

Suite 401 DNA Building  
 238 Archbishop Flores St.  
 Hagåtña, Guam 96910



# FAX

<b>To:</b>	<b>Miguel Bordallo, P.E.</b> <b>General Manager</b> Guam Waterworks Authority Gloria B. Nelson Public Service Building 688 Route 15 Mangilao, Guam 96913	<b>From:</b>	<b>Doris Flores Brooks</b> <b>Guam Public Auditor</b> Office of Public Accountability
<b>Phone:</b> <b>Fax:</b>	(671) 300-6846 (671) 648-3290	<b>Pages:</b>	5 (including cover page)
<b>CC:</b>	<b>Steven Carrara</b> <b>(Attorney for Appellant IP&amp;E Holdings LLC)</b> P.O. Box 2881 Barrigada, Guam 96921	<b>Date:</b>	September 22, 2016
<b>Phone:</b> <b>Fax:</b>	(671) 646-1222 (671) 646-4723	<b>Phone:</b> <b>Fax:</b>	475-0390 x. 208 472-7951

**Re:** OPA-PA-16-013 Notice of Receipt of Appeal

Urgent     For Review     Please Comment     Please Reply     Please Recycle

**Comments:**

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,  
 Jerrick Hernandez  
 Auditor  
[jhernandez@guamopa.org](mailto:jhernandez@guamopa.org)

This facsimile transmission and accompanying documents may contain confidential or privileged information. If you are not the intended recipient of this fax transmission, please call our office and notify us immediately. Do not distribute or disclose the contents to anyone. Thank you.



OFFICE OF PUBLIC ACCOUNTABILITY  
Doris Flores Brooks, CPA, CGFM  
Public Auditor

September 22, 2016

Miguel Bordallo, P.E.  
General Manager  
Guam Waterworks Authority  
Gloria B. Nelson Public Service Building  
688 Route 15  
Mangilao, Guam 96913  
**VIA FACSIMILE: (671) 648-3290**

Re: Notice of Receipt of Appeal – OPA-PA-16-013

Dear Mr. Bordallo,

Please be advised that IP&E Holdings LLC (IP&E) filed an appeal with the Office of Public Accountability (OPA) on September 21, 2016 regarding the Guam Waterworks Authority (GWA) Invitation for Bid No. 2016-09, Diesel Fuel No. 2 and Automotive Gasoline, Regular Unleaded. OPA has assigned this appeal case number OPA-PA-16-013.

Immediate action is required of GWA pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA's office and on its website at [www.opaguam.org](http://www.opaguam.org). The notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeals. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), please submit one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated, to OPA by **Thursday, September 29, 2016**, five work days following receipt of this notice of appeal; and one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §12105, by **Thursday, October 6, 2016**, ten work days following receipt of this notice of appeal.

When filing all other required documents with our office, please provide one original and two copies to OPA, and serve a copy to IP&E. OPA respectfully asks that GWA provide one original and two copies of the procurement record as the Guam Procurement Law and Regulations require

only one copy. The three procurement record copies requested by OPA are distributed as follows:  
Copy-1: Master File; Copy-2: Public Auditor; and Copy-3: Hearing Officer.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at 475-0390 ext. 208 or [jhernandez@guamopa.com](mailto:jhernandez@guamopa.com), or Rodalyn Gerardo at ext. 204 or [rgerardo@guamopa.com](mailto:rgerardo@guamopa.com), should you have any questions regarding this notice.

Sincerely,



Rodalyn Gerardo  
Audit Supervisor

Enclosure: Notice of Appeal – OPA-PA-16-013

CC: Steven Carrara, Attorney for IP&E

Steven Carrara  
IP&E Holdings LLC  
P.O. Box 2881  
Barrigada, Guam 96921  
Telephone No. (671) 646-1222  
Fax No. (671) 646-4723  
E-mail: Steven.Carrara@itehq.net

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
DATE: 09-21-16  
TIME: 3:00  AM  PM BY: [Signature]  
FILE NO OPA-PA: 16-013

Attorney for Appellant  
IP&E Holdings, LLC

THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Procurement Appeal of ) NOTICE OF PROCUREMENT APPEAL  
)  
IP&E HOLDINGS, LLC., ) Docket No. OPA-PA 16-013  
)  
Appellant. )

Appellant Information:

IP&E Holdings, LLC. (IP&E)  
646 Chalan San Antonio  
Tamuning Guam 96913-3644

Tel: 647-0123  
Fax: 649-4353

Appeal Information:

- A) Guam Water Authority (“GWA”), Consolidated Commission on Utilities (“CCU”).
- B) Invitation for Bid N0. GPA 2016-09 for the Supply of Diesel Fuel Oil No. 2 and Automotive Gasoline (Regular Unleaded) for GWA Transportation Fleet and Heavy Equipment.
- C) Decision being appealed is the GWA Denial of Protest, dated September 16, 2016.
- D) Appeal is made from a decision on protest of notice of award.
- E) Names of Competing Bidders: Mobil Oil Guam, Inc., South Pacific Petroleum Inc.

Form and Filing:

On or about August 8, 2016, GWA issued an invitation for bid GPA -2016-09 for the procurement of diesel (50,000 gallons) and automotive fuel (115,000) for the GWA Fleet.

Bid opening was initially scheduled for August 25, 2016 but extended by GWA amendment No. 1 to September 7, 2016. On or about September 14, 2016, GWA issued its intent to make award to Mobil Oil Guam.

On or about September 16, 2016, IP&E filed its agency protest with the contracting officer that based on the estimated quantities provided in the IFB, IP&E was the lowest bidder. (Attachment A). On September 16, 2016, GWA denied the protest taking the position that award was based on current trends rather than the quantities set forth in the IFB. (Attachment B).

It is IP&E position that GWA was required to use the estimated quantities provided in the IFB for evaluation and award rather than unknown factors which were stated in the agency response. The use of this unstated award criteria in clearly in contravention of the IFB terms and Guam procurement law. Had the quantities changed within the three month cycle of this procurement, the estimates could have easily been addressed through IFB modification.

Declaration regarding court action:

IP&E confirms that an action in court has not been commenced.

Dated this 21st day of September 2016.

IP&E HOLDINGS LLC.

By:

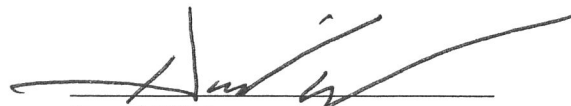


Steven Carrara  
General Counsel

#### VERIFICATION

I, David Wisher, Chief Financial Officer, for IP&E Holdings LLC, hereby declare under penalty of perjury under the laws of Guam that I have read the foregoing Notice of Appeal and that it is true and correct of my own knowledge, except as to those matter alleged upon information and belief and as to those matters, I believe them to be true.

Dated this 21st day of September 2016.



David Wisher

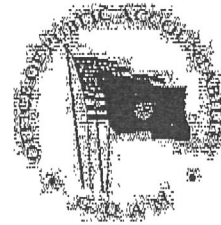
## TRANSACTION REPORT

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## BROADCAST

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001	SEP/22	08:47AM	6483290	0:02:07	5	MEMORY OK	G3 8401
002		08:50AM	6464723	0:01:14	5	MEMORY OK	SG3 8401
TOTAL				0:03:21	10		

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Thank you,

Jerrick Hernandez

Auditor

[jhernandez@guamopa.org](mailto:jhernandez@guamopa.org)