



DEPARTMENT OF EDUCATION

OFFICE OF THE SUPERINTENDENT



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Superintendent of Education, Acting

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STANDARD OPERATING PROCEDURES

SOP#: 200-040

- I. SUBJECT** **Procedures for Protest Resolution and Appeals**
- II. INQUIRIES** **Office of Supply Management “Procurement Office”**
- III. PURPOSE**

These are the Standard Operating Procedures ("SOP") for Protest Resolution and Appeal. The Superintendent of Education or his delegate, the Supply Management Administrator ("SMA"), as the Head of a Purchasing Agency has the authority to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract prior to the commencement of an action in court. This authority shall be exercised in accordance with applicable local and federal statutes and regulations.

- IV. APPLICABILITY**
Except as otherwise provided by law, these Procedures shall apply to the management of all Guam Department of Education ("GDOE") purchases, paid with GDOE local funds or out of monies under the control of GDOE; for example, US Department of Education grant funds and other US federal grant funds. These procedures are related to the processes conducted by procurement and end users. Procedures used by the Legal Section, the Office of Attorney General or the Office of Public Accountability are not within the scope of this SOP.

This SOP supersedes all previous SOPs relevant to this topic.

- V. REFERENCES**
To fully understand what is required for the proper procurement of goods, services and construction, the Standard Operating Procedures (SOP) contained throughout this document must be consulted and carefully followed. A working knowledge of the prerequisites contained below will also be helpful.
 - A. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, in particular, 2 CFR §§200.318-200.326
 - B. USDOE Special Conditions issued annually in June
 - C. Guam Code Annotated, Title 5, Division 1, Chapter 5, Guam Procurement Law
 - D. Guam Administrative Rules and Regulations, Title 2, Division 4, Procurement Regulations

VI. KEY TERMS

The words defined are commonly used purchasing terms. The following terms are not intended to be legal definitions.

Appeal: An application for a decision to be reversed.

Appellant: An aggrieved person or organization who appeals GDOE's decision to their protest, with the Office of the Public Auditor for a resolution.

Agency Report: A list of documents required by the Guam Office of Public Accountability when an Appeal is filed.

Interested Party: An actual or prospective bidder, offeror, or contractor that may have a substantial and reasonable prospect of receiving an award if the Appeal is denied.

MUNIS: The financial management information system purchased from Tyler Technologies in September 2011 and operational in April 2012. Tyler's MUNIS is a resource planning solution which integrates our core financial functions, among them are procurement, fixed assets receiving and fixed assets inventory.

Procurement File: A complete record of procurement which includes, but is not limited to, (a) the date, time, subject matter and names of participants at any meeting including government employees that is related to the procurement; (b) a log of all communications between government employees and any member of the public, potential bidder, vendor or manufacturer which is related to the procurement; (c) sound recordings of all pre-bid conferences and negotiations arising from a request for proposal and discussions with vendors concerning small purchase procurement; (d) brochures and submittals of potential vendors, manufacturers or contractors, all drafts and other papers or materials used in the development of specifications; and (e) the requesting agency's determination of need.

Protest: A formal declaration of disapproval or objection issued by a concerned person, group or organization.

Protestor: Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract and who filed a protest.

Stay: The act of temporary halting any procurement procedures.

VII. PROCESS FOR PROTEST RESOLUTION

A. Step 1: Complaint to Procurement Officer

1. Complainants should seek resolution of their complaints initially with the buyer in charge of the procurement in the GDOE Procurement Office. Such complaints may be made verbally or in writing.
2. If a complaint is received orally or if the submitted document, including emails, does not clearly indicate protest, the buyer must immediately confirm with the complainant whether the concern lodged is a protest and explain that any protest lodged must be made in writing, in duplicate, indicate protest on the face of the document and addressed to the Supply Management Administrator. This communication with the complainant must be documented, shared with the SMA, and made part of the procurement file.

