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RECEIVED
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 PROCUREMENT APPEALS

DATE: 11-20-17
 TIME: 11:48 AM PM BY: [Signature]
 FILE NO OPA-PA: 17-016

Attorneys for Appellant
Core Tech International Corp.

BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

IN THE APPEAL OF) Docket No. OPA PA-17-10
)
 CORE TECH INTERNATIONAL CORP.,) **DECLARATION OF ANITA P. ARRIOLA**
) **IN SUPPORT OF APPELLANT CORE**
 Appellant.) **TECH INTERNATIONAL CORP.'S**
) **MOTION FOR SANCTIONS AGAINST**
) **DEPARTMENT OF PUBLIC WORKS**
) **FOR FAILURE TO FILE AND SERVE**
) **TIMELY AND COMPLETE**
) **PROCUREMENT RECORD**

ANITA P. ARRIOLA declares:

1. I am the attorney for Appellant Core Tech International Corp. ("CTI") in the above-captioned matter. I make this declaration in support of CTI's Motion for Sanctions against the Department of Public Works ("DPW"). I have personal knowledge of the facts contained herein and if called as a witness could and would testify competently thereto.

2. Under the deadline contained in 2 GAR, Div. 4, § 12103(c)(3), DPW was required to file and serve the complete Procurement Record in this matter on October 30, 2017. DPW

failed to do so. It filed a portion of the Procurement Record on October 31, 2017 with the Office of the Public Auditor (OPA, but failed to serve me with a copy.

3. DPW then filed a supplement to the Procurement Record on November 3, 2017, and again failed to serve me with a copy of the supplemental filing.

4. On November 13, 2017, DPW filed its Agency Report and another supplement to the Procurement Record. On the same day, I was served with a copy of the Agency Report and a compact disk containing only the contract that is the subject of this appeal. This is the only procurement record filing ever received by me.

5. At the pre-hearing conference in this matter on November 8, 2017, DPW's counsel informed the OPA and me that he had previously provided responses to Appellant's Sunshine Act requests and that these same documents were filed as the "Procurement Record." *Recording of Pre-Hearing Conference of Nov. 8, 2017* at 11:00. He stated that his staff "was still copying the procurement record." *Id.* at 11:02. However, I do not know whether they are the same documents because I have not received copies of the Procurement Record filed with the OPA prior to November 13, 2017. I do not agree that responses to CTI's Sunshine Act requests constitute the "complete" procurement record required by the Rules.

6. At the pre-hearing conference the Hearing Officer expressly ordered DPW to ensure that the procurement record was turned over to me. *Recording of Pre-Hearing Conference of Nov. 8, 2017* at 11:05.

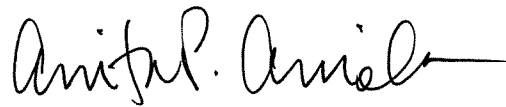
7. On November 14, 2017 I wrote an email to DPW's counsel asking when I would receive the procurement record. He wrote back and indicated that I had been served a copy on November 13, 2017. I wrote back to inform him that I had only received the contract for the project and this was not the complete procurement record. A true and correct copy of the emails

are attached hereto as Exhibit 1. DPW's counsel wrote back, stating that he would "review with DPW and get back to you shortly." *Id.* As of today I have not received any further response from him. To date, three weeks after DPW was required to serve me with a copy of the complete procurement record, I have received only the contract between Appellant and DPW that is the subject of this appeal. More importantly, it appears that the procurement record is still incomplete, based upon DPW counsel's email, since he is still reviewing the matter with DPW.

8. CTI is severely prejudiced by the lack of a timely and complete Procurement Record, as CTI: (1) cannot adequately file an Exhibit List and Witness List currently due on November 22, 2017 without reviewing the procurement record; (2) cannot adequately support its Comments to DPW's Agency Report, which are due on December 1, 2017; (3) cannot adequately support a motion for partial summary judgment in the event the OPA agrees to allow leave to file one; and (4) cannot adequately prepare for the hearing in this matter when it has not received the procurement record well in advance of the hearing.

I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

Executed in Hagatna, Guam on this 20th day of November, 2017.



ANITA P. ARRIOLA

Anita Arriola

From: Tom Keeler <tkeeler@guamag.org>
Sent: Thursday, November 16, 2017 10:08 AM
To: Anita Arriola
Subject: RE: DPW Procurement Record

Anita,

I will review with DPW and get back to you shortly.

Tom

From: Anita Arriola [anitaarriola@arriolacowan.com]
Sent: Thursday, November 16, 2017 8:44 AM
To: Tom Keeler
Subject: RE: DPW Procurement Record

Tom,

I received a CD containing primarily the contract between DPW and Core Tech, but I do not believe that this is the entire procurement record required under the OPA rules.

Anita P. Arriola, Esq.

ARRIOLA, COWAN & ARRIOLA

259 Martyr Street, Suite 201

Calvo-Arriola Building

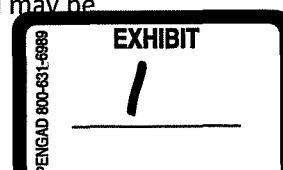
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-----Original Message-----

From: Tom Keeler [mailto:tkeeler@guamag.org]
Sent: Wednesday, November 15, 2017 10:04 AM
To: Anita Arriola <anitaarriola@arriolacowan.com>
Subject: RE: DPW Procurement Record

Anita,

The procurement record was served on your office on Monday, November 13, 2017. Attached is a copy of your offices acknowledgment. Please advise if any concerns. Thanks.

Tom

From: Tom Keeler
Sent: Wednesday, November 15, 2017 9:39 AM
To: Anita Arriola
Subject: RE: DPW Procurement Record

Anita,

DPW filed the procurement record with the OPA on Monday. Your office should have been served with a disc at that time. I am following up with my secretary and will get back to you shortly.

Tom

From: Anita Arriola [anitaarriola@arriolacowan.com]
Sent: Tuesday, November 14, 2017 4:18 PM
To: Tom Keeler
Subject: FW: DPW Procurement Record

Tom,

Please see my email below – when will I receive the procurement record?

Anita P. Arriola, Esq.
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From: Anita Arriola [mailto:anitaarriola@arriolacowan.com]

Sent: Saturday, November 11, 2017 1:27 PM

To: 'Tom Keeler' <tkeeler@guamag.org>

Subject: DPW Procurement Record

Tom,

Please provide me with a copy of the procurement record you filed with OPA. I have been receiving the Sunshine Act responses from DPW piecemeal and I want to ensure I have the entire procurement record in order to make objections or request supplements to the record.

Thank you,

Anita P. Arriola, Esq.

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