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GPA's Filing of Hearing Brief and Submission of Transcripts (OPA-PA-21-012)

Brenda P. Aguon <bpaguon@gpagwa.com>

Fri, May 30, 2025 at 4:41 PM

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Hafa Adai Mr. Jerrick Hernandez & Ms. Mariella Cruz,

Submitted through electronic filing are the following:

1. GPA's Hearing Brief (on remand from Case No. CV0207-22) (total of 14 pages)
2. GPA's Submission of Transcripts (total of 235 pages)

Two binders will be submitted to the OPA on Monday (06/02/25). Please acknowledge receipt of this email and attachments.

Thank you -Brenda

**Saina Ma'āse****Brenda Ferez Aguon**

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2 attachments**25-05-30_Graphics Center, OPA-PA-21-012 Submission of transcripts_ w attachment.pdf**
5519K**25-05-30_Graphics Center, OPA-PA-21-012 Hearing brief w table.pdf**
254K

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OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS


IN THE APPEAL OF)	APPEAL NO. OPA-PA-21-012
)	
Graphic Center, Inc.,)	
)	GPA'S SUBMISSION OF TRANSCRIPTS
Appellant.)	
_____)	

The Guam Power Authority (GPA) hereby submits transcripts from the evidentiary hearing held before this tribunal on February 4, 2022, of the following witnesses who were called by the parties to testify:

- (1) Chris Biolchino (Graphic Center)
- (2) Jesse Rosario (Graphic Center)
- (3) James Borja (GPA)¹
- (4) John Kim (GPA)
- (5) Dawn Fejeran (GPA)
- (6) Kelly Law (InfoSend)
- (7) Matthew Schmidt (InfoSend).

Respectfully submitted this 30th day of May, 2025.

Attorney for Guam Power Authority



Marianne Woloschuk
GPA Legal Counsel

¹ In the interests of completeness, GPA has included transcripts of the testimony of James Borja and John Kim (both of GPA), which were previously prepared by appellant Graphic Center and submitted by OPA counsel on March 8, 2022, to the court in *Graphic Center, Inc. v. GPA*, Superior Court of Guam Case No. CV0207-22 (complaint seeking judicial review of decision of the OPA).

BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM

IN THE APPEAL OF) DOCKET NUMBER OPA-PA-21-012
)
)
Graphic Center, Inc.,)
)
Appellant.)
)
)

TRANSCRIPTION
OF
OFFICE OF THE PUBLIC AUDITOR
FORMAL HEARING

February 4, 2022

(Jesse Rosario)

ORIGINAL

PREPARED BY: GEORGE B. CASTRO
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**BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM**

IN THE APPEAL OF)	DOCKET NUMBER OPA-PA-21-012
)	
)	
Graphic Center, Inc.,)	
)	
Appellant.)	
)	
)	

Transcription of **Office of The Public Auditor Formal Hearing** of OPA-PA-21-012, in the Appeal of Graphic Center, Inc., February 4, 2022, at Suite 401 DNA Building, 238 Archbishop Flores St., Hagatna, Guam. That at said time and place there transpired the following:

APPEARANCES

Public Auditor	Benjamin J.F. Cruz
Guam Power Authority	Graham Botha, Esq.
Graphic Center Inc.	James M. Maher, Esq.
InfoSend, Inc.	Roxana Weil, Esq.
Also Present	Jerrick Hernandez and Thyrza Bagana.

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George B. Castro
Court Reporter**

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2

3

4

Jesse Rosario

5 being duly sworn, was examined and testified as
6 follows:

7

8

9

DIRECT EXAMINATION

10 BY MR. MAHER:

11 Q Good morning, Jesse.

12 A Good morning.

13 Q Where do you work?

14 A I work at Graphic Center.

15 Q How long have you worked there?

16 A About 25 years.

17 Q Okay. And what is the nature of the work
18 you perform?

19 A I'm in charge of sales side of the
20 Graphic Center.

21 Q Okay. And how many employees does
22 Graphic Center have?

23 A About 33.

24 Q Okay. Fulltime employees?

25 A Fulltime.

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1 Q Okay. And in your 25 years at Graphic
2 Center, have you bid on government contracts?

3 A Yes, I am in charge of bidding government
4 and -- government contracts.

5 Q Okay. So, you are familiar with the
6 procurement process?

7 A Yes. Yes, I am.

8 Q Okay. Now, I'm referring to this RFP
9 which I believe is GPA-RFP-21-002. I guess it
10 was made May of 2021. Are you familiar with that?

11 A Yes, I am.

12 Q Okay. And I believe, correct me if I'm
13 wrong, that this RFP was actually first issued
14 in February 2021?

15 A The first shows --

16 Q It cancelled. Do you know?

17 A I believe it was in December 2021.

18 Q Okay. So, when I'm referring to the RFP,
19 the proposal, I'm referring to the one that was
20 issued in May of 2021; okay?

21 A Yes.

22 Q Okay. And if you recall in this
23 particular proposal, this RFP, how many bidders
24 were there; how many offerors?

25 A For the one we're talking about, I

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1 believe there's three total including myself.
2 Including Graphic Center.

3 Q So, that's Graphic, InfoSend; and who is
4 the third one?

5 A I forget, Moonlight? I forget the name.

6 Q They are from Oregon?

7 A Yes.

8 Q Okay. And if you know, what happened to
9 Moonlight?

10 A Yeah. After we requested for the,
11 requested for the, I guess, the copy of the
12 Freedom of Information Act, only then that we
13 realized that they were disqualified because they
14 didn't attach the document.

15 Q So, Moonlight was disqualified?

16 A I think they -- yes. It stated that, I
17 think they did not have, fill out the statement
18 of qualification form and as well didn't indicate
19 who the shareholders were.

20 Q Okay. And when you say you asked for --
21 well, explain first, did you have any questions
22 of GPA before you submitted your packet or your
23 offer?

24 A Yes, I did. I was going through the
25 offer, the package, I prepared it to submit it

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1 before the date, and I noticed that one of the
2 requirements was that I have to include Exhibit
3 A into our packet.

4 Q Okay. So, would you look at Exhibit 3?
5 Exhibit 3 of our --

6 A Okay.

7 Q Okay, of our trial exhibits.

8 A Yes.

9 Q Okay. Now, who is Dawn Fejeran?

10 A Dawn Fejeran, she works for GPA and she's
11 the person that's sending us the -- corresponding
12 with as far as the question I asked regarding
13 Exhibit A.

14 Q So, you asked a question of GPA through
15 Dawn Fejeran; is that correct?

16 A Yes, that is correct.

17 Q Okay. And do you see your question
18 there?

19 A Yes, I do.

20 Q Okay. And what was the nature of your
21 question; why were you asking a question?

22 A Because after looking at the -- preparing
23 the proposal for submittal, I realized that
24 Exhibit A wasn't -- it said it was required to
25 be submitted into the proposal. And when I looked

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1 at Exhibit A, it was just a bunch of dates listed,
2 about 10 pages of dates; it didn't make sense for
3 us to put that in the proposal. So, I asked what
4 Exhibit A was. And then I got an email back
5 saying -- giving us a list of 70 questions of
6 what Exhibit A entails, which is a lot of
7 questions.

8 Q Okay. So, you send this email to Ms.
9 Fejeran on May 25th?

10 A Yes.

11 Q And you're asking a question about
12 Exhibit A. Now, is Exhibit A just a bunch of
13 billing cycles?

14 A Yes. In the original proposal, original
15 proposal RFQ, it had just a bunch of dates. But
16 when I saw, so I questioned it and Ms. Fejeran
17 sent me an email of an Excel document that had
18 over 70 questions that had to be included in the
19 packet which was considered Exhibit A.

20 Q Okay. So, your question, you end your
21 question with -- or your inquiry with, Not sure
22 what to do here. Thank you so much and have a
23 wonderful day. Kind regards, Jesse Rosario.
24 Correct?

25 A Correct. Yes.

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1 Q Okay. So, and then Exhibit 2, if you
2 turn to Exhibit 2, you're seeking a
3 clarification; is that correct?

4 A Yes. That is correct.

5 Q Okay. So, if we turn to Exhibit 2, we
6 see -- well, what do we see? It's dated May, 27,
7 2021. What do we see on Exhibit 2; what is that
8 thing?

9 A Yes. This is what I was given after I
10 asked the question, which is Exhibit A, which
11 held all 70-plus questions that had to be
12 included into the packet.

13 Q Okay. So, if you turn over that. And
14 that's signed by Mr. Benavente; correct?

15 A Yes.

16 Q Well, signed by somebody on his behalf?

17 A Right.

18 Q Okay. But if you turn to the third, or
19 the next page, I should say .

20 A Uh-huh.

21 Q You got one, two pages. It's kind of
22 small, very hard to read; but are those the 70
23 questions that you're referring to?

24 A Yes, this was the 70 questions that I was
25 referring to that was considered Exhibit A that's

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1 stated in the packet that it was a requirement,
2 or else we will be disqualified.

3 Q Okay. Okay. So, if we turn to Exhibit
4 5.

5 A Uh-huh.

6 Q Okay. You see Exhibit 5?

7 A Yes, I do.

8 Q Okay. And what is that?

9 A It was an email sent by Mrs. Fejeran
10 saying that he's (sic) sending me the Exhibit A
11 by email.

12 Q She's asking you to acknowledge it;
13 correct?

14 A Yes.

15 Q Okay. And she says it's an amendment
16 number relative to the above subject bid. Is
17 that correct?

18 A Correct. Uh-huh.

19 Q So, our chronology here is you have an
20 inquiry, you seek a clarification on May 25th,
21 2021.

22 A Uh-huh.

23 Q You received an amendment with the 70
24 questions on May 27th, 2021.

25 A Yes.

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1 Q From Mr. Benavente. And then the
2 following day, Ms. Fejeran contacts you and says,
3 "Please acknowledge the amendment to this bid
4 that I sent you."

5 A Yes.

6 Q Did I get that right?

7 A That is correct.

8 Q Okay. And we have 70 questions. And
9 what do those questions pertain to?

10 A Well, all of them are very crucial
11 questions. They're questions of yes and no
12 answers with explanation. It basically outlines
13 if we're able to comply or be able to do the type
14 of work that they're asking for.

15 Q So, does it relate to the RFP printing,
16 mailing, and processing services?

17 A Yes, it does.

18 Q So, those 70 questions directly address
19 those three functions of the services to be
20 rendered to GPA; is that correct?

21 A Yes.

22 Q Okay.

23 A Correct.

24 Q Now, Jesse, I want you to turn to Exhibit
25 1. And I'm going to direct your attention to

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1 Section 1.5.

2 A One (point) five. Sorry, *Explanation to*
3 *Offerors?*

4 Q Yeah.

5 A Uh-huh.

6 Q So, you sought clarification or an
7 explanation from Ms. Fejeran; correct?

8 A Yes.

9 Q Okay. And you got a response?

10 A I did.

11 Q Okay. From GPA. And if I go down to the
12 second, I go down to the second -- or, yeah, the
13 second line. Let me just read this and you tell
14 me if I'm reading this correctly.

15 Offeror should act promptly and allow
16 sufficient time for a reply to reach them before
17 the submission of your proposals. Okay?

18 Third sentence. Interpretations, if
19 required, shall be made in a form of an amendment
20 to the specifications which will be forwarded to
21 all perspective offerors and is received by the
22 offeror shall be acknowledged on the proposal
23 form. So, you were seeking an interpretation
24 from GPA; correct?

25 A That's correct.

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1 Q Okay. And they responded?