3. Buyer should address complaints as quickly as possible to mitigate the risk of protest.

B. Step 2: Filing a Protest

1. A protest must be made in writing and filed in duplicate with the Supply Management Administrator within **fourteen (14) calendar days** after the protestor knows or should have known the facts giving rise to the protest. The protest is officially filed when the SMA receives the protest in writing.
2. When a protest has been received in the Procurement Office, **this document must be submitted to our Legal Counsel immediately** for proper handling of the protest to determine whether a stay should be put in place. The procurement office will consult daily with the Legal Counsel for further instructions regarding said protest to ensure timelines are not missed.
3. The End User should also be informed that a protest has been received and should be kept in the loop throughout the process.
4. Any protest filed after the fourteenth (14th) calendar day, shall not be considered. The SMA will prepare a determination letter documenting the decision for the procurement file. The protestor will be notified of the decision in writing by the SMA of such within one (1) business day of receipt of the protest.
5. Protestors may file a protest on any phase of solicitation or award including, but not limited to specifications preparation, bid solicitation, award, or disclosure of information marked confidential in the bid or offer.
6. In order for a Protest to be considered, it should indicate "PROTEST" and must contain the following:
 - a. Name & Address of the Protestor
 - b. Appropriate Identification of the Procurement
 - c. Contract number or purchase order number (if the award has been made)
 - d. Statement or Purpose (reason) for the protest
 - e. Supporting Exhibits, evidence, documents to substantiate any claims. If supporting documents are not available at the filing of the protest, the expected availability date shall be indicated.
7. **Requested Information.** Any additional information requested by any of the parties should be submitted within the time periods established by the SMA in order to expedite consideration of the protest. Failure to comply expeditiously with a request for information by the Supply Management Administrator may result in resolution of the protest without consideration of any information which is untimely filed pursuant to such request.

C. Step 3: Stay of Procurement During a Protest

When a protest has been filed within the fourteen (14) calendar days after the protestor knew or should have known the facts giving rise to the protest and before an award has been made, the SMA should not make an award of the contract prior to final resolution of such protest.

1. In consultation with Legal Counsel, a notice shall be issued to all interested bidders or offerors that a protest has been submitted and a Stay of Procurement is in place. This document should be placed in the procurement file.
2. The stay may be lifted if the following conditions exist:
 - a. In consultation Legal Counsel, the Supply Management Administrator makes a written determination that the award of the contract without delay is necessary to protect the substantial interest of the Government of Guam or Guam Department of Education; and

- b. Absent a declaration of emergency, the protestor has been given at least two (2) business days of notice (exclusive of Government of Guam holidays) to respond to the determination and has not responded; and
- c. If the protest is pending before the Court, the Court has confirmed such determination, or if no such protest is pending before the Court, no protest to the Court of such determination if filed prior to the expiration of the two (2) business day period.

D. Step 4: Making Information on Protest Available

1. When a written request is submitted to the SMA, GDOE shall make available to any interested party, information submitted that bears on the substance of the protest except where information is proprietary, confidential, or otherwise permitted or required to be withheld by law or regulation.
2. Persons who wish to keep such information submitted by them confidential should so request by specifically identifying such information within the documents submitted, and indicating on the front page of each document that it contains such information.

E. Step 5: Decision by the Supply Management Administrator

1. Time for Decisions: A decision on a protest shall be made as expeditiously as possible after receiving all relevant, requested information.
 - a. If a protest is sustained, i.e., GDOE agrees with the merits of the protest, the available remedies include, but are not limited to: **Determination that Solicitation or Award Violates Law, Violation of Law found Prior to Award, Ratification, Termination or Cancellation of Contract to Comply with Law or these Regulations**.
 - b. If a protest is denied, GDOE shall provide reason(s) for the denial in detail, ensuring that every part of the protest is addressed.
2. A copy of the decision as contained in this section shall be made or otherwise furnished immediately to the protestor and any other party intervening and placed in the procurement file. The decision shall contain the procedures for a Request for Reconsideration.
3. Bid Preparation Costs: In addition to any other relief, GDOE shall award the protestor the reasonable cost incurred in connection with the solicitation and protest, including bid preparation costs, excluding attorney's fees, when a protest is sustained and the protesting bidder or offeror should have been, but was not awarded the contract under the solicitation.
4. GDOE shall have the power to assess reasonable costs, other than attorney fees, incurred by the Government of Guam against a protestor upon a finding that the protest was made fraudulently, frivolously or solely to disrupt the procurement process.

F. Step 6: Request for Reconsideration

1. Request: Reconsideration of a decision of the SMA may be requested by the protestor, **within fifteen (15) calendar days** after receipt by the protestor of the notice of decision.
2. Reconsideration can also be requested by a protestor any interested party who submitted comments during consideration of the protest. The same fifteen (15) calendar day deadline applies.
3. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.
4. The SMA should respond to the Request in a timely manner but no longer than five (5) working days.

