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OFFICE OF THE PUBLIC AUDITOR

GUAM

IN THE APPEAL OF
GUAM PUBLICATIONS, INC.

Appellant.

APPEAL NO. OPA-PA-08-007

**STIPULATIONS OF FACT AND
EVIDENCE**

The parties stipulate the following facts, which need not be proven at the August 22, 2008 hearing:

1. General Services Agency (GSA) issued an invitation to bid for the advertisement of the election notices on February 5, 2008, in the Marianas Variety newspaper.
2. The solicitation for the advertisement of election notices is known as GSA-012-08, which has been submitted as PDN's Ex. 1 and GSA's Ex. A.

3. The IFB sought bids for the following election notices:

<u>Item</u>	<u>Specification</u>	<u>UOM</u>
1.1	2.4 Notice of Board Meetings & Other Election Information	28

2.1	2 x 5 Election Notices regarding Early Voting/Absentee & other election information	25
3.1	3 x 6 Election Notices regarding polling sites	10
4.1	4 x 5 Election Notices regarding Candidates	11
5.1	4 x 13 Sample Ballots	10
6.1	5 x 7 Precinct Official Seminar Schedules	8
7.1	5 x 15 List of Precinct Officials	6

4. The initial IFB was amended to add Item 8.1, which was a 5 x 14 ad size for the list of precinct officials. The Amendment is noted in "Amendment # 2" submitted as PDN's Ex. 4 and GSA's Ex. I.

5. PDN submitted two written inquiries to GSA prior to its bid on the IFB relating to the issues of the ad size and the distribution/circulation required under the specifications. Those two written inquiries have been submitted as PDN's Exhibits 2 and 5, and GSA's Exhibits C and E. GSA's written responses to these two inquiries are submitted as PDN's Exhibits 4 and 8 and GSA's Exhibits D and F.

6. The bids were opened on March 12, 2008.

7. Marianas Variety and Guam Publications, Inc. (PDN) were the only two bidders on the solicitation, GSA-012-08.

8. PDN submitted two alternative bids on Items 1.1 - 8.1 of the amended IFB for a distribution of 26,000 and a distribution of 10,000. Its bids were as follows:

a. PDN's bid for 10,000 pieces:

<u>Item</u>	<u>Specification</u>	<u>UOM</u>	<u>Unit Cost</u>	<u>Total Cost</u>
1.1	2.4 Notice of Board Meetings & Other Election Information	28	\$91.20	\$2,553.60

2.1	2 x 5 Election Notices regarding Early Voting/Absentee & other election information	25	\$114.00	\$2,850.00
3.1	3 x 6 Election Notices regarding polling sites	10	\$205.20	\$2,052.00
4.1	4 x 5 Election Notices regarding Candidates	11	\$228.00	\$2,508.00
5.1	4 x 13 Sample Ballots	10	\$592.80	\$5,928.00
6.1	5 x 7 Precinct Official Seminar Schedules	8	\$399.00	\$3,192.00
7.1	5 x 15 List of Precinct Officials	6	\$855.00	\$5,130.00
8.1	5 x 14 List of Precinct Officials	6	\$798.00	\$4,788.00

b. PDN's bid for 26,000 pieces:

<u>Item</u>	<u>Specification</u>	<u>UOM</u>	<u>Unit Cost</u>	<u>Total Cost</u>
1.1	2.4 Notice of Board Meetings & Other Election Information	28	\$236.00	\$6,630.40
2.1	2 x 5 Election Notices regarding Early Voting/Absentee & other election information	25	\$296.00	\$7,400.00
3.1	3 x 6 Election Notices regarding polling sites	10	\$532.80	\$5,328.00
4.1	4 x 5 Election Notices regarding Candidates	11	\$592.00	\$6,512.00
5.1	4 x 13 Sample Ballots	10	\$1,539.20	\$15,392.00
6.1	5 x 7 Precinct Official Seminar Schedules	8	\$1,036.00	\$8,288.00
7.1	5 x 15 List of Precinct Officials	6	\$2,220.00	\$13,320.00
8.1	5 x 14 List of Precinct Officials	6	\$2,072.00	\$12,432.00