2 A Yes.

3 Q Okay. And would you agree therefore
4 that's an amendment to the specifications of the
5 RFP?

6 A Yes, it is.

7 Q Okay. And it was forwarded to you?

8 A Uh-huh.

9 Q Just right here. And you answered the
10 questions? Graphic Center, I don't mean you.
11 Correct?

12 A Right. Yes.

13 Q Okay.

14 A We submitted Exhibit A in our proposal.

15 Q So, it was included in your proposal?

16 A Yes.

17 Q And your proposal was timely submitted;
18 correct?

19 A (no audible response)

20 Q Okay. Now, let's look at Exhibit 4.

21 A InfoSend's response?

22 Q Yeah.

23 A Yes.

24 Q Now, have you reviewed this?

25 A Yes, I was able to -- I got the

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1 opportunity to review it under the Freedom of
2 Information Act.

3 Q Okay. And just tell us, did InfoSend
4 answer the questions contained on the amendment
5 that was provided to you by GPA?

6 A I looked at the packet and I didn't see
7 Exhibit A or any other questions answered.

8 Q By InfoSend?

9 A By InfoSend.

10 Q Okay. So, back to Exhibit 7, the Oregon
11 group.

12 A Yes.

13 Q Moonlight.

14 A Moonlight.

15 Q Now, if we go to Exhibit 15.

16 A Yes.

17 Q Okay. Have you seen Exhibit 15 before?

18 A I just -- just now.

19 Q Oh, just now?

20 A Right.

21 Q Okay. Just take a minute, just take a
22 look at it. I can represent to you it's a letter
23 from GPA from Mr. Benavente to a Peter Nye who
24 apparently works for Moonlight BPO who is a
25 bidder.

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1 A Yes.

2 Q Okay. And what is this?

3 A So, this is basically a letter stating
4 that they got disqualified because they didn't
5 include an affidavit. Oh, they did include an
6 affidavit -- (pauses) -- oh, sorry. It says,
7 yeah, Affidavit of Disclosure, Major Shareholders
8 is rejected due to no entry in affidavit aside
9 from the notarized signature.

10 Q So, they were rejected because they
11 didn't comply with the RFP requirement --

12 A Yeah.

13 Q -- of a shareholder disclosure?

14 A Uh-huh.

15 Q Okay. And so, let's go back to
16 InfoSend's failure to answer the questions on the
17 exhibits. What has been your experience when the
18 offeror does not comply with the --

19 A I've seen this many, many times in this
20 business that something as simple as a signature,
21 it gets disqualified. And with GPA's RFP, I was
22 reading it very carefully and I believe it was
23 Section 2.12. And that's where I -- that's why
24 I questioned it because it said we must include
25 Exhibit A, or else it'll be disqualified. And

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1 just go back to two paragraphs. I think it says,
2 oh yeah, 2.12 on Exhibit 1.

3 Q Uh-huh.

4 A It says, *Required Forms*. All offerors
5 are required to submit current affidavits as
6 required by the law, failure to do so will mean
7 disqualification and rejection of the proposal.
8 And it listed all the forms that's required. And
9 under G, it says Exhibit A. And that's why I
10 questioned when I received Exhibit A, it was just
11 a bunch of dates. I didn't know what we were
12 supposed to sign or submit. So, I questioned and
13 that's how we -- that's why I sent that email.

14 Q Okay.

15 A Because I've seen many people just gets
16 disqualified for something as simple as a
17 signature.

18 Q Okay.

19 MR. MAHER: No further questions.

20 HEARING OFFICER: Mr. Botha.

21 MR. BOTHA: Can you share a copy of GPA's
22 2?

23 MR. MAHER: Sure.

24 MR. BOTHA: Because I don't have. It's
25 tabbed. So go to tab 2.

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CROSS EXAMINATION

BY MR. BOTHA:

Q Okay. First of all, if you turn to -- in the GPA 1, Tab B, and that would be Amendment 1.

A Yes.

Q Okay. And I think that was the one that you indicated that Mr. Maher questioned you that you had responded to all of the questions contained there. Is that accurate?

A This is the response, yes, that I received from Ms. Fejeran from my questions.

Q Okay. So, that's actually Amendment 1; is that correct?

A That's correct. Yes.

Q Okay. And then if you would turn to Tab D, which is the *Graphic Center RFP Proposal*?

A Yes.

Q Okay. And does that look like what, as near as you can tell, what was submitted by Graphic Center?

A Yes, this is what -- yes.

Q Okay. So, could you turn to -- turn to page 465? Would you turn to page 468? Basically four pages in.

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1 A Uh-huh.

2 Q The numbers are right on the top of the
3 page.

4 A Okay.

5 Q Those are the original procurement
6 record.

7 A And what was the number again?

8 Q Page 468. It starts at page 465, so it's
9 --

10 A Okay. I am at 465, yeah.

11 Q Okay. And do you see, is there is a
12 Section G there?

13 A Section G. Yes, there is.

14 Q Okay. And that would be titled *Special*
15 *Handling*?

16 A That's correct.

17 Q Okay. And on that page, do you show any
18 submissions on that -- is there a yes or a no and
19 explanation on that section?

20 A On Section G? No.

21 Q Okay. So, just like what you said
22 earlier, on that particular section there was no
23 answer provided by Graphic Center. Is that
24 accurate?

25 A For Section G, that is correct.

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1 Q Okay. And then if you turn two pages
2 later to page 470, at the very top.

3 A Uh-huh.

4 Q And that would be in Section. And go to
5 Section M. And that would be titled *Disaster*
6 *Recovery*?

7 A That's correct.

8 Q Okay. Did you have any yes, no, or
9 explanations in that particular question as well?

10 A No, it did not.

11 Q Okay. So, Section G, I guess in Section
12 M, would you say that that was part of the 70
13 questions that should've been responded to in
14 Exhibit A?

15 A Yes, that is correct.

16 Q Okay. Fair enough. Okay. And then would
17 you turn to Exhibit E?

18 A B?

19 Q No, E. E as in egg.

20 A All right.

21 Q Okay. And Mr. Maher asked you whether
22 you had an opportunity to review the InfoSend
23 proposal.

24 A Yes.

25 Q Oh, you did. Okay. So, that starts at

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1 page 360. If you would turn to page 380, at the
2 very top.

3 A Yes.

4 Q Okay. And on that, do you find, on 380,
5 do you find a Section G, *Special Handling*?

6 A Yes, I do.

7 Q Okay. And does -- you know, you can read
8 it over if you'd like. Does InfoSend, having
9 provided a response to that Section G, whether
10 you agree with or not, it's not material; did
11 they provide a response?

12 A No, they didn't.

13 Q Okay. So, we're looking at page 380.

14 A Yes.

15 Q Okay. And under G, entitled *Special*
16 *Handling* on there?

17 A There is. Yes.

18 Q Okay. And is there something under that
19 section?

20 A Yes, there is.

21 Q Okay. And then would you turn to page
22 387?

23 A Okay.

24 MR. MAHER: What exhibit are you on,
25 Graham?

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1 MR. BOTHA: I'm on Exhibit E.

2 MR. MAHER: E?

3 MR. BOTHA: Okay. Yeah.

4 BY MR. BOTHA:

5 Q And that is the InfoSend proposal?

6 A Yes.

7 Q Okay. And page 387, does that have a
8 heading titled *Disaster Recovery* on it?

9 A Yes, it does.

10 Q Okay. Okay. And then if we can turn to
11 Tab A.

12 A Tab A.

13 Q And that would be the original RFP.

14 A Okay.

15 Q And then if you go to page 528.

16 A Five twenty-eight. Yes.

17 Q Okay. And does that have a *Scope of Work*
18 section to which any vendor would have to
19 respond?

20 HEARING OFFICER: What page was that
21 again, Mr. Botha?

22 MR. BOTHA: I'm sorry, 528.

23 A I'm sorry, the question again?

24 BY MR. BOTHA:

25 Q Okay. So, does that have the *Scope of*

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1 Work and did Graphic Center respond to the Scope
2 of Work in 528 through 530?

3 A We didn't respond to that because that
4 wasn't a requirement for us to respond to. It
5 was just a scope of work outlining what they
6 expect from us. It wasn't a question or answer.

7 Q Okay. But your proposal responded to
8 those items A through Q?

9 A Based on Exhibit A, they asked questions
10 regarding the scope of work. The scope of work
11 was just a summary, it wasn't specific questions
12 like Exhibit A was. So, we did not include that
13 in our packet because it wasn't asked for.

14 Q But in your packet, you've responded to
15 the request that were in the original RFP, right?

16 A I don't understand the question.

17 Q Okay. When you prepare a response, you
18 said that you've done a lot of government
19 procurements. For an RFP, you have to respond
20 to what the agency is asking for, right?

21 A Yes, that's correct.

22 Q Okay. All right. And then if you turn
23 to page 531.

24 A Uh-huh.

25 Q Section titled *RFP Evaluation Criteria*.

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1 What do you understand that to be?

2 A That this is what they're going to rate
3 our packet, these questions or these criteria's.

4 Q Okay. And so, your proposal obviously
5 contained items that you believe would satisfy
6 those criteria. Is that accurate?

7 A Yes.

8 Q Okay.

9 MR. BOTHA: We don't have any further
10 questions for Mr. Rosario.

11 HEARING OFFICER: Do you have a follow
12 up?

13 MR. MAHER: Sure. A few questions.

14

15 **RE-DIRECT EXAMINATION**

16 BY MR. MAHER:

17 Q Jesse, Graham just referred to the RFP,
18 E and B, Section 5.0 which is the RFP Evaluation
19 Criteria. Do you recall that?

20 A Yes.

21 Q Okay. Could you look at 2.3 on the RFP?

22 A Standards for Determination of Most
23 Qualified Offeror?

24 Q Yeah.

25 A Yes.

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1 Q The *Standards for Determination of Most*
2 *Qualified Offeror*. Now, would you agree with me
3 that this would appear to be the criteria by which
4 GPA determines the most qualified offeror?

5 A Yes, I do.

6 Q Okay. So, it's under the General Terms
7 and Conditions. Correct?

8 A Correct.

9 Q Okay. So, at the very back of this, we
10 have, I guess it was page 531, another criteria.
11 At least it's denominated as a criteria; correct?

12 A Correct.

13 Q So, which one applies, if you know?

14 A (pauses)

15 Q Well, would you agree with me this is a
16 little bit confusing as to what criteria was
17 used?

18 A Yes, that's correct. If they use this.

19 Q So, you say if they use that. Do we know
20 what they use?

21 A Well, I have no -- I didn't know -- before
22 submitting the proposal, I wouldn't know, only
23 until we receive the whole packet; and we saw
24 these other sheets and the questions with the
25 criteria's was different than what's stated here.

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1 Q So, the 5.0 criteria appears to have been
2 used, I think that's our Exhibit 12 A through E,
3 but yet, the actual RFP contains a criteria that
4 is different from 5.0, that criteria being set
5 forth in 2.3 of the RFP; is that correct?

6 A Yes, that's correct.

7 Q Okay.

8 MR. MAHER: No further questions.

9 HEARING OFFICER: Anything further?

10 MR. BOTHA: Nothing further.

11 HEARING OFFICER: Thank you.

12

13 **WITNESS RECALL - JESSE ROSARIO**

14

15 MR. MAHER: One moment. Okay. We call
16 Jesse Rosario.

17 THE WITNESS: (approaches the bench)

18 HEARING OFFICER: You are still under
19 oath.

20

21 **FURTHER REDIRECT EXAMINATION**

22 BY MR. MAHER:

23 Q Okay, Jesse. Now, we've had a lot of
24 discussion about whether Exhibit A was in effect
25 answered by InfoSend's original response; okay?

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1 Your testimony in effect this morning was it had
2 not responded. So, I want you to now tell the
3 tribunal by looking at Exhibit A, which is our
4 Exhibit 2, from the questions there, and based
5 of your review of InfoSend's response, tell the
6 tribunal what InfoSend didn't answer.

7 A Okay. Within the RFP, they didn't do a
8 lot of, not questions but almost like a scope of
9 work, that they call it. And within the scope
10 of work, the categories, they were somewhat
11 similar to the end where it talks about
12 communication, security; and GPA sort of outlined
13 the scope of work of what they are expecting from
14 the offeror. But it didn't ask us to answer,
15 they're just basically telling us what to expect.