G. Step 7: Effect of Judicial or Administrative Proceedings

If an action concerning the protest has commenced in court, the SMA shall not act on the protest, but refer the protest to the GDOE Legal Counsel.

H. Step 8: Finality

A decision of the SMA is final unless a person adversely affected by the decision commences an action with the Office of Public Accountability (OPA) or the Superior Court.

VIII. PROCUREMENT APPEALS TO THE OFFICE OF PUBLIC ACCOUNTABILITY**A. Jurisdiction of the Public Auditor; Exhaustion of Remedies**

The Public Auditor shall have the power to review and determine *de novo* any matter properly submitted to the OPA.

B. Form and Filing of Appeal to Office of Public Accountability

A party wishing to appeal a decision of the SMA with the OPA should follow regulations set forth by the OPA for such appeal. The written Appeal shall be in the same format as **Appendix A – Notice of Appeal Form**.

C. Notice of Appeal, Submission of Report and Time for Filing of Comments on Report

1. The Appellant shall file a copy of the Appeal, and all supporting documents with GDOE within one business day of filing of said Appeal with the OPA.
2. GDOE Legal Counsel shall give notice of the Appeal to the contractor if award has been made or, if no award has been made, to all Interested Parties; shall instruct said parties
 - a. to communicate directly with the OPA regarding the status of the Appeal, and
 - b. directly with the SMA as allowed by law regarding the protested procurement action; and
 - c. shall communicate to the Public Auditor the identities and addresses of said parties.
3. When an Appeal is received by GDOE, the assigned Buyer for the procurement must provide a complete copy of the procurement record to GDOE Legal Counsel within two (2) working days.
4. GDOE Legal Counsel shall submit to the Public Auditor a complete copy of the procurement record relevant to the appeal within five (5) working days of receiving notice of an Appeal, in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents.
5. GDOE Legal Counsel shall additionally submit an answer to the appeal in the form of a detailed Agency Report, and shall furnish a copy of the report to the Appellant within ten (10) working days of receipt of the notice of Appeal of a Method, Solicitation, or Award; or notice of Appeal of a Suspension or within twenty (20) days of receiving notice of Appeal on a Contract Dispute, or notice of Appeal of a Debarment.
6. This Agency Report shall comply with the Agency Report requirements as stated in 2 GAR Administrations, Div. 4 Procurement Regulations, Chapter 12 Procurement Appeals to the Public Auditor.
7. Comments on the Agency Report by an Appellant or an Interested Party, including testimony and evidence by any competing bidder, offeror or contractor of the Appellant, shall be filed with the OPA within ten (10) days after the OPA's receipt of the report, with a copy to GDOE. Any rebuttal GDOE may care to make shall be filed with the OPA within five (5) working days after receipt by the OPA of the comments to which rebuttal is directed, with a copy to the Appellant. Unsolicited agency rebuttals shall be considered if filed within five (5) days after receipt by the OPA of the comments to which rebuttal is directed.

8. Failure of an Appellant or any Interested Party to comply with the time limits stated in this section may result in resolution of the Appeal without consideration of the comments untimely filed.
9. If GDOE considers that the Appeal, the Procurement File, the Agency Report, or any other report or material submitted contains material which shall be withheld pursuant to law or regulation, a statement advising of this fact must be affixed to the front page of the document and the allegedly exempted information must be so identified wherever it appears.
10. In order to expedite consideration of the Appeal, any additional information requested by the Hearing Officer shall be submitted within five (5) working days of receipt of such request unless another time is established in the request. Failure to comply expeditiously with a request for information by the Hearing Officer may result in resolution of the Appeal without consideration of any information, which is untimely filed pursuant to such request.
11. Any objection or motion addressed to the jurisdiction of the Public Auditor shall be promptly filed. Objection to the Public Auditor hearing the Appeal shall be filed within seven (7) days after the notice of Appeal is filed.

D. Agency Report

The Agency Report shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file and shall include the following, if not already submitted to the Office of Public Auditor's (OPA) as part of the procurement record:

1. A copy of the protest;
2. A copy of the bid or offer submitted by the Appellant and a copy of the bid or offer that is being considered for award or whose bid or offer is being protested, if any had been submitted prior to the protest;
3. A copy of the solicitation, including the specifications or portions thereof relevant to the protest;
4. A copy of the abstract of bids or offers or portions thereof relevant to the protest;
5. Any other documents which are relevant to the protest; including the contract, if one has been awarded, pertinent amendments, and plans and drawings;
6. The decision from which the Appeal is taken, if different than the decision submitted by Appellant;
7. A statement answering the allegation of the Appeal and setting forth findings, actions, and recommendations in the matter together with additional evidence or information deemed necessary in determining the validity of the Appeal. The statement shall be fully responsive to the allegations of the Appeal;
8. If the award was made after receipt of the protest, the report will include the determination required.
9. A statement in substantially the same format as **Appendix B – Declaration Form**, indicating whether the matter is the subject of a court proceeding.

