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**GUAM DEPARTMENT OF EDUCATION**

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**BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

IN THE APPEAL OF

FUKUDA ENTERPRISES, LLC,

Appellant.

APPEAL NO.: OPA-PA-14-002

**REBUTTAL TO COMMENTS ON  
AGENCY REPORT**

In its Comments on Agency Report, Appellant Fukuda Enterprises, Inc. (“Appellant” or “Fukuda”) asserts that the protest submitted by Triple J Motors (hereafter “Triple J”) should have been treated “in the same manner as the requirement for pre-bid questions and responses as set forth in the IFB ... Fukuda and other bidders should have had an opportunity to see the issue being raised by Triple J and the response of GDOE. This would have allowed Fukuda and other potential bidders to comment both on the issue raised by Triple J and the GDOE response.” (Appellant’s Comments on Agency Report, filed May 9, 2014 at p. 2.)

Triple J’s protest was submitted as just that, a protest, and it was treated as such. Fukuda was given notice of the protest on December 20, 2013 when the Notice of Stay of Procurement was issued by Guam Department of Education (“GDOE”). See GDOE Exhibit 15. The stay was lifted on January 30, 2014. See GDOE Exhibit 16. Appellant could have requested a copy of Triple J’s protest any time after the stay was issued or lifted. Instead, Appellant proceeded with the procurement process and timely submitted its bid on February 19, 2014.

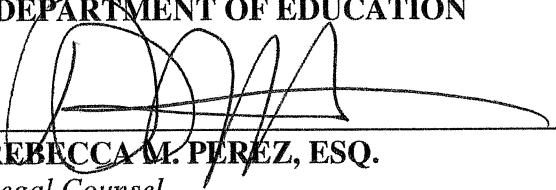
Appellant asks that the Invitation for Bid (“IFB”) underlying this appeal be reissued. However, Appellant’s ability to participate in a competitive procurement process has not been compromised. Fukuda was given equal opportunity to participate in the bid process, and did

1 submit a competitive bid. GDOE properly addressed the concerns raised in the protest filed by  
2 Triple J, and thereafter properly amended the specifications in the IFB to allow for increased  
3 competition. Appellant, along with other potential bidders, were given adequate time to  
4 reconsider their bids based on the amended specifications. For these reasons, GDOE's actions  
5 regarding the IFB should be found to be in accordance with applicable law and regulation;  
6 Appellant's requests herein should be denied; and this matter should be dismissed.

7 Dated this 15<sup>th</sup> day of May, 2014.

8 Respectfully submitted,

9 **GUAM DEPARTMENT OF EDUCATION**

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11 By:   
12 **REBECCA M. PEREZ, ESQ.**  
13 *Legal Counsel*

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