16 So, when it stated that Exhibit A was to
17 be included, I looked at Exhibit A and it again
18 was nothing but just date cycle. So, I raised a
19 question. So, when I received the actual Exhibit
20 A with the 75 questions and I compared it with
21 InfoSend's, there's about 50% of these questions
22 were not answered. You would have to go in there
23 and sort of assume that they're able to do or
24 answer the question correctly or even able to
25 provide some of the services that Exhibit A has

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1 asked.

2 For example, maybe something very simple
3 I could point out is, under Category C/

4 Q Okay.

5 A Bill Format Software, something simple as
6 C10, *Can you produce bills and batches? Future*
7 *option.* It was a basic yes and no answer.

8 Q Uh-huh.

9 A And within their proposal, they didn't
10 answer that. Other things, C16, C17, *Can your*
11 *systems of work (inaudible)?* And then by 17, or
12 then by 14, *Can your system support that format?*
13 Obviously, if you look at -- if you go through
14 their packet, one may assume that they're able
15 to do it, but they didn't answer the question.

16 Q Okay.

17 A And almost all of these 75 questions,
18 were questions yes and no answers, and to
19 explain. And we missed out two. But this is
20 Exhibit A. And the reason why I brought up the
21 question of recruitment is because back in,
22 again, in Section 2.12, it clearly states that
23 if you do not include Exhibit A, then you're just
24 automatically basically disqualified. So, I was
25 just -- but that's why I brought that question

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1 up.

2 Q Okay. What else didn't they answer?

3 A I mean, if you go through each and every
4 one, if you really look at it and just the number
5 of colors able to use, and that's a question in
6 Exhibit A, you got to go back and read the whole
7 paragraph of InfoSend's brochure on the scope of
8 work to say that, "Oh, we're able to produce
9 multiple types," but it didn't answer the
10 question. Actually, the question was, number of
11 colors you're able to use.

12 Q Okay.

13 A You know what I mean? So, I mean, they're
14 all questions, but you have to answer yes or no
15 to explain. They didn't do that. Again, their
16 answers were a summary of what they can do like
17 you company brochure answering the scope of work
18 that GPA is not outlining with the offeror.

19 Q So, you are saying you'd have to infer an
20 answer based on what they provided?

21 A Basically.

22 Q But they didn't actually answer the
23 question?

24 A They didn't answer any of the questions.

25 Q Okay. Well, what about in, I don't know,

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1 electronic archive; is that the same situation?
2 That's Section D.

3 A Well, again, it is just how you read it.
4 There's these questions in this question, *Do you*
5 *have electronic archive capabilities? If so,*
6 *what type?* And if you refer to their proposal,
7 it says, *We have archive capabilities, all sorts*
8 *of.* You know, they're not answering the
9 questions outlined on the Exhibit A. As you can
10 see.

11 Q Okay. Okay.

12 A And if I may, you know, the original
13 proposal did have an Exhibit A. And it was 10
14 pages of dates and cycles. I've been doing RFP
15 on Guam -- I've been doing this for 5 years, and
16 I argue two or three a year. If you don't even
17 include that 10 pages, that's considered invalid
18 if you didn't include Exhibit A; which happens
19 to be the 10 pages. Just print it out, put it
20 in the packet, that's part of Exhibit A. If
21 you're going to refer to the original RFP.

22 Q I see. So, the other categories, is your
23 testimony, it goes all the way down through
24 what's A through, what is this, it looks like P?

25 A Yeah, they didn't have Q in theirs. So,

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1 I guess they got off the scope of work side; it
2 wasn't part of Exhibit A. But they went up to
3 Q.

4 Q Okay.

5 A There's not a Q.

6 Q There's not a Q?

7 A Yeah.

8 Q Okay. But for all those categories, A
9 through P, is your testimony that they didn't
10 answer the actual question asked, and that one
11 would have to infer the answer from a general
12 statement they made in their RFP response?

13 A Yes.

14 Q Okay.

15 MR. MAHER: No further questions.

16

17 **FURTHER RECROSS EXAMINATION**

18 BY MR. BOTHA:

19 Q Mr. Rosario, you testified before. Let
20 me ask you again to make sure it's clear. You
21 would admit that neither in Section G or Section
22 M, even though you're at the benefit of Amendment
23 1 which is Exhibit A, Graphic Center provided no
24 response. Is that accurate?

25 A Yes. That is accurate, we did not put a

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1 response on that.

2 Q Okay.

3 A But we did include Exhibit A.

4 Q Yeah. But on that Exhibit A and -- well,
5 not -- you didn't include the exact one. You
6 reformatted it in Graphic Center format, but
7 those two sections were not -- there were no
8 answers to any of those questions in those
9 sections?

10 A Yeah, we did include it in the format
11 that they provided us. We just made it larger.

12 Q Right, right. Since you read it?

13 A Yeah.

14 Q Okay.

15 MR. BOTHA: Nothing further.

16 MR. MAHER: I have no questions.

17

18 (Examination concluded; no time indicated)

19 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

20

21

22

23

24

25

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1 CERTIFICATE OF WITNESS

2
3 I, **Jesse Rosario**, the witness herein, do
4 hereby certify that I have read, or had read to
5 me, the foregoing typewritten pages 1 through 32
6 inclusive. My changes thereof, if any, have been
7 noted on a separate sheet of paper, which I have
8 signed, and which I understand will be appended
9 to and made a part of this deposition. I certify
10 that the same is now a true and correct transcript
11 of my testimony.

12
13 _____
14 Jesse Rosario

15
16 Dated: _____
17
18
19
20
21
22
23
24
25

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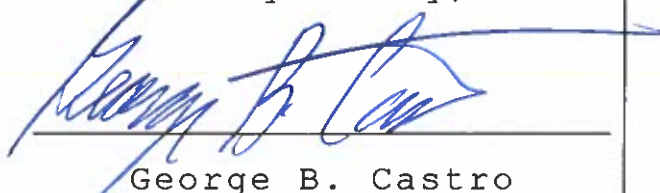
REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 31 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 23rd day of May, 2025.



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CHANGES TO TRANSCRIPTION

By Deponent:

Jesse Rosario

Page	Line	Change	Reason
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BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM

IN THE APPEAL OF) DOCKET NUMBER OPA-PA-21-012
)
)
Graphic Center, Inc.,)
)
Appellant.)
)
)
)

TRANSCRIPTION
OF
OFFICE OF THE PUBLIC AUDITOR
FORMAL HEARING

February 4, 2022

(Chris Biolchino)

ORIGINAL

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**BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM**

IN THE APPEAL OF)	DOCKET NUMBER OPA-PA-21-012
)	
)	
Graphic Center, Inc.,)	
)	
Appellant.)	
)	
)	

Transcription of **Office of The Public Auditor Formal Hearing** of OPA-PA-21-012, in the Appeal of Graphic Center, Inc., February 4, 2022, at Suite 401 DNA Building, 238 Archbishop Flores St., Hagatna, Guam. That at said time and place there transpired the following:

APPEARANCES

Public Auditor	Benjamin J.F. Cruz
Guam Power Authority	Graham Botha, Esq.
Graphic Center Inc.	James M. Maher, Esq.
InfoSend, Inc.	Roxana Weil, Esq.
Also Present	Jerrick Hernandez and Thyrza Bagana.

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2
3
4 **Chris Biolchino**

5 being duly sworn, was examined and testified as
6 follows:

7
8
9 **DIRECT EXAMINATION**

10 BY MR. MAHER:

11 Q Okay. Where do you work?

12 A I work at Graphic Center.

13 Q And what's your role at Graphic Center?

14 A I'm the vice president.

15 Q Okay. And who's the president?

16 A My mother, Sue Biolchino.

17 Q Okay. And how long have you worked at
18 Graphic Center?

19 A Thirteen years.

20 Q Okay. And essentially your business is
21 what, printing?

22 A Yes. Printing. We print basically
23 anything on paper. So, that could be magazines,
24 billing statements, we do banners, stickers.
25 Just about a wide range of supplies and products

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1 from the printing industry.

2 Q Okay. And so, you've learned this over
3 13 years?

4 A Longer. My father was the founder of the
5 business and I had worked with him as a teenager
6 in running the business.

7 Q Okay. So, how many years have you been
8 working then? De facto working in --

9 A Yeah, I would say about 18 years.

10 Q Okay. Now, are you -- well, have you
11 been servicing GPA on this type of service? And
12 I'm talking about the mailing and what not,
13 printing?

14 A Yes. We have. Since 2016.

15 Q Okay. Two Thousand Sixteen. So, that's
16 what, approximately six years?

17 A Almost six years, yes.

18 Q Okay. And you've heard Jesse describe
19 the exhibit, Exhibit A.

20 A Yes.

21 Q Which is an amendment to the RFP. Were
22 you involved or did you discuss this with Jesse
23 in real time as it was occurring?

24 A Yes, I did.

25 Q Okay. And did you agree to seek

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1 clarification from GPA?

2 A Yes, because what the original RFP had
3 included was very confusing; because it was just
4 dates and basically routing information. So, you
5 know, if they want us to include it, well, that
6 doesn't really make sense. That doesn't add
7 anything. We already know what the routing is.
8 It doesn't really include any information that
9 would be valuable to GPA.

10 Q Uh-huh. Now, I guess let's -- let me
11 just turn to Exhibit, let's see if this is what
12 I am looking for. Okay. If you could turn to
13 Exhibit -- let's go to Exhibit 9 first.

14 A This one is ours, right?

15 Q Yes, look at -- I'm sorry.

16 A Yeah.

17 Q Look at ours.

18 A Yeah.

19 Q Yeah. Ours are tabbed. You're looking
20 at --

21 A So, this is GPA's --

22 Q That's GPA's in your right hand. Ours
23 are in your left.

24 A Okay. Understood.

25 Q Okay.

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1 A Okay. Which exhibit am I going to?

2 Q Nine.

3 A Nine. Okay.

4 Q Now, this is -- and the subject of this
5 is *Clarification*. Do you see that?

6 A Yes.

7 Q And this appears to be from Kelly Law,
8 InfoSend Inc., it's dated July 1st, 2021.

9 A Correct.

10 Q Okay. Now, what is the nature of this
11 Clarification GPA seeks through the evaluation
12 committee?

13 A They were asking technical questions
14 regarding how long it would take the mail to
15 appear from California to Guam, if there's a
16 minimum bill print batch, if they're able to
17 include IMB, if they're past compliant, address
18 validation, which permit will be used, and the
19 timeframe to set up to go live.

20 Q Okay. So, I'm not in the business, okay?
21 You'd have to treat me like a four-year old if
22 you're explaining this.

23 A Sure.

24 Q But, am I correct in inferring that GPA,
25 based on what you've read here, is concerned

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1 about how long it will take InfoSend to deliver
2 its services to GPA customers on Guam?

3 A I would say that's correct.

4 Q Okay. So, based on your experience,
5 you've serviced this contract six years; is
6 timeliness very important?

7 A Yes. So, it was specified that we have
8 to provide same-day service. So, when we get the
9 information from GPA, we go through our process,
10 we print the bill, insert it into the envelope,
11 and send it to the Barrigada Post Office for
12 processing.

13 Q Okay. So, let me ask the obvious
14 question. Why is -- well, what is the billing
15 cycle, if you know?

16 A Well, typically, just about every
17 business day we get a batch, and it could be
18 anywhere from one piece to over 10,000.

19 Q Okay. And, I mean what's GPA's timeline
20 on information provided to Graphic to the day the
21 bill goes out to receipt by the customer? What
22 kind of a timeframe does GPA --

23 A Yeah. So, it's typically by the next
24 day. So, once we drop it off to the Barrigada
25 Post Office, the on-island customers will receive

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1 the bill the following day.