E. Ex Parte Communications with Hearing Officer

No person directly or indirectly involved in an Appeal shall communicate with the Hearing Officer or the OPA staff regarding any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an Appeal except:

1. At a hearing;
2. With the consent of all other parties or their counsel in such matters;
3. In the presence of all other parties or their counsel in such matters; or
4. By means of papers provided for or allowed by the regulations or by law.

F. Hearings Procedures

1. GDOE Legal Counsel, in consultation with SMA, will make determination whether a hearing should be requested or whether it should be waived. Such request shall be made in writing in a form substantially similar to **Appendix D – Hearing Request/Waiver Form**.
2. Notice of Hearing: The Hearing Officer shall send a written notice of the time and place of the hearing to the Appellant and to GDOE at least ten (10) working days prior to the hearing unless the parties agree on a shorter period. Notices shall be sent by the Hearing Officer and shall substantially follow the format of **Appendix C – Notice of Hearing Form**. Notices of hearings shall be promptly acknowledged by GDOE Legal Counsel. The Hearing Officer can require attendance of parties he or she deems appropriate.
3. Hearing Proceedings: Hearings shall be as informal as may be reasonable and appropriate under the circumstances and shall not be bound by statutory rules of evidence or by technical or formal rules of procedure except as provided by the Guam Procurement Law, Chapter 5 of Title 5, Guam Code Annotated, and the procurement appeals regulations.
4. Record of Hearings: A hearing shall be recorded, but need not be transcribed, except at the request and expense of the person making the request. An audio copy of the recorded hearing shall be made available to the parties in electronic or digital format at a fee and shall be available on the website of the office of the Public Auditor, www.opaguan.org.
5. Public Hearings: Hearings are open and accessible to the public.

G. Hearing Officer

The Public Auditor may appoint a Hearing Officer or appoint and contract with a Guam-licensed attorney to act as Hearing Officer for Procurement Appeals.

H. Decisions of the Public Auditor

Within thirty (30) days of the hearing, the Hearing Officer will prepare a written determination of findings and recommend a course of action and the Public Auditor will issue a final written decision or take other appropriate action on each appeal submitted. Both the hearing Officer's determination and the Public Auditor's final decision shall recite the evidence relied upon, and shall be made part of the record. All decisions will be posted on the website of the Office of the Public Auditor within ten (10) days of issuance.

I. Finality of Decision

1. Upon receipt of a decision adverse to the interest of GDOE, the SMA will consult with Legal Counsel to determine if the OPA's decision should be appealed to the Superior Court of Guam.
2. The SMA in consultation with Legal Counsel should review the decision and take action as required.
3. A determination letter should be prepared by the SMA placed in the procurement file documenting the steps that will be taken subject to the OPA decision and consultation with legal counsel.

J. Appeal to the Public Auditor of Contract and Breach of Contract Controversies

Appeals shall be made in writing to the Public Auditor within sixty (60) calendar days after receipt by an aggrieved contractor of a decision on a contract or breach of contract controversy; within sixty (60) calendar days of the failure to render a timely decision; or within 60 calendar days of the time established by the parties for a decision to be rendered. Disputes having to do with money owed to or by the department shall not be submitted.

K. Review of Award Pending Protest or Appeal

1. Any protestor may protest a determination by GDOE, that award without delay of a contract pending Appeal is necessary to protect the substantial interests of the Government of Guam. Said protest must be filed in writing at the OPA within two (2) business days of receipt by protestor of the notice of determination. The Public Auditor will either confirm or reject the determination.
2. The SMA, in consultation with legal counsel, shall file with the OPA a copy of all determinations regarding the award of a contract made, on the date of issuance, together with any information used or considered by GDOE in making that determination.
3. Any additional information requested by the Public Auditor or Hearings Officer for Procurement Appeals shall be submitted within the time periods established by the requesting source in order to expedite consideration of the Appeal. Failure to comply expeditiously with a request for information by the Public Auditor or Hearings Officer for Procurement Appeals may result in resolution of the Appeal or review of award pending Appeal without consideration of any information, which is untimely, filed pursuant to such request.

