

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



# FAX

<b>To:</b>	<b>Mr. Jesse Garcia</b> <b>Acting Deputy Director</b> Department of Public Works 542 North Marine Corps Drive Tamuning, Guam 96913 Fax: (671) 649-6178	<b>From:</b>	<b>Benjamin J.F. Cruz</b> <b>Guam Public Auditor</b> Office of Public Accountability
	<b>Mr. Thomas Keeler</b> <b>Assistant Attorney General</b> Office of the Attorney General of Guam 590 S. Marine Corps Drive, Suite 706 Tamuning, Guam, 96913 Fax: (671) 472-2493	<b>Pages:</b>	3 (including cover page)
<b>CC:</b>	<b>Mr. Jeffrey Voacolo</b> <b>Chief Operations Officer</b> Micronesia Renewable Energy, Inc. 167B E.T. Calvo Memorial Parkway Tamuning, Guam 96913 Phone: (671) 632-2613 Fax: (671) 647-8035	<b>Date:</b>	February 19, 2019
	<b>Mr. Willam Hagen</b> <b>Pacific Solar &amp; Photovoltaics</b> P.O. Box 6754 Tamuning, Guam 96913 Phone: (671) 632-4002 Fax: (671) 637-7996	<b>Phone:</b>	(671) 475-0390 x. 208
		<b>Fax:</b>	(671) 472-7951

**Re:** OPA-PA-18-007 Decision and Order RE Purchasing Agency's Motion for Summary Judgement

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Thank you,  
 Jerrick Hernandez  
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**BEFORE THE PUBLIC AUDITOR  
PROCUREMENT APPEALS  
TERRITORY OF GUAM**

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In the Appeal of )  
Micronesia Renewable Energy, Inc., )  
Appellant. )

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**Appeal No: OPA-PA-18-007**

**DECISION AND ORDER RE  
PURCHASING AGENCY'S MOTION  
FOR SUMMARY JUDGEMENT**

To: **Purchasing Agency:**  
Department of Public works  
C/O Tom Keeler, Esq.  
Assistant Attorney General  
Office of the Attorney General of Guam  
590 S. Marine Corps Drive, Suite 706  
Tamuning, Guam, 96913  
Facsimile: (671) 472-2493

**Appellant:**  
Micronesia Renewable Energy, Inc.  
C/O Jeffrey Voacolo, Chief Operations Officer  
167B E.T. Calvo Memorial Parkway  
Tamuning, Guam 96913  
Telephone: (671) 632-2613  
Facsimile: (671) 647-8035

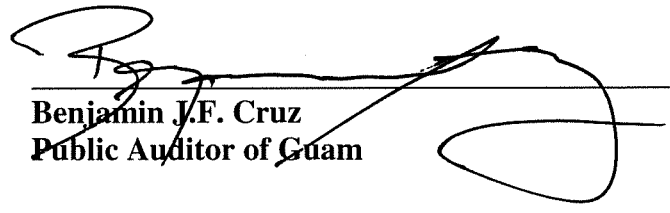
**THIS MATTER**, came before the Public Auditor on February 7, 2019 for a hearing on Purchasing Agency's Motion for Summary Judgement. JOE ROSARIO, BD Director and DOROTHY SCHULTICE, Commercial Solar Energy Advisor, appeared on behalf of the Appellant, and was not represented by counsel. JESSE GARCIA, Acting Deputy Director appeared on behalf of the Purchasing Agency and was represented by its counsel of record, TOM KEELER, ESQ, Assistant Attorney General. After reviewing the record in this matter and after hearing the arguments of the Parties, the Public Auditor hereby FINDS and ORDERS the following:

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1.) Rule 56 of the Guam Rules of Civil Procedure (GRCP) cited by the Purchasing Agency in support of its motion for Summary Judgment is applicable and granted regarding the issue of whether DPW awarded the contract to the lowest responsive and responsible bidder, as it is a fact clear in record and that the parties do not dispute.

2.) The Public Auditor finds that the issue of whether Pacific Solar & Photovoltaics, Inc. ("PSP") bid was properly filed in Compliance with Guam's Procurement Law and the Invitation for Bid's instructions is not clear in the record and/or disputed by the parties. Therefore, the Motion for Summary Judgment for this issue is denied. The parties may still stipulate to this fact pursuant to 2 G.A.R., Div. 4, Chap. 12, §12108(d) at or prior to the hearing. Otherwise, the Appellant will have to prove their case at the February 25, 2019 hearing in this matter.

**SO ORDERED** this 19<sup>th</sup> day of February, 2019 by:

  
\_\_\_\_\_  
**Benjamin J.F. Cruz**  
**Public Auditor of Guam**

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<b>CC:</b>	<b>Mr. Jeffrey Voncolo</b> Chief Operations Officer Micronesia Renewable Energy, Inc. 167B E.T. Calvo Memorial Parkway Tamuning, Guam 96913 Phone: (671) 632-2613 Fax: (671) 647-8035	<b>Date:</b>	February 19, 2019
	<b>Mr. William Hagen</b> Pacific Solar & Photovoltaics P.O. Box 6754 Tamuning, Guam 96913 Phone: (671) 632-4602 Fax: (671) 637-7996	<b>Phone:</b>	(671) 475-0390 x. 208
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