2 Q Okay. Is that important?

3 A Yeah, I would say that's important. And
4 it was -- GPA was very specific with us, and I
5 believe it's an issue of cashflow. So, they want
6 to get it paid as quickly as possible. So, the
7 sooner we get out the bill to the customer, the
8 faster GPA can get paid.

9 Q Okay. Okay. So, if you know, what
10 numbers, how much money are we talking about in
11 a month?

12 A Based on what GPA has published, we're
13 looking at about \$20 million a month. In billing.

14 Q In billing?

15 A Yes.

16 Q So, if I get a bill, am I correct in
17 assuming, I get a bill, I wait for it, I get it,
18 when I get it, I go pay it immediately? And,
19 well, that's just how I am.

20 A Yeah.

21 Q But, is the theory behind this that if
22 you get a bill quickly, you pay it quicker? Is
23 that right?

24 A Right. And GPA only gives customers 15
25 days to make payment.

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1 Q Okay. Okay. And if they don't make
2 payment, what? They are --

3 A So, we actually generate a disconnect
4 notice that goes out to the customer; and if they
5 don't respond within an X amount of time, then
6 their service will be disconnected.

7 Q Okay. So, we have \$28 million
8 approximately in play per month?

9 A Correct.

10 Q Okay. And I'm assuming that the cashflow
11 is important to pay wages, et cetera,
12 maintenance, utility, you know, parts?

13 A Right. And vendors like us. Yes.

14 Q Okay. And vendors. Now, from customer
15 standpoint, is the customer, based on your
16 experience, happier or more satisfied when they
17 get the bill quickly versus when it's delayed?

18 A Yes. I think customers really appreciate
19 the timely manner in which the bills are being
20 currently sent out and received by the customer.

21 Q Okay. And conversely, if they don't get
22 the bill in a timely fashion and they're pressed
23 to pay, they'd be dissatisfied?

24 A Yes.

25 Q Okay. Now, I get my bill. It's a paper

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1 bill I get.

2 A Yes.

3 Q I don't want to do this stuff online.
4 That's just me. I prefer paper. If you know,
5 how many people, and I'm talking about the
6 customer base on Guam, receive their bills in
7 hard form, in a paper form?

8 A It's about 93% of GPA customers receive
9 a paper form.

10 Q Okay. So, the delivery of that paper
11 then is important; you can't bypass that by
12 online billing?

13 A Correct.

14 Q Okay. And as far as your six-year of
15 servicing of this contract, have you received,
16 I'm talking about in writing, even orally by the
17 manager of GPA, any complaints or, you know,
18 you've been late, you've been tardy; have you
19 ever received anything?

20 A The only time we've been late has been
21 due to GPA's either error or, for example, we've
22 had some instances where the newsletter which
23 gets attached to the bill, that was severely
24 late. So, we were told we were not allowed to
25 send the bills without the newsletter. So, that

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1 has delayed us in the past.

2 We've had issues with transmittal of the
3 file where it's incomplete. We actually had that
4 yesterday. Luckily, our capacity is high enough
5 to where we can kind of mitigate that; but we've
6 had it in the past where there's been an error
7 on GPA's side, and that has delayed us. But if
8 there's no problems receiving the data, if
9 there's no delays in the newsletter, we get it
10 out at the time that we promised, which is same-
11 day.

12 Q Okay. Now, this, I call it a billing
13 generation system, okay? What we've just talked
14 about. Is that an adequate description of what
15 we just discussed?

16 A Yes.

17 Q Okay. So, you began six years ago doing
18 this?

19 A Correct.

20 Q And when you got there, did GPA say, "Oh,
21 Chris. Here is our system. It's in place. All
22 you got to do is input the information"?

23 A No, we had to build the system from
24 scratch.

25 Q Oh. Okay. So, you had customized it or

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1 --

2 A Yes. Yes. So, we spent about six months
3 developing a system for GPA. It took us a little
4 bit longer than we anticipated because there was
5 a lack of documentation on GPA's side.

6 Q Okay. So, it took you six months. Just
7 theoretically, would InfoSend, if they were
8 awarded this contract, would they have to bill
9 the system, billing generation system as well?

10 A Yes, they would.

11 Q So, am I to understand that during that
12 six-month period, billings would not be going out
13 in a timely fashion and money being received by
14 GPA in a timely fashion?

15 A Yes.

16 Q Okay. So, it's kind of important?

17 A Extremely important. You can't generate
18 the bill without the system.

19 Q Well, let's talk about InfoSend.
20 InfoSend apparently has three locations. One in
21 Texas, one in Illinois, and then one in
22 California, in Anaheim. Is that correct?

23 A Correct. Yeah.

24 Q Okay. And how would, based on your
25 experience, you worked -- well, let me ask you

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1 this. Have you worked with the postal system in
2 your six years of billing, on servicing this
3 contract?

4 A Yes.

5 Q Okay. So, you're familiar with --

6 A Yeah, I'm a Mailpiece design consultant.
7 I'm certified by MSMA. So, I go every two years
8 to a conference called Mailcom where I receive
9 technical training and education. So, I'm quite
10 familiar with the postal system.

11 Q Okay. And you interact with people over
12 at the postal system on Guam; correct?

13 A Yes. And in Hawaii.

14 Q And in Hawaii?

15 A Yes.

16 Q Okay. So, just take this body here
17 through what you would envision InfoSend would
18 have to do in order to provide billing to GPA
19 customers on Guam.

20 A So, they would have to receive the file.
21 Obviously, there's a time difference between Guam
22 and California. So, how that would work out, I'm
23 not quite sure how it would. As opposed to us,
24 we're all in the same island, same time zone; so,
25 but they would receive the file, I'm sure they

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1 would run it through their postal system and then
2 run it through their variable data print engine,
3 print it out, insert it into the envelope, then
4 they would have to, I believe, send it to Los
5 Angeles. And then the way the regional office
6 in Hawaii has explained the routing to me is that
7 it would go from Los Angeles to San Francisco.
8 Then from San Francisco to Honolulu. Then from
9 Honolulu to Guam.

10 Q And then it would have to be --

11 A And then it gets distributed here by the
12 local post office.

13 Q Okay. Well, can you put a timeframe on
14 this? We have the actual information -- the
15 information's received and it goes through that
16 process you described.

17 A Right.

18 Q How long would that take, if you know?

19 A Yeah, I would imagine it would take a day
20 for them to, you know, process the data, insert
21 it, and then get it off to USPS.

22 Q Okay. And then it has to be taken to, in
23 theory, L.A.?

24 A Yes.

25 Q Okay. And?

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1 A And then off to San Francisco.

2 Q And then put on a plane?

3 A Yeah.

4 Q Well, how long might that take?

5 A So, I've learned that there is
6 significant delays internally with USPS due to
7 shortages, supply chain issues. So, I've spoken
8 with the postmaster here and she stated that the
9 five-day turnaround time, which is listed in the
10 USPS, is not feasible under the current
11 circumstances.

12 Q How long would it take; did she know?

13 A No. But I tracked it myself and it's
14 taken about eight days from Southern California
15 to Guam for first class mail to arrive.

16 Q Okay. Just to arrive on Guam?

17 A Yes.

18 Q And that would have to be distributed to
19 them?

20 A Well, I mean at the point of delivery to
21 the address.

22 Q Okay. So, that 15-day timeframe of
23 billing and then receiving payment or receiving
24 disconnection notice, so the customer would have
25 maybe seven days?

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1 A If that. And that's not to include
2 worsening pandemic conditions, any natural
3 disasters, there's a lot of things that could go
4 wrong within the mail chain. You know, that mail
5 is going to be travelling over 6,000 miles. So,
6 there's a lot of things that could happen in that
7 amount of time and space.

8 Q So like a typhoon, for example?

9 A Yeah. Or something happens in Hawaii and
10 then there's a bottleneck there.

11 Q Have you experienced bottlenecks?

12 A Yes.

13 Q Yes.

14 A For different classes of mail.
15 Typically, the bottleneck happens in Hawaii.

16 Q Okay. And what's the nature of that
17 bottleneck?

18 A A lot of times it could be flights coming
19 out of Honolulu, especially during the pandemic.
20 It could be labor issues at the Hawaii post
21 office. It could be supply chain issues. So,
22 there's a slew of things that could go wrong at
23 that facility.

24 Q Okay. Let's look at the RFP. Also look
25 at Exhibit 1. I want to talk about the two

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1 different criteria's set forth in Exhibit 1. So,
2 let's look at 2.3 first. That's under the General
3 Conditions. It's 2.3, *Standard for*
4 *Determination of Most Qualified Offeror*. Exhibit
5 1, 2.3.

6 A Okay.

7 Q Okay. You see that?

8 A Yes.

9 Q So, In determining the most qualified
10 offeror, the agency/department shall be guided by
11 the following. So, they only have four
12 subcategories. Now, I want to apply this to
13 Graphic Center and conversely InfoSend. The
14 ability, capacity, and skill of the offeror to
15 perform the work specified. Now, you've worked
16 there, you provided that service for six years.
17 Correct?

18 A Yes.

19 Q So, the agency would be able to obviously
20 evaluate your work over that six-year period;
21 correct?

22 A Correct.

23 Q Now conversely, if you know, has InfoSend
24 provided any services on Guam, mailing services?

25 A I'm aware of none that they've provided

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1 here.

2 Q Okay. So, the evaluation committee could
3 not evaluate InfoSend in this particular
4 category; correct?

5 A Correct.

6 Q Do you agree with that?

7 A Yes.

8 Q Okay. The next one is *whether the*
9 *offeror can perform promptly or within the*
10 *specified time.* Well, you've been doing it six
11 years and you've had a few glitches; correct?

12 A Yes.

13 Q I'm talking about time glitches.

14 A Yes.

15 Q But in general, GPA could evaluate your
16 record respecting performing promptly or within
17 the specified time. Would you agree?

18 A Yes.

19 Q Conversely, InfoSend, now we now they
20 haven't performed any services but I have to ask
21 you, how could GPA evaluate whether they could
22 promptly perform within a specified time?

23 A They wouldn't be able to.

24 Q Okay. Now, C. *The quality of*
25 *performance of the offeror with regard to the*

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1 *awards previously made to him. Now, I guess we*
2 *say "her" too. So, you've been awarded this*
3 *contract?*

4 A Yes. And it's been renewed four times,
5 I believe.

6 Q Okay. So, clearly, GPA has had an
7 opportunity to evaluate the quality of Graphic
8 Center's performance; correct?

9 A Yes.

10 Q Now, once again, I have to ask. What
11 about InfoSend; how could you evaluate InfoSend
12 if they've never been here?

13 A You can't.

14 Q Okay. So, therefore, GPA could not have
15 evaluated the quality of the performance of the
16 offeror, being InfoSend; correct?

17 A Correct.

18 Q Okay. Number 4. *The previous and*
19 *existing compliance by the offeror with laws,*
20 *regulations, relative to procurement. Well,*
21 *obviously, you've been doing it, you received the*
22 *award, it's been renewed four times. Would you*
23 *agree with me that GPA would be compelled to*
24 *conclude that you have complied with all*
25 *regulations and laws regarding procurement?*

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1 A Yes.

2 Q Okay. What about InfoSend?

3 A I don't know how they would do that.

4 Q Yeah. Because they haven't been here?

5 A Exactly.

6 Q Okay. Let's go to the other criteria in
7 Exhibit 1. The RFP. And that's 5.0. And I just
8 have a very simple question about 5.0.

9 A (reviews document)

10 Q Did you find it, Chris?

11 A Yeah, it's on here.

12 Q Let me ask you this. Does that look at
13 all like 2.3, the criteria?

14 A No.

15 Q What's 5.0? If you know.

16 A It's just the different set of criteria
17 which isn't based on 2.3.

18 Q Would you agree with me that this is
19 somewhat confusing?

20 A I agree.

21 Q Okay. If you know, why did GPA not use
22 its criteria set forth in its General Conditions?

23 A I'm not sure.

24 Q Well, let's look just for an example, the
25 third category, *Quality extent and relevance of*

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1 *proponent's staff.* How would GPA know any of --
2 how would they be able to evaluate that if
3 InfoSend is not here and InfoSend has never
4 worked here?