L. Disqualification of Public Auditor

The Public Auditor may recuse herself or himself at any time and notify all parties, or any party may raise the issue of disqualification and state the relevant facts prior to the hearing. The Public Auditor shall make a determination and notify all parties. In the event of disqualification or recusal of the Public Auditor, a procurement appeal must be taken to the Superior Court of Guam.

IX. ROLES AND RESPONSIBILITES

The following are the key personnel in the Procurement process. The specific responsibilities and expectations of these individuals are delineated as follows:

A. Procurement Office:

The role of the Procurement Office is to provide leadership, guidance, and enforcement of the policies, regulations and procedures as stipulated in this document. The Procurement Office is the main point of contact for all questions or concerns regarding the Department's procurement activity.

B. End User:

Schools and Divisions are the ultimate End Users of the procured services, supplies, materials and equipment. End Users are responsible for initiating the purchase requisitions in the MUNIS system and for causing their approval. End Users may assign particular individuals for initiating requisitions in MUNIS.

C. Vendor:

The vendor is approved by the GDOE Procurement Office to provide goods/services/construction to GDOE schools/divisions.

D. Legal Counsel:

The GDOE Legal Section works with the Procurement Office to ensure that complaints, protests, or appeals are timely and appropriately responded to. The Legal Section also reviews and approves all Requests for Proposals and all Invitation for Bids over \$500,000 and works on contracts. Additionally, the Legal Section prepares contracts and Memorandums of Agreement to support the Procurement effort.

E. Superintendent of Education: (Chief Procurement Officer for GDOE)

The Superintendent of Education, as head of the Guam Department of Education, shall have general supervision of all procurement activity within the Guam Department of Education (GDOE), its schools and divisions. This responsibility shall not, however, relieve any school or division of their accountability for the procurement roles under its control. The Superintendent:

1. Shall ensure that all of those in a management capacity below him/her enforce the requirements contained in these Standard Operating Procedures.
2. Shall be responsive to violations and shall take the appropriate action.

F. Third Party Fiduciary (TPFA):

The TPFA is responsible for providing guidance, management leadership, and accountability of USDOE funded procurements. The TPFA has the final approval of procurement for all US Department of Education funds awarded to the department.

X. NON COMPLIANCE

The Superintendent, Deputy Superintendent of Finance & Administrative Services, and the Supply Management Administrator will be advised of any violations to procurement procedure. Non-compliance of any of the regulations set-forth in this document may result in disciplinary action, up to and including termination.

For questions or concerns regarding compliance, contact the Procurement Office.

XI. CONTACT INFORMATION

The Office of Supply Management is located at:

500 Mariner Avenue
A-Building, Suite A-13
Barrigada, Guam 96913

TELEPHONE: (671) 475-0438
FAX: (671) 472-5001
EMAIL: procurement@gdoe.net
WEBSITE: www.gdoe.net/procurement

XII. APPENDIX – OFFICE OF THE PUBLIC ACCOUNTABILITY FORMS

The following forms and samples are provided to ensure that the forms are filled out correctly to prevent delays in the processing of documents.

- Appendix A – Notice of Appeal Form
- Appendix B – Declaration Form
- Appendix C – Notice of Hearing Form
- Appendix D – Hearing Request/Waiver Form

Contact the Procurement office to obtain complete, printable copies of the forms (above), or for additional assistance.

XIII. INTERNAL CONTROL

The Supply Management Administrator and Buyer Supervisors are charged with ensuring the validity of these procedures and their compliance. The Internal Audit Office (“IAO”) will periodically validate these SOPs and recommend improvements where needed.

XIV. TRAINING

The Supply Management Administrator will ensure training is conducted and available for all GDOE and Private, Non-Public (“PNP”) End Users (school administrators, division heads and staff) on these procurement procedures at least once yearly. The Supply Management Administrator will seek opportunities for Procurement Office staff to be trained and updated on methods and regulations of procurement.

XV. REPORTS

The Supply Management Administrator will submit the following report to the Deputy Superintendent of Finance & Administrative Services:

- List of Protests to include date filed, party filing, IFB/RFP number, PO/Contract number, reason for protest and status of resolution, annually prepared by SMA.