9. PDN submitted a Statement of Qualifications in its bid.

10. Marianas Variety submitted a bid on Items 1.1 through 7.1 as follows:

<u>Item</u>	<u>Specification</u>	<u>UOM</u>	<u>Unit Cost</u>	<u>Total Cost</u>
1.1	2.4 Notice of Board Meetings & Other Election Information	28	\$86.40	\$2,419.20
2.1	2 x 5 Election Notices regarding Early Voting/Absentee & other election information	25	\$108.00	\$2,700.00

3.1	3 x 6 Election Notices regarding polling sites	10	\$194.40	\$1,944.00
4.1	4 x 5 Election Notices regarding Candidates	11	\$216.00	\$2,376.00
5.1	4 x 13 Sample Ballots	10	\$561.60	\$5,616.00
6.1	5 x 7 Precinct Official Seminar Schedules	8	\$378.00	\$3,024.00
7.1	5 x 15 List of Precinct Officials	6	\$810.00	\$4,860.00

11. Marianas Variety did not submit a Statement of Qualifications with its bid.

12. Marianas Variety did not submit a bid for Item 8.1.

13. PDN's complete bid has been submitted as PDN's Ex. 8 and GSA's Ex. N.

14. Marianas Variety's complete bid has been submitted as PDN's Ex. 9 and

GSA's Ex. M.

15. During the bid opening, GSA staff prepared a bid abstract, submitted as

PDN's Ex. 7 and GSA's Ex. O.

16. GSA prepared an Inter-Office Memorandum, submitted as PDN's Ex. 10,

which contains GSA's assessment of the bids.

17. Marianas Variety was deemed by GSA to be the lowest responsible and

responsive bidder for GSA-012-08 on Items 1.1 through 7.1, as noted in the Bid Status

Memorandum submitted as PDN's Ex. 11 and GSA's Ex. P.

18. PDN protested GSA's award on April 7, 2008. The protest has been

submitted in the Supplemental Procurement Record, and GSA's Ex. S.

19. GSA denied PDN's protest, dated April 7, 2008, on May 1, 2008. That

denial has been submitted as Tab 2 in the Procurement Record, and GSA's Ex. T.

20. PDN filed its appeal on May 14, 2008.

21. PDN's appeal is based on the denial of its April 7, 2008 protest.

22. Amendment # 1 to the IFB amended the bid opening date from February 19, 2008, to February 29, 2008.

23. Amendment # 2 to the IFB amended the bid opening date from February 28, 2008, to March 4, 2008, and amended the IFB to include Item 8.1, the 5 x 14 List of Precinct Officials.

24. Amendment # 3 to the IFB amended the bid opening date from March 4, 2008, to March 7, 2008.

25. Amendment # 4 to the IFB amended the bid opening date from March 7, 2008, to March 12, 2008.

26. With the exception of GSA's Exhibit G, any evidence presented at the hearing that was included in the Procurement Record and Supplemental Procurement Record is duly authenticated.

It is PDN's position that the issue pertaining to the timeliness of PDN's protest has been resolved by virtue of the August 8, 2008 Decision and Order re Purchasing Agency's Motion to Dismiss Appellant's Procurement Appeal. Nevertheless, PDN and all parties hereby stipulate that:

27. PDN filed a protest on GSA-08-012 on March 7, 2008, which GSA denied on March 10, 2008.

28. PDN did not appeal the denial of its March 7 protest to the Office of the Public Auditor.

29. PDN's March 7 protest has been submitted in the Procurement Record at Tab 3 and GSA's Ex. Q. GSA's March 10 denial has been submitted in the Supplemental Procurement Record and GSA's Ex. R.

DATED: Hagåtña, Guam, August 21, 2008.

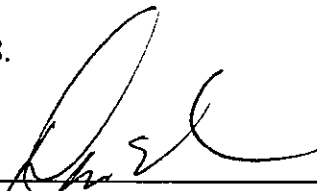
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