5 A They would have to go based on the
6 assumption on the submittal from InfoSend. But
7 otherwise from a practical perspective, they
8 wouldn't be able to evaluate InfoSend.

9 Q Okay. *Experience in conducting services*
10 *in utility scale.* What does that mean, "utility
11 scale"?

12 A I'm not sure.

13 Q Now, InfoSend have references. I guess
14 you can say that would address the experience in
15 conducting services. Would GPA have had to
16 contact somebody in the references in order to
17 determine the, I guess their experience and their
18 skill in performing the services?

19 A Yes.

20 Q And to your knowledge, did GPA?

21 A I'm unsure.

22 Q Okay. Now, this Overall Presentation,
23 that's the last category. In brackets, (*Quality*
24 *of submittal, professionalism, et cetera*). Does
25 that -- well, in your mind, does that -- can one

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1 base much on the actual form of something or the
2 type print or the --

3 A I mean to me it just seems like
4 aesthetics.

5 Q Kind of --

6 A Yeah, like does it look nice --

7 Q -- does the person dress well?

8 A -- pretty. Yeah. I guess.

9 Q Yeah.

10 A Yeah.

11 Q Okay.

12 MR. MAHER: No further questions.

13 HEARING OFFICER: Mr. Maher?

14 MR. MAHER: Yes.

15 HEARING OFFICER: Since you have brought
16 InfoSend into your questioning of this witness,
17 if InfoSend has questions to clarify, I will
18 allow it.

19 MR. MAHER: Okay. And we still have our
20 standing --

21 HEARING OFFICER: No, I understand.

22 MR. MAHER: Yeah.

23 HEARING OFFICER: I'm just saying --

24 MR. MAHER: Objection --

25 HEARING OFFICER: -- you have opened it

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1 up by bringing them into it and asking different
2 questions about them. So, I'll allow them to
3 question when -- after Mr. Botha.

4

5

CROSS EXAMINATION

6 BY MR. BOTHA:

7 Q So, Mr. Biolchino, you've been in the
8 business roughly working for your dad officially
9 for the last 18 years. Is that correct?

10 A Yes.

11 Q Okay. And how many RFPs have you --
12 government RFPs -- we'll limit it to Government
13 of Guam, have you participated in?

14 A Three. Jesse's the primary contact for
15 RFPs.

16 Q Okay. But you worked with him because
17 apparently you're the, I'll assume, in the
18 absence of your mom, you're the one running the
19 entire business; right?

20 A Correct.

21 Q And you're the one who would sign off on
22 the submittals and everything else that you would
23 submit a part of a bid or --

24 A Not necessarily. There are times where
25 -- because Jesse is a corporate officer, so he

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1 will sign off on many of the RFPs.

2 Q But you're certainly participating in
3 them, is that fair?

4 A In some of them. Usually, it's
5 pertaining to my level of expertise. So,
6 anything dealing with mail, I will assist Jesse
7 with.

8 Q Okay. Would you agree that this deals
9 with mail?

10 A Yes.

11 Q This particular RFP?

12 A (no audible response)

13 Q Okay. So, Mr. Maher has asked you all
14 these speculative questions about how could
15 InfoSend do their proposal. When you, six years
16 ago first applied for a proposal for GPA, did you
17 know how the GPA system worked?

18 A No.

19 Q And GPA would have nothing to, I mean
20 know how you worked or would be able to perform
21 the contract; is that correct?

22 A Uh-huh.

23 Q Okay. How many, I mean you indicated
24 that Graphic Center does printing magazines,
25 banners, and products; how many items do you

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1 think they mail out a year?

2 A We do about 2 million.

3 Q Oh, 2 million?

4 A Yeah.

5 Q Okay. And how many public utility
6 clients do you deal with?

7 A Three.

8 Q Okay. And who is that?

9 A GPA.

10 Q Okay.

11 A GWA.

12 Q Okay.

13 A GSWA.

14 Q Is that the Solid Waste?

15 A Yes.

16 Q Okay. And roughly, you do the same
17 services for each one?

18 A Roughly.

19 Q Okay. When you first started the
20 contract, did you have any familiarity with the
21 Oracle CC&B billing system that GPA used?

22 A No.

23 Q Okay. So, I think you indicated that it
24 took roughly six months to I guess spin up and
25 get -- how to interact with the GPA billing

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1 system?

2 A Yes.

3 Q Okay. Okay. And then you -- how many
4 billing cycles does GPA have, if you know?

5 A It's in the 20s.

6 Q Okay. So, maybe 29 billing cycles I
7 assume?

8 A Yeah, it just depends. Sometimes certain
9 months have more, sometimes there are less. It
10 just depends on the calendar.

11 Q Okay. And so, I think you indicated that
12 pretty much it's something every day that you
13 send out --

14 A Yeah.

15 Q I think you said --

16 A Yeah. Very rarely do we not have a
17 business day where we're not sending something
18 out.

19 Q Okay. And I think you said 1 to 10,000
20 per day?

21 A Yeah. There's times where we do over
22 10,000 a day.

23 Q Okay. And then how many do you do in
24 total for GPA?

25 A It fluctuates.

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1 Q Okay.

2 A But, yeah, it's about 50,000. Give or
3 take.

4 Q Okay. And I think you indicated that 93%
5 of them, I guess as far as you understand, receive
6 a paper billing?

7 A No, I know it's 93%.

8 Q Oh, okay.

9 A I know because I'm the one that processes
10 both the mail and the email cycles.

11 Q Oh, okay. So, you do the other --

12 A So, I know -- yes, I know exactly --

13 Q You do the other seven percent, whatever
14 number that is --

15 A Yes.

16 Q -- you do the other -- you do either the
17 paper or the email?

18 A Email.

19 Q Email?

20 A Correct.

21 Q And I think you said that you, never had
22 errors?

23 A No, I didn't say that.

24 Q Okay. What did you say?

25 A I said that we've had delays in the past;

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1 it's primarily been on GPA's side.

2 Q Okay. But to be fair, I'm sure that's
3 not --

4 A Yeah.

5 Q -- I'm sure you've had some errors.

6 A Yes. And we --

7 Q (inaudible)

8 A Yeah, it's just --

9 Q It's obviously corrected, I'm assuming -
10 -

11 A We've corrected it, obviously. And you
12 know, when an issue is brought to our attention,
13 we address it immediately, fix it, and move on.

14 Q Okay. Okay. You receive, like everybody
15 else, I mean you receive supplies from off
16 island; is that correct?

17 A Yes.

18 Q Okay. Any instances where you're short
19 of supplies?

20 A No.

21 Q How is it that you stock?

22 A We have a very big warehouse where we
23 stock several months' worth of supplies.

24 Q Okay. Jesse, if you could turn to the -
25 - we'll flip to the binder that I have now.

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1 A This one?

2 Q Yeah. Just pull that back. I'm sure
3 some of it is the same. If you turn to Exhibit
4 A. And then if you turn to, at the very top of
5 the page, 5.8.

6 A Okay.

7 Q Okay. And at the bottom for the next
8 three pages, does that say *Scope of Work*?

9 A Yes.

10 Q What do you believe the scope of work,
11 what is GPA asking for in the Scope of Work? Or
12 what does that section describe, if you know?

13 A So, it talks about data transfer. So,
14 transferring the data from them to whoever the
15 offeror is. Security, bill format software, our
16 title, internet email delivery, the ticket bills,
17 special handling, printer, finishing, et al. Et
18 cetera.

19 Q Okay. And were those the items that, I
20 guess you would be looking at that your proposal
21 should answer for GPA?

22 A Yeah.

23 Q Okay. And then I think Mr. Maher may
24 have brought this one up before, page 5.31, the
25 RFP Evaluation Criteria. What do you believe

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1 that represents?

2 A It doesn't represent Section 2.3. So,
3 for us it's a little bit confusing. So, I'm not
4 sure why there's a disparity between Section 2.3
5 and Section 5.1.0.

6 Q Okay. Well, let's look at that. I mean
7 what do you believe the -- you've had an
8 opportunity -- or have you had an opportunity to
9 look at the materials that were provided by GPA?

10 A Yes.

11 Q Okay. Have you had an opportunity to
12 look at the scoresheets?

13 A Yes.

14 Q Okay. I believe Mr. Maher said that he
15 listed those in 12, this Exhibit 12A to A. So,
16 you've had a chance to look at them, right?

17 A Yes.

18 Q Okay. And do the scoring sheets relate
19 in any way to 5.0, RFP Evaluation Criteria?

20 A It relates to 5.0.

21 Q Ah, I see. Okay. You're just saying
22 that you were confused as to why there's a Section
23 2.3 that's in the main part of the --

24 A Yes.

25 Q -- of the RFP. Okay. And then if you

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1 flip to Tab D. And that would be, can you take
2 a look at that and tell me what you think it
3 represents?

4 A Yeah, this looks like our submission.

5 Q Okay. And then if you could turn to page
6 468. On the top. Okay. If you could flip
7 through it.

8 HEARING OFFICER: What tab was that
9 again?

10 MR. BOTHA: I'm sorry?

11 HEARING OFFICER: What tab was that?

12 MR. MAHER: D.

13 MR. BOTHA: The Tab D.

14 BY MR. BOTHA:

15 Q And that is the Graphic Center RFP
16 Proposal.

17 A Yes.

18 Q Okay. And what -- on that, I believe you
19 had filled out some of the indicated yes, no, pay
20 or partial, and then on some things you put an
21 explanation or comment on those. Is that
22 correct?

23 A Yeah.

24 Q Okay. Was there any responses made,
25 either yes, no, or partial or an explanation made

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1 by Graphic Center in Section G?

2 A No.

3 Q Okay. And then if you turn to page 470,
4 two pages later.

5 A Yeah.

6 Q Under Section M, is that your Recovery
7 Plan?

8 A Oh, wait. I'm sorry. What page was that
9 again?

10 Q I'm sorry, page 470.

11 A Oh.

12 Q Two pages later.

13 A Yes.

14 Q Okay. Under Disaster Recovery Plan, was
15 there anything submitted by Graphic Center?

16 A Not on this RFP, but in the past we have
17 submitted information to GPA. And that hasn't
18 changed since our initial submission.

19 Q Okay. Now, you've done proposals and
20 bids and everything else. What do you understand
21 that you must do when you submit those things?
22 You have to submit everything; is that fair to
23 say?

24 A I would say, yeah.

25 Q Okay. Okay. If you turn to Tab E.

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1 A Okay.

2 Q And what does that look like?

3 A InfoSend's submission.

4 Q Okay. Did you have an opportunity to
5 review that?

6 A Yes.

7 Q Okay. Can you turn to page 380?

8 A Okay.

9 Q Okay. On 380, is there any responses
10 listed under Section G, Special Handling?

11 A Well, I'm looking for Exhibit A and I
12 don't see it here.

13 Q Okay. Do you see a Section G?

14 A I see a Section G but it's not part of
15 Exhibit A.

16 Q Okay. So, Section G does have a response
17 to Special Handling/Full Bill; is that accurate?

18 A Yes.

19 Q Okay. And if you turn to page 387.

20 A Okay.

21 Q Does there appear to be a response listed
22 by InfoSend to a heading titled Disaster Recovery
23 Plan?

24 A Yeah, but again it's not Section A.

25 Q Okay.

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1 A Their Exhibit A. But yes, there is a
2 disaster recovery plan header here.

3 Q Okay. And does that go from 387 to page
4 390?

5 A It appears so.

6 Q Okay. Can you tell me what a detached
7 mail unit is? If you know.

8 A Yeah, that's a facility where a business
9 can process mail, palletize it, and then send it
10 off to a larger facility for processing.