XVI. PENALTY

Failure to adhere to this SOP may result in disciplinary action, up to and including termination, in accordance with the DOE Personnel Rules & Regulations.

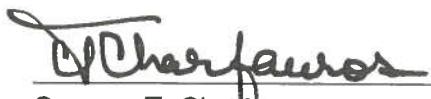
XVII. EFFECTIVE DATE

Upon date of approval and signature, unless otherwise noted.

XVIII. CHANGES

Changes to this policy shall be effectuated by the Superintendent of Education.

Approved by:



Carmen T. Chalfauros
Supply Management Administrator

1/24/17

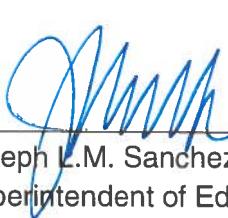
Date:



Taling M. Taitano
Deputy Superintendent of Finance and
Administrative Services

1/24/17

Date:



Joseph L.M. Sanchez
Superintendent of Education, Acting

1/26/17

Date:

APPENDIX

A THROUGH D

2 GAR - DEPARTMENT OF ADMINISTRATION
DIV. 4 - PROCUREMENT REGULATIONS
CH. 12 PROCUREMENT APPEALS TO THE PUBLIC AUDITOR

Appendix A: Notice of Appeal Form

PROCUREMENT APPEAL

PART I- To be completed by OPA

In the Appeal of _____)

(Name of Company), APPELLANT)
Docket No. OPA-PA _____)
_____)

NOTICE OF APPEAL

PART II- Appellant Information

Name: _____

Mailing Address: _____

Business Address: _____

Daytime Contact No: _____

I. PART III- Appeal Information

A) Purchasing Agency: _____

B) Identification/Number of Procurement, Solicitation, or Contract: _____

C) Decision being appealed was made on _____ (date) by:

Chief Procurement Officer

Director of Public Works

Head of Purchasing Agency

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

D) Appeal is made from:

(Please select one and attach a copy of the Decision to this form)

Decision on Protest of Method, Solicitation or Award

Decision on Debarment or Suspension

Decision on Contract or Breach of Contract Controversy

(Excluding claims of money owed to or by the government)

Determination on Award not Stayed Pending Protest or Appeal

(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

**2 GAR - DEPARTMENT OF ADMINISTRATION
DIV. 4 - PROCUREMENT REGULATIONS
CH. 12 PROCUREMENT APPEALS TO THE PUBLIC AUDITOR**

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

PART IV- Form and Filing

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;
2. A statement specifying the ruling requested;
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.

II. PART V- Declaration Re Court Action

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this _____ day of _____, 20_____.
[Handwritten signature]

By: _____
APPELLANT

or

By: _____
Appellant's Duly Authorized Representative

Address:

Phone No.:

**2 GAR - DEPARTMENT OF ADMINISTRATION
DIV. 4 - PROCUREMENT REGULATIONS
CH. 12 PROCUREMENT APPEALS TO THE PUBLIC AUDITOR**

Appendix B: Declaration Form

PROCUREMENT APPEAL

In the Appeal of _____

(Name of Company), APPELLANT
Docket No. OPA-PA _____

DECLARATION RE COURT ACTION

(To be signed by the Government Purchasing Agency.)

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this _____ day of _____, 20____.

By: _____
DECLARANT

Print Declarant's Name

**2 GAR - DEPARTMENT OF ADMINISTRATION
DIV. 4 - PROCUREMENT REGULATIONS
CH. 12 PROCUREMENT APPEALS TO THE PUBLIC AUDITOR**

Appendix C: Notice of Hearing Form

PROCUREMENT APPEAL

You are hereby notified that a hearing will be held before the Public Auditor or the Hearings Officer for Procurement Appeals at the Office of the Public Auditor on the _____ day of _____, 20____, at the hour of _____, relative to the above referenced Procurement Appeal. You may be present at the hearing; may be, but need not be, represented by counsel; may present any relevant evidence; and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Hearings Officer for Procurement Appeals, Office of the Public Auditor.

Please acknowledge receipt of this Notice and return to the Office of the Public Auditor immediately.

Acknowledged receipt:

Receiver's Signature

Print Name

Date

Appendix D: Hearing Request/Waiver Form

PROCUREMENT APPEAL

Please select one:

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

Submitted this day of , 20 .

By: (Please select one)

- APPELLANT
- Chief Procurement Officer
- Director of Public Works
- Head of Purchasing Agency

Print Name

Sign Name