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12 **THE OFFICE OF THE PUBLIC AUDITOR**

13 In the Appeal of:

14 Guam Publication, Inc.,

15 Appellant.

12) Appeal No.: OPA-PA-08-007

13)
14) **APPELLEE GENERAL SERVICES**
15) **AGENCY'S STATEMENT OF ISSUES**

16
17 **COMES NOW**, Appellee General Services Agency (GSA), by and through its counsel
18 of record, DONNA E. LAWRENCE, ESQ., and hereby submits its statement of issues presented
19 on this appeal and in the record:

- 20
- 21 1. Whether the two issues raised in PDN's protest dated March 7, 2008, which was
22 denied on March 10, 2008, are time-barred from being heard on this appeal that
23 was filed on May 14, 2008.
 - 24 2. Whether the three issues raised in PDN's protest dated April 7, 2008 were timely
25 raised.

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FILE No. OPA-PA -08-007

- 1 3. Whether PDN knew or should have known of the issue relating to Marianas
2 Variety's qualifications prior to bidding on the IFB.
- 3 4. Whether GSA properly exercised its discretion, and did not act arbitrarily or
4 contrary to law in determining that Marianas Variety's failure to submit a
5 Statement of Qualifications was minor.
- 6 5. Whether the issue of the failure of Marianas Variety to submit a Statement of
7 Qualifications is an issue relating to a bidder's responsibility or responsiveness to
8 the IFB.
- 9 6. If the failure to submit a Statement of Qualifications is an issue related to a
10 bidder's responsibility, then whether PDN has standing to protest or appeal the
11 decision by GSA that Marianas Variety was qualified to perform the IFB despite
12 its failure to submit its Statement of Qualifications.
- 13 7. Whether PDN has actually been prejudiced by Marianas Variety's failure to
14 submit a Statement of Qualifications.
- 15 8. Whether the OPA deems PDN's failure to submit an irrevocable and binding offer
16 to the IFB as a material omission by PDN.
- 17 9. Whether GSA treated Marianas Variety and PDN fairly and equally throughout
18 the bidding process.
- 19 10. Whether GSA had adequate grounds on which to determine that Marianas
20 Variety was qualified to bid on the IFB prior to the recommendation of such
21 award to Marianas Variety.
- 22 11. Whether GSA had adequate grounds for determining that Marianas Variety was
23 the lowest responsible and responsive bidder.
- 24 12. Whether GSA was required to specify the distribution/circulation in the IFB when
25 the requirements were set forth under the applicable election laws.
13. Whether the formats of the election notices to be published were unfairly skewed
in favor of Marianas Variety as of the date of its bid on March 12, 2008.
14. Whether Marianas was a responsible and responsive bidder under the IFB.
15. Whether PDN was a responsible and responsive bidder under the IFB.

- 1 16. Whether the failure by Marianas Variety to submit a Statement of Qualifications
2 had a negligible effect on price, quantity, quality, delivery, or contractual
3 conditions.
4 17. Whether any or all of PDN's grounds for its protest dated April 7, 2008, are
5 frivolous.
6 18. Whether PDN's protest dated April 7, 2008, was made solely to disrupt the
7 procurement process.
8 19. Whether GSA's counsel should be awarded reasonable attorney's fees pursuant to
9 5 G.C.A. § 5425(h).

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12 **RESPECTFULLY SUBMITTED** this 12th day of August 2008.

13 OFFICE OF THE ATTORNEY GENERAL
14 **Alicia G. Limtiaco, Attorney General**

15 By: 

16 Donna E. Lawrence, Assistant Attorney General
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