11 Q Okay. And is that one where U.S. Postal
12 Service workers are actually inside that
13 facility? How does that work?

14 A No, I think they're certified to do the
15 work. And then it's sent off to a facility
16 operated by USPS.

17 Q Okay. Are you aware if InfoSend has a
18 detached mail unit?

19 A Yes.

20 Q In their Anaheim facility?

21 A Yes.

22 Q All right.

23 A Well, I'm not aware but according to
24 their declaration, they have one.

25 Q According to their proposal?

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1 A Yes.

2 Q Okay. And would it be fair to say that
3 obviously if you have no experience, I mean, as
4 when you started originally with the first
5 contract, and I believe, is it fair to say that
6 we're still on the first contract with GPA;
7 between GPA and Graphic Center?

8 A I'm not sure of that because we're on a
9 month-to-month basis.

10 Q We're on a month-to-month because we have
11 a protest, right?

12 A Yes.

13 Q Is that fair to say? But when you first
14 submitted, GPA had no experience with you and
15 your company, Graphic Center?

16 A No. We've done work for GPA in the past.

17 Q But no experience with this type of
18 billing?

19 A Not with this billing but we've dealt
20 with other GovGuam agencies in the past.

21 Q Okay. But we would've had to rely on
22 what you put in your proposal; is that fair?

23 A Yeah. And you're also visited by your
24 staff. They came and toured our facility.

25 Q Okay.

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1 A I don't know if anyone from GPA has
2 actually been to InfoSend, but GPA did come to
3 our facility and verified that we were who we
4 said we were. It's quite easy since we're all
5 on the same island.

6 MR. BOTHA: Nothing further, Your Honor.

7 HEARING OFFICER: Thank you. Ms. Weil,
8 do you wish to have any questions? I think you're
9 on mute.

10 MR. MAHER: She's on mute.

11 MR. BOTHA: Yeah, I believe we can hear
12 her, Your Honor.

13 OPA STAFF: And there's a screen blocking
14 her face that'll pop up again.

15 HEARING OFFICER: Randy, can you test it?
16 Uh-huh. Ms. Weil, could you say something?
17 Sound. Could you say something one more time,
18 please? For a test.

19 MS. WEIL: Hello, can you hear me?

20 MR. MAHER: Yes.

21 MS. WEIL: Okay. All right. Thank you.

22 HEARING OFFICER: Do you have any
23 questions of this witness?

24 MS. WEIL: I do have just a few questions.
25

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CROSS EXAMINATION

1
2 BY MS. WEIL:

3 Q Can you remind me of your last name, sir?

4 A Biolchino.

5 Q Biolchino?

6 A Yes.

7 Q Perfect. Thank you. So, Mr. Biolchino,
8 you mentioned earlier from your knowledge that
9 InfoSend has many facilities --

10 A No, I did not say that. No. I did not
11 say that.

12 HEARING OFFICER: It was actually Mr.
13 Maher, I think he said -- he was the one that
14 asked the question; and you said yes.

15 A Yeah. But I didn't specifically --

16 MS. WEIL: Yeah.

17 A Yeah.

18 BY MS. WEIL:

19 Q Yes. Okay. So, I think you confirmed
20 that was your understanding. And I just wanted
21 to ask, are you confident regarding your
22 knowledge of InfoSend's facilities and operations
23 and how many operations they have at this time?

24 A Just based on whatever was submitted.

25 Q So, we have four facilities. I think the

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1 one that's in Florida was -- but minor point.
2 You also mentioned your sense is that GPA
3 wouldn't be able to, should they evaluate a
4 proposal from InfoSend without direct knowledge
5 of InfoSend, you were comparing that with GPA's
6 familiarity with Graphic Center services,
7 obviously you are the incumbent and you have been
8 providing services for the years. In your
9 experience, how do you think --

10 OPA STAFF: I'm sorry, she cut out.

11 MR. BOTHA: No, your laptop cut off.

12 HEARING OFFICER: Hold on.

13 MR. BOTHA: Did you pull the plug?

14 OPA STAFF: (tend to the technical
15 difficulties)

16 HEARING OFFICER: We're going to take a
17 short break.

18 OPA STAFF: We're off the record at 10:21
19 a.m.

20 (Break was taken from 10:21 a.m. to 10:28
21 a.m.)

22 OPA STAFF: We're back on the record.
23 It's 10:28 a.m.

24 HEARING OFFICER: You may continue, Ms.
25 Weil.

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1 MS. WEIL: Okay. Thanks. I had posed
2 a question, I'm not sure if you guys could hear
3 me, so I will just start over with this, and this
4 was obviously a question for Mr. Biolchino.

5 BY MS. WEIL:

6 Q You were stating earlier that in your
7 opinion, I'm paraphrasing, GPA wouldn't be able
8 to evaluate a proposal from InfoSend given the
9 lack of direct knowledge, and this was in direct
10 contrast with GPA's direct knowledge with Graphic
11 Center as the incumbent. And I'm wondering in
12 your experience in this industry, do prospects
13 of government agency's or otherwise always need
14 to be receiving services from a vendor in order
15 to evaluate their qualifications, or do they
16 typically utilize the procurement process to
17 evaluate submissions, references, et cetera?

18 A Well, I think here on Guam it's a little
19 bit of both. People here know Graphic Center.
20 We have a reputation of being here for 30 years.
21 We were the SBA Business of the Year for 2020.
22 So, we're quite well known in the industry. We've
23 had previous experiences with GPA, not
24 necessarily on the mail side, but providing other
25 services to them. So, they knew who we were. We

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1 knew that they could physically visit our
2 location. They know we've done work in the past.
3 And we're also a ratepayer. So, there's a mutual
4 relationship between us and GPA.

5 Q Understood. But would you say again in
6 your professional capacity running a print and
7 mail service company that an agency would be able
8 to utilize its procurement process to evaluate
9 qualifications of an offeror including the number
10 of clients they have, the number of
11 implementations they completed, references, et
12 cetera?

13 A I'm not in the procurement world. So,
14 usually when we deal with procurement on Guam,
15 it's primarily with local vendors. So, this is
16 actually the first time we've experienced someone
17 from off island bidding on an RFP. So, typically,
18 we know who all the players are, we know their
19 capabilities, you know, the procurement people
20 know all the print suppliers here. So, there's
21 already a knowledge of that. So, I'm unsure since
22 this -- you know, you guys are not from here,
23 you're not located here, I don't know how
24 effective this process would be.

25 Q So, I guess to put the question a

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1 different way, if you were bidding on a new
2 opportunity and you had not yet provided services
3 to the agency your company seeking services, do
4 you feel that they would be able to evaluate you
5 based on your RFP response, your references, the
6 number of clients you have, and your proven
7 capabilities?

8 A Well, there hasn't been anyone here
9 locally that we've dealt with that we haven't had
10 a previous experience with. So, that's not been
11 our experience in the past here locally. And we
12 typically just stick to our local market.

13 Q But at some point, each of your current
14 clients were new clients; correct? They were not
15 always your clients.

16 A Well, for 32 years, I don't know, because
17 I came back in 2008, so a lot of these
18 relationships are already established.

19 Q Uh-huh.

20 A Yes.

21 Q And I think you mentioned earlier that
22 Graphic Center directly responded to about three
23 government agency RFPs; is that correct?

24 A Yes.

25 Q Okay. And were you aware from the scope

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1 of our response or your research into InfoSend
2 capabilities that we respond to approximately 50
3 RFPs annually and have done so for, you know, a
4 couple of decades now including government
5 agencies of various sizes located all over the
6 United States?

7 A Sure. But not here on Guam. Guam is a
8 very unique place.

9 Q Right.

10 A So, I don't know if you guys have ever
11 been here. Do you know where we are? It's hard
12 to say. We're a local company. And like I said,
13 we've had a long standing relationship not only
14 as a ratepayer but also as a vendor to GPA.

15 Q I don't doubt the uniqueness of Guam. I
16 have not been there; I would love to go one day.
17 I wanted to ask a couple of questions about
18 Graphic Center's representations of USPS first
19 class delivery times to Guam. Did Graphic Center
20 submit in its appeal documentation from Networks
21 Solutions, LLC, suggesting somewhere in the
22 ballpark of eight-day delivery time from
23 California to Guam?

24 A I'm not familiar with anything with
25 Network Solutions.

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1 Q Okay. I'd have to find that very long
2 document, what page number it is on. And I won't
3 make you all wait. That was submitted into the
4 record. And I don't know where Graphic Center
5 pulled that information, but I was wondering if
6 your understanding is that Network Solutions,
7 LLC, can speak directly on behalf of the USPS
8 when it comes to their delivery times?

9 A I have no idea what you're talking about.
10 I don't recall seeing anything from Network
11 Solutions.

12 Q Okay. And you stated something to the
13 effect of you have been monitoring direct
14 personal capacity, delivery times from California
15 to Guam. In your experience running this
16 business, would you say it's advisable to advise
17 prospects and clients, including government
18 agencies, on likely delivery times based on
19 anecdotal information, or would you say it's more
20 prudent to look to the USPS as the official source
21 of information?

22 A For Guam, it's a very unique situation.
23 I actually reached out to the postmaster and got
24 additional information from her as well. You
25 know, USPS can say five days. We've all

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1 experienced major delays especially during the
2 Christmas rush. You know, trying to send out an
3 express mail here is, they say three days, you're
4 looking at seven to 10 days, both coming and
5 going. So, we all know here that what USPS
6 publishes is, it's not accurate; it doesn't
7 arrive here in five days.

8 Q But as an alternative to relying on the
9 U.S. Postal Service as the source of information,
10 do you think it's prudent to advise GPA as to
11 what they can expect based on your own
12 speculation?

13 A It's not speculation. I've been
14 monitoring it. I actually have a relative that
15 lives in Garden Grove, and he sent me several
16 letters and it did not take five days.

17 Q Okay. So, based on personal
18 correspondence between yourself and a family
19 member, you concluded that InfoSend would not be
20 able to produce mail out of California and have
21 it arrive on Guam in the five-day timeline that
22 USPS --

23 A I also received an official letter from
24 the postmaster stating that the five-day window
25 is not feasible.

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1 Q And you're referring to the December 4th
2 letter that was submitted into evidence; is that
3 correct?

4 A Yes.

5 Q Exhibit 20?

6 A Yes.

7 Q So, can you help me understand where in
8 this document they're stating that the five-day
9 time is not accurate? I see it's stated that
10 mail traveling, for instance, systems will be
11 most impacted subject to the three, four, and
12 five-day standard depending on the distance
13 between origin and destination? But I don't see
14 where three, four, or five-day standard
15 contradicts a five-day delivery time.

16 MR. BOTHA: Your Honor, I'm not sure the
17 Exhibit 20 was part of the original exhibits
18 submitted by Mr. Maher on January 14th. So, does
19 that mean if it was submitted not in a timely
20 fashion if it's dated after January 14?

21 HEARING OFFICER: I'd have to look at it.
22 Go ahead. We'll deal with it.

23 A Can I proceed?

24 HEARING OFFICER: Please.

25 A Okay. What she said was *due to distance*

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1 and transportation limitations, availability to
2 Guam, these standards may be exceeded by several
3 days. And then she stated after that, you can
4 be assured that local mail, Guam to Guam,
5 continues to be processed daily and has an
6 average delivery time of next-day.

7 BY MS. WEIL:

8 Q So, I'm sorry, going back to the first
9 point that you made, where is the statement that
10 delivery times will exceed five days?

11 A She said, due to the distance and
12 transportation limitations available to Guam,
13 these standards may be exceeded by several days.

14 Q "May be exceeded by several days"?

15 A Yes.

16 Q Okay. So, we can be assured by this
17 postmaster's letter, in your opinion, that
18 processing times on Guam will remain reliable but
19 that they may be different coming from the
20 mainland?

