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RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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FILE NO OPA-PA: 16-006, 16-008

**IN THE OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEAL**

IN THE APPEAL OF:

**BASIL FOOD INDUSTRIAL SERVICES
CORPORATION,**

Appellant.

) DOCKET NO. OPA-PA 16-006

) DOCKET NO. OPA-PA 16-008

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**GENERAL SERVICES AGENCY
RESPONSE TO APPELLANT'S
OBJECTIONS**

The General Services Agency ("GSA") hereby submits the following responses to Appellant Basil Food Industrial Services Corporation's objections to the witness list and exhibits.

An appeal to the Public Auditor is not a trial. It is an administrative proceeding, informal and expedited. It is not bound by statutory rules of evidence, or by technical or formal rules of procedure, pursuant to 2 GAR 4 section 12108(d). There is no jury, but rather an experienced Hearing Officer who has the expertise and discretion to handle all evidence and weight it accordingly.

Joshua J.A. Mafnas is a material witness in this matter. Knowing that Appellant was prohibited from using its Anigua facility while closed with a "D" rating on May 31, 2016, he

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attempted to locate where Appellant was going to prepare food for the following day. It was then he discovered that Appellant was blatantly breaking Guam law by preparing food at the Anigua location. This was yet another instance of Appellant disregarding the rules, and is presented to show the disgusting and illegal pattern of behavior displayed by Appellant during its contract. Mr. Mafnas' employment matters not. If a civilian with no contacts to the procurement had taken this video, it would still be highly relevant and highly probative. The video was supplied as evidence as soon as it was in GSA's possession, which was the reason for the delay.

Exhibit B, which Appellant objects to as not being in the procurement record and withheld from FOIA requests, was created subsequent to both of those productions, as evidenced by the dates indicated on the exhibit. Appellant then objects to "portions" of Exhibit C without being specific as to which parts, making it an impossible task for GSA to argue against unless it addressed the admissibility of every single word and page, which is humanly impossible to do in the time prior to the hearing. Regarding the photos of the inspection, the photos are of Appellant's own facility, which it has had access to throughout the proceedings, and of food reports and information available in the Food Establishment Inspection Reports, which it has had in its possession. Exhibit E is relevant because Appellant made it an issue when it submitted a document from the Mayor's Council into the record.

Respectfully submitted this 12th day of August, 2016.

OFFICE OF THE ATTORNEY GENERAL
Elizabeth Barrett-Anderson, Attorney General

By:



NICOLAS TOFT
Assistant Attorney General