

John Thos. Brown  
General Counsel for Petitioner  
545 Chalan Machaute (Route 8 @ Biang St), Maite, Guam 96910  
Mail to: P.O. Box 7, Hagåtña, Guam 96932  
Ph: 477-7293; Fax: 472-6153  
[ingoz@ozemail.com.au](mailto:ingoz@ozemail.com.au)

**ORIGINAL**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
JUN 21 2012  
TRG 150pm gr. *[Signature]*  
FILE NO. 11-002

IN THE OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEAL

In the Appeal of	)	
	)	APPELLANT'S OPPOSITION TO
TOWN HOUSE DEPARTMENT STORES,	)	XEROX REQUEST TO ALLOW
INC., dba	)	APPEARANCE
ISLAND BUSINESS SYSTEMS	)	
& SUPPLIES,	)	DOCKET NO. OPA-PA-11-002
APPELLANT	)	
_____	)	

Appellant objects to Xerox' after-the-bell request to allow the appearance Jeff Dibella as a witness. Xerox claims his request is suddenly "critical to defend IBSS' claims that Xerox was a non-responsive bidder by including material terms and condition of contract beyond the requirements of the IFB".

IBSS' claim was made in the protest, on December 16, 2011, and raised again in the appeal herein. Xerox had ample time to figure out who its witnesses might be in defense of the claim. The deadline for submission of witnesses, under the Scheduling Order dated May 31, 2012 was June 18, 2012 at 5 p.m. Xerox did file its Witness List by that time. Xerox had ample time to discover and name the proposed witness and failed to do so.

Furthermore, Xerox proffers no basis for calling its "critical" witness. He is not identified, his role, if any in this matter is not described, and his relevance and the knowledge he may bring to this claim is not suggested. If the rules are to be set aside, surely some showing of cause must be made.

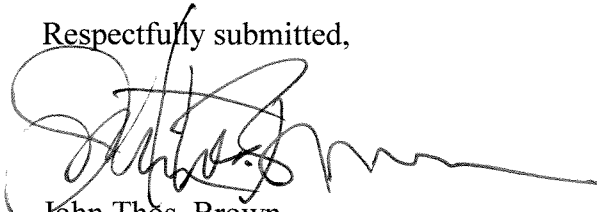
And more to the point, Appellant formally requested that Xerox provide Appellant copies of all correspondence relating to this IFB in its Request filed February 15, 2011. The Request specified, "Correspondence includes communication to, from or with any person, including any persons within Xerox Corporation, and any persons within DOE, and whether any such person is

authorized to correspond or communicate or not." Xerox demurred.

Xerox, in its Opposition, claimed all such correspondence was either in the procurement record, or was contested confidential bid information, and that the remainder was "proprietary or irrelevant". Having claimed that all such other correspondence was irrelevant to the appeal, Xerox has waived introduction of other persons within Xerox Corporation as witnesses to this matter since they obviously did not take part in it.

Finally, Mr. Dibella's name and signature is absent on all bid and procurement record documents. Xerox was represented in its bid dealings, at various times, by at least three local employees, all of whom may be called to provide a defense of Appellant's claim.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Thos. Brown", with a long horizontal flourish extending to the right.

John Thos. Brown  
June 21, 2012  
for Appellant