21 A Yes.

22 Q Okay.

23 MS. WEIL: I don't think I have any
24 further questions for you at this time. Thank
25 you.

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1 HEARING OFFICER: Thank you. Mr. Maher?

2 MR. MAHER: Yes, thank you.

3

4

RE-DIRECT EXAMINATION

5 BY MR. MAHER:

6 Q Okay. Chris, this Exhibit 20 which was
7 stipulated to be admitted into evidence by GPA,
8 did you actually speak with this Ms. Tammy
9 Schoenen?

10 A Yes.

11 Q And of course, any human interaction or
12 communication, you would probably have said more
13 and discussed other matters pertaining to this,
14 and then she later, of course --

15 A Yes.

16 Q -- memorialized it?

17 A I mean obviously she doesn't want to
18 disparage her organization. So, this is the
19 letter that she provided to us.

20 Q Okay. So, but give us the unvarnished,
21 you know, naked communication or statements she
22 made.

23 A Yeah. She stated that the mail's
24 severely delayed. Out of Honolulu, there's major
25 logistical issues because of United. They've

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1 been having a hard time getting chartered flight,
2 chartered planes in due to the pandemic. So,
3 really the -- as I mentioned before, the
4 bottleneck is primarily in Hawaii. I know that
5 there are some delays going, I guess down the
6 U.S. mainland, and that's been published back in
7 October that there's going to be a delay in
8 service by USPS.

9 Q Now, Ms. Weill asked you about how to
10 evaluate an offeror who's never provided
11 services. Do you recall that question?

12 A Yes.

13 Q Okay. And would you agree with me that
14 the agency evaluating, aside from physically
15 flying in or having some personal knowledge of
16 the group, would you agree that the agency should
17 use the criteria set forth in its own RFP?

18 A Yes.

19 Q And would you agree with me that the
20 criteria set forth at least under the General
21 Conditions, was 2.3?

22 A Yes.

23 Q And would you agree with me that GPA
24 clearly did not employ that criteria in
25 evaluating the offerors?

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1 A Yes.

2 Q Now, Mr. Botha asked you some questions
3 about Graphic's response. And he directed your
4 attention to -- if I can find this (pauses).
5 Well, is Exhibit D, I believe he said page 468.
6 So, let's just go back to that. Page 468.

7 A Okay.

8 Q Okay. Now, he directed your attention to
9 G, Special Handling/Pull Bill.

10 A Yes.

11 Q Okay. And you said that that was left
12 blank?

13 A Yes.

14 Q Okay. But would you agree with me that
15 Graphic Center, if you look at Amendment -- we're
16 talking about Appellant's Exhibit 2, which is the
17 Amendment, okay? If you turn to the -- is it
18 page number -- I guess it'd be the third page.

19 A Okay.

20 Q Do you see under G, it says Special
21 Handling/Pull Bill?

22 A Yes.

23 Q Okay. So, those were the questions on
24 Exhibit A that were submitted or given to by Ms.
25 Fejeran to Mr. Rosario?

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1 A Correct.

2 Q Okay. And because he asked the question
3 for clarification. And those are the questions
4 that Graphic Center answered; is that correct?

5 A Yeah.

6 Q So, in effect you answered that portion
7 of the RFP regarding special handling and pull
8 bill?

9 A Well, it was included. Yes.

10 Q Okay. Okay. Just to clarify that. Okay.
11 Now, the other three agencies, you said you
12 supply -- well, you send out about 50,000 --

13 A For GPA. Yes.

14 Q For GPA. What about GWA?

15 A They're about 47,000.

16 Q Okay. And what about GSWA?

17 A About 16,000.

18 Q Okay. So, you're doing over 100,000 a
19 year for Guam?

20 A Yeah. And we do mailing for other
21 entities but specifically for utilities. Yeah,
22 we do about 1.2, 1.3 million per year.

23 Q Okay.

24 MR. MAHER: No further questions.

25 MR. BOTHA: Okay. Just one follow-up.

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1 If I may?

2 HEARING OFFICER: Go ahead.

3

4

RE-CROSS EXAMINATION

5 BY MR. BOTHA:

6 Q Okay. I believe Mr. Maher directed you
7 to Tab D, page 468. And you said that those were
8 entered somewhere else. Could you point me to
9 where in your --

10 A No, I said it was included.

11 Q It was included where?

12 A It's here. Although, it's blank, the
13 question's there.

14 Q So, if the questions are there, but your
15 answer, I think, as you testified earlier, there
16 is no response. Did you put a yes, no, or partial
17 or explanation in Section G?

18 A No.

19 Q Okay.

20 MR. BOTHA: Nothing further, Your Honor.

21 HEARING OFFICER: Thank you. You're
22 excused.

23

24

WITNESS RECALL - CHRIS BIOLCHINO

25

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FURTHER REDIRECT EXAMINATION

1
2 BY MR. MAHER:

3 Q Okay. Chris, you've heard some testimony
4 about problems with, I guess, the CCM -- is it
5 CC&B or CC&P billing system?

6 A CC&B.

7 Q Oh, B. Okay. And that's the Oracle
8 system, right?

9 A Yes.

10 Q Okay. Now, have you ever had any
11 problems with that system?

12 A Yes.

13 Q What have you had?

14 A So, there's been cases where GPA's bill
15 customers over a million dollars. A lot of times,
16 residential customers could rack up a bill,
17 actually had one today \$8,900.00. That's nearly
18 impossible for a residential user to use that
19 much electricity. So, obviously, GPA had the
20 problem. So, we developed a system where we flag
21 these erroneous billings. And we have to take
22 them out of batch.

23 So, what InfoSend's proposing, all this
24 automation, well, GPA is not ready for that.
25 There's way too many problems with the CC&B

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1 system. And we provided a solution but GPA has
2 to approve it. So, we send them this account,
3 \$8,900.00. "Do you want us to keep it or to
4 remove it?" And that goes to accounting. And
5 we have to wait for accounting to approve
6 everything before we remove it from the batch.

7 Q Okay. I mean, is this a frequent
8 problem?

9 A Yeah. Several times a week we have to
10 pull bills out of the system due to erroneous
11 billing. And it's actually a great system
12 because it saves GPA a lot of headache.

13 Q How?

14 A You know, getting bombarded from
15 customers that are getting just outrageous bills.
16 So, I don't see how with all the automation CC&B
17 -- or I'm sorry, InfoSend's proposing how that
18 would all work out. The current system, we catch
19 it, but GPA does require some intervention.

20 Q Okay. So, from what you've heard from I
21 guess Mr. Schmidt, do you think his explanation
22 of his system would catch these problems?

23 A It might, but how are they going to get
24 GPA to approve it? The removal of the bill? The
25 time difference is too many.

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1 Q Uh-huh. Okay. So, yeah. You heard Mr.
2 Kim this morning?

3 A Yes.

4 Q He's the CFO?

5 A Correct.

6 Q John Kim?

7 A Yes.

8 Q And he claimed that during the pandemic
9 that you were closed, the business was, Graphic
10 Center. Okay. Is that true?

11 A No.

12 Q No?

13 A It is not. We did not shut down.

14 Q Okay. Do you know why Mr. Kim would say
15 that or -- I mean did --

16 A I think Mr. Kim is probably so far
17 removed from the process of billing that he made
18 that statement in error.

19 Q Okay. Does he ever come out to -- I mean
20 have you ever spoken to him and say, "Hey, Mr.
21 Kim, I shut down because of the pandemic"?

22 A No, because we never shut down.

23 Q Oh, okay.

24 MR. MAHER: No further questions.

25 HEARING OFFICER: Mr. Botha?

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1 MR. BOTHA: Yes.

2

3

CROSS EXAMINATION

4 BY MR. BOTHA:

5 Q So, you've indicated that -- does the
6 whole batch stop while Accounting reviews it?

7 A Yes.

8 Q Okay. But it is possible that you could
9 just exclude the one account or two accounts at
10 the most?

11 A No. No. No, we use a system --

12 Q Not the way you do it?

13 A I mean, I could but then we'd be in
14 violation of our agreement with Accounting.
15 Account specifically said we cannot do anything
16 until they give an approval.

17 Q Okay. So, that's the why GPA is advised
18 --

19 A Yes. But I mean, we have the capability
20 of automating it. But that's not the
21 instructions that we've been given by our
22 customer.

23 Q Okay. But you could do it that you send
24 out the rest of the batch with the exception of
25 the one or two counts in error; right?

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1 A But no. No. Because of the way we upload
2 into the repository. It's either all or nothing.

3 Q Okay.

4 A And it's actually, again, it's worked out
5 really well for GPA being that we prevented many
6 erroneous bills from the pile.

7 Q Okay. And how long does the process take
8 for the accounting review?

9 A It depends, if there's anyone even there.
10 There's been times where I've had to call up
11 asking, "Hey, what's the status on this?"
12 Because none of the Accounting people are in.
13 So, sometimes I got to wait until 9, 9:30, call
14 everyone up, no answer. And then we just first,
15 kind of waiting around hoping that someone will
16 let us know what to do.

17 Q Okay.

18 MR. BOTHA: Okay. Nothing further.

19 MR. MAHER: Nothing further.

20 HEARING OFFICER: Nothing further. Thank
21 you.

22 (Examination concluded; no time indicated)

23 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

24

25

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1 CERTIFICATE OF WITNESS

2
3 I, **Chris Biolchino**, the witness herein, do
4 hereby certify that I have read, or had read to
5 me, the foregoing typewritten pages 1 through 58
6 inclusive. My changes thereof, if any, have been
7 noted on a separate sheet of paper, which I have
8 signed, and which I understand will be appended
9 to and made a part of this deposition. I certify
10 that the same is now a true and correct transcript
11 of my testimony.

12
13 _____
14 Chris Biolchino

15
16 Dated: _____
17
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19
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21
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25

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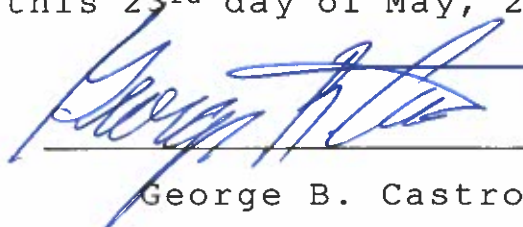
REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 61 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 23rd day of May, 2025.



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1 CHANGES TO TRANSCRIPTION

2

3 By Deponent:

4 **Chris Biolchino**

5 Page Line Change Reason

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2
3
4 **James Borja**

5 being duly sworn, was examined and testified as
6 follows:

7
8
9 **DIRECT EXAMINATION**

10 BY MR. MAHER:

11 Q Hi, Mr. Borja.

12 A Good morning.

13 Q Good morning. Okay. In front of you
14 on your right -- well, to your right you have
15 GPA's exhibits, and then to your left, that are
16 tabbed, those are the Appellant's exhibits. Do
17 you see them?

18 A Uh-huh.

19 Q Okay. Could you grab the Appellant's
20 exhibits, those ones on your left? The tabbed
21 ones. Yeah, you can just put that to the side.

22 A (holds tabbed exhibits)

23 Q You got the tabbed ones?

24 A Yes.

25 Q Yeah, okay. Good. So, you were an

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1 evaluator of this RFP?

2 A Yes.

3 Q Okay. How many of there were you?

4 A Five total.

5 Q Five total. Okay. And you were chosen
6 by the agency?

7 A Yes.

8 Q Okay. You work at the agency?

9 A Yes, I do.

10 Q Okay. Are you familiar with Graphic
11 Center?

12 A Yes, I am.

13 Q Okay. And you're familiar with the
14 services they provide?

15 A Yes.

16 Q Okay. And how long have you been at
17 the agency?

18 A I've been at the agency since 2011. My
19 current position as the utility services
20 administrator, I've been there since 2018.

