT OF MOTION TO  
 DECLARE STAY IN EFFECT**  
 Docket No. OPA-PA 13-013

Appellant G4S Security Systems (Guam) Inc. (“G4S”) has moved for an order determining that the statutory stay mandated by 5 GCA §5425(g) has remained in place since the initiation of G4S’s protest of the Guam Department of Education’s (“GDOE”) decision to reject GS4’s bid on GDOE Invitation for Bid (“IFB”) 032-2013. G4S has further moved the OPA for an order compelling GDOE to refrain from taking any further action with regard to IFB 032-2013 until final resolution of G4S’s protest. This motion does not go to the underlying merits of this procurement dispute; but rather only to the procedural issue of whether or not a stay is in effect as a matter of law.

In its opening memorandum in support of this motion, G4S relied primarily upon the OPA’s recent decision on a very similar motion. *See In re Appeal of JMI Edison*, OPA-PA-13-010, Order Granting Motion re Automatic Stay (Sept. 20, 2013). GDOE might not like that decision, but it remains the OPA’s most recent statement of the controlling and applicable law.

**ORIGINAL**

The JMI Edison decision is also good public policy. Guam law gives a bidder whose protest has been a right of appeal to the OPA within 15 days of notice of the purchasing agency's decision. 5 GCA §5425(e). That right to appeal is meaningless if pre-award remedies can be cut off by a purchasing agency simply awarding a contract immediately denial of a protest before the 15 days—or in some cases, even a single day—have run. Purchasing agencies should not be allowed to flaunt the law and ignore the statutory right to appeal in this manner. Competing bidders who know or should know that the time for appeal could not have run should not be able to take advantage of such premature and incorrect notices that a stay has been lifted. As the OPA noted in JMI Edison, the automatic stay under 5 GCA §5415(g) remains in effect from the timely filing of a procurement protest through the timely filing of a notice of appeal to the OPA until a final resolution. JMI Edison, OPA-PA-13-010, *supra* at p. 1 (Sept. 20, 2013). “Final resolution” of a protest includes the time period of an appeal after a protest. *Id.* Action on a procurement is stayed until resolution of the appeal. *Id.* The stay should remain in effect here.

**C. CONCLUSION**

GDOE's disregard of the statutory stay poses immediate and irreparable harm to G4S and threatens the integrity of Guam's procurement system. or the foregoing reasons, G4S's motion should be granted.

Respectfully submitted,

DOOLEY ROBERTS & FOWLER LLP

Date: October 21, 2013

By: Seth Forman  
**SETH FORMAN**  
Attorneys for Appellant G4S Security  
Systems (Guam) Inc.