21 Q Okay. So, you've been there the entire
22 time Graphic Center has been providing these
23 billings services --

24 A Yes.

25 Q -- at the agency? Okay. No problems?

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1 A No.

2 Q Okay. Now, I just want to ask you a
3 general question. How many times did the
4 evaluation committee meet to discuss this RFP?

5 A Our initial one where we did the
6 initial evaluation?

7 Q Which was, if you can recall?

8 A I don't recall the specific date --
9 (pauses).

10 Q But it was before July of 2021;
11 correct?

12 A I'd like to take some time to review
13 the dates.

14 Q Okay. Well, we'll come back to that.
15 Are these meetings recorded?

16 A From what I recall, no, they're not
17 recorded.

18 Q Is there any notes taken by anybody?

19 A In particular, myself, I don't take
20 notes. We are provided the documents and then
21 we go from there. Nothing is, myself, I do not
22 take notes.

23 Q Okay. Does anybody else, if you know?

24 A Not that I recall.

25 Q And there's no transcription of the

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1 meetings?

2 A No. No, not to my knowledge.

3 Q And there's no recording, and
4 therefore, there's no audio recording system in
5 place recording what the members, the
6 evaluators, are discussing?

7 A No.

8 Q Okay. But you'd agree with me this is
9 a government agency conducting government
10 business; correct?

11 A Yes.

12 Q And making a decision about awarding a
13 contract which involves government money?

14 A Yes.

15 Q Okay. But yet you're unaware of any?

16 A (no audible response)

17 Q Okay. Do you elect a Chair?

18 A No, we do not.

19 Q Okay. So, let's turn to our Exhibit 1.

20 A Okay.

21 Q Okay. Do you see that?

22 A (no audible response)

23 Q Okay.

24 A Yes.

25 Q Now, did you read the RFP -- now, well,

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1 let's -- practical question. When you went in
2 to discuss this with the other members, did you
3 actually have the RFP with you?

4 A Yes. It is presented to us if we'd
5 like to read through. Yes, sir.

6 Q Okay. And can I also assume that while
7 you're discussing this with the other members,
8 people are opening up the RFP and reading the
9 RFP, maybe even quoting language from the RFP?

10 A Yes, that's correct.

11 Q Okay. And so, I'd like you to turn to
12 Section 2.3. This is Exhibit 1.

13 A Excuse me. Yes.

14 Q 2.3.

15 A (begins to turn exhibit pages)

16 Q I think you went too far.

17 A Yeah, I'm only seeing 2.37.

18 Q No, you got to go further to the front.

19 A (continues to turn exhibit pages)

20 Q Exhibit 1.

21 A Okay. I'm here.

22 Q You got it?

23 A Yeah.

24 Q I forgot my question. Okay. So this
25 is --

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1 MR. BOTHA: I think we're on Section
2 2.3.

3 MR. MAHER: Yeah.

4 BY MR. MAHER:

5 Q Two (point) three now. In your
6 discussions with the other members, did you
7 discuss 2.3 as the criteria to be used to
8 evaluate the Offerors?

9 A (pauses) Yes, we do go over it; yes.

10 Q Okay. So, you utilized 2.3?

11 A Yes, it's part of -- yes.

12 Q Okay. If we were to turn to Exhibit
13 12?

14 A Uh-huh.

15 Q Maybe just keep that 2.3 open.

16 A Uh-huh.

17 Q And go to Exhibit 12. And that's the
18 evaluator's, I call them sheets.

19 A All right.

20 Q If you could just look at those -- you
21 filled out one of those; correct?

22 A Yes.

23 Q Okay. So, it's your testimony that the
24 evaluator sheet, which is Exhibit 12, A through
25 E, incorporates 2.3 of the RFP?

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1 A (pauses) Yes.

2 Q It does?

3 A (no audible response)

4 Q Okay. So, let's just look at 2.3.
5 Let's look at C, *Quality of Performance of the*
6 *Offeror with Regard to Awards Previously Made*
7 *to Him.* Okay. Where in Exhibit 12 in the
8 evaluation sheet is that addressed?

9 A It does not verbatim say, but I would
10 look at it as Number 3, *Quality, extent and*
11 *relevance of Proponent's staff/experience in*
12 *conducting services.*

13 Q You say that's 3?

14 A Yeah. I would say it's -- to me, it
15 looks related to the quality in conformance
16 with the Offeror regarding awards previously
17 made to him. So, I would take that into
18 consideration there for Number 3.

19 Q Okay. So, let's just use, I don't know
20 if -- I'm looking at an Evaluator Sheet dated
21 July 27, 2021, and I show under 3, 10 points
22 for InfoSend and 9 points for Graphic. Now --

23 MR. BOTHA: Let me -- I know there are
24 five separate sheets; which one are we
25 referring to?

1 MR. MAHER: Well, these are -- they're
2 not -- they're dated but they're not signed by
3 the evaluators. That's how we received them.
4 If you could find your evaluation in there,
5 that might help.

6 MR. BOTHA: (reviews file).

7 MR. MAHER: It's very odd. But anyway,
8 that's what we have here.

9 BY MR. MAHER:

10 Q So, I guess without trying to figure
11 out who signed what evaluation sheet, we have
12 five of them.

13 A Uh-huh.

14 Q So, you're saying 2.3, which I'll read,
15 *The quality of performance of Offeror with*
16 *regard to awards previously made to him.*

17 A Uh-huh.

18 Q And then you turn and say under the
19 evaluation sheet that Number 3, *Quality, extent*
20 *in relevance of Proponent's staff/experience in*
21 *conducting services and utility scale, that*
22 *encapsulates the Criteria C under Section 2.3.*
23 That's correct?

24 A Yes.

25 Q Okay. So, if InfoSend had never

1 performed services here, how would you know
2 that the quality of their performance can be
3 evaluated with regard to awards previously made
4 to him since none have been made to him? How
5 does that work?

6 A Good point; and for me, reading further
7 and understanding, I say, you know, it doesn't
8 exactly, Number 3, doesn't exactly match
9 letter C in 2.3.

10 Q Would you characterize that the
11 difference as minor between 2.3 and the
12 evaluation sheet criteria, or major?

13 A Can you repeat that, sir?

14 Q Well, would you characterize the
15 difference in criteria between 2.3 of the RFP
16 and the evaluation sheet as minor or major?

17 A I would say minor.

18 Q Minor?

19 A Yeah.

20 Q Okay. Well, let's look at, go back to
21 2.3. Subsection B. *Whether the Offeror can*
22 *perform promptly or within a specified time.*
23 That's 2.3; I just quote from the RFP. Where
24 on the evaluation sheet that you're looking at
25 do you see that addressed?

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1 A It does not say.

2 Q So, would you agree it's not even
3 addressed in the evaluation sheet?

4 A Correct. It's not addressed in the
5 evaluation sheet.

6 Q Okay. Now, just keeping our fingers, I
7 have my fingers in there just so I don't lose
8 them.

9 A Okay.

10 Q The exhibits. Would you agree that the
11 service that we're talking about here, the
12 billings of the GPA customers is time-
13 sensitive?

14 A I would say yes, to an extent.

15 Q Well, how far of an extent?

16 A Well, if I may explain our collection
17 process.

18 Q Sure.

19 A Customers are given ample time to make
20 payments. Over our collection process, after
21 45 days without payment, they are subjected to
22 disconnection. So, as much as we'd like to
23 have payments made in ample time, although
24 there is a grace period, we do allow for more
25 time for customers to make payment prior to

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1 disconnection. So, there are notices that do
2 that.

3 Q I see.

4 A Yeah.

5 Q So, since timeliness is not addressed
6 in the evaluation criteria, would you agree
7 with me that that's an important omission?

8 A Can you repeat that question?

9 Q Well, is that, would a timeliness
10 evaluation in the evaluation criteria, be
11 important?

12 A Not necessarily.

13 Q Not necessarily?

14 A Yeah. If I may further explain. So,
15 we constantly are looking into continuous
16 improvement of how we serve our ratepayers.
17 And as the utility services administrator, I
18 see it as a responsibility of mine to inform
19 our customers and find ways to better improve
20 how we service them, how we provide bills, and
21 how they make payment.

22 So, we do our best to ensure that we
23 can provide them with different avenues and how
24 they receive the bills, and how they make
25 payments.

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1 Q So, timeliness is not a critical factor
2 then?

3 A It is, to the extent if you're thinking
4 about disconnecting of services.

5 Q But that would be after 45 days?

6 A Yeah.

7 Q Okay. Let's look at Exhibit 9.

8 A Okay.

9 Q Okay. Do you see it's a letter from
10 Jamie Lynn Pangelinan? Do you see it?

11 A Yes.

12 Q Okay. It's dated July 1st, 2021?

13 A (no audible response)

14 Q And this is a clarification; we talked
15 about it. Would you agree with me that this
16 clarification was sought by the evaluation
17 committee of which you were a member regarding
18 InfoSend's ability to timely provide service or
19 billings to customers on GPA -- I mean on Guam?
20 Would you agree?

21 A Okay. For that first question, how
22 long -- it's a general question to ask how long
23 that would take to Guam.

24 Q Yeah, and the second one talks about
25 the billing cycle, right?

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1 A Uh-huh.

2 Q Okay. And then GPA gives them a
3 statement as to the 29 billing cycles?

4 A Uh-huh.

5 Q And in the next statement, you address
6 I guess a bar code, which would I guess go to
7 expediting the delivery of the mail; would you
8 agree?

9 A Yes.

10 Q Then *Whose USPS posted permit will be*
11 *used, I'm not sure, I guess that would to that*
12 *and --*

13 A Uh-huh.

14 Q -- then the last one is, *What is the*
15 *timeframe from setup to go live.*

16 A Okay.

17 Q Would you agree that, I mean, these
18 inquiries from your committee, are really
19 concerned about time?

20 A It -- I wouldn't -- it would say a
21 general question knowing it's an off-island and
22 just trying to see what a general timeframe
23 would be for it to mail. And granted the mail
24 is actually handled by USPS, and of course they
25 have set standards or knowledge. So, we're

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1 seeking clarification.

2 Q Well, I understand you're seeking
3 clarification. You just mentioned USPS.

4 A Yeah.

5 Q But you're actually seeking
6 clarification from one of the offerors.

7 A Okay.

8 Q About their ability to comply with a
9 time schedule. Would you agree?

10 A Yes.

11 Q Okay. So, time really was important?

12 A Yes.

13 Q Okay. And it's not addressed in your
14 evaluation; you've told us that?

15 A Correct.

16 Q Okay. And among, and I'm just focusing
17 on InfoSend here, did you send out any other
18 inquiries for clarifications to InfoSend
19 regarding this RFP?

20 A From what I recall, this is the only
21 one that I recall.

22 Q So the only one, and it dealt with
23 time?

24 A Yeah.

25 Q Okay. And I think we talked about

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1 under 2.3 -- well, let's look at *the Ability,*
2 *capacity and skill of the Offeror to perform*
3 *the work specified.* Where is that addressed in
4 the evaluation sheet?

5 A (pauses; peruses document)

6 MR. BOTHA: Is there an exhibit that
7 we're --

8 MR. MAHER: Twelve.

9 MR. BOTHA: -- asking the witness to
10 compare?

11 MR. MAHER: Yeah.

12 BY MR. MAHER:

13 Q Just look at Exhibit 12.

14 A Okay.

15 Q Just one of the evaluation sheets;
16 they're all the same in the criteria. Under
17 *Evaluation of Criteria*, that's how it's
18 phrased; and we're just comparing it to 2.3.

19 A (pauses; reviews document) *The ability,*
20 *capacity and skill of the Offeror to perform*
21 *the related work specified.*

22 So, I would say if it's related to, if
23 you look at experience, Number 1, experience of
24 the firm on this type of service and utility
25 scale. So, what's presented at that level on

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1 their proposal, I would lean towards 2.3(a).

2 Q The ability? Okay, you're saying
3 2.3(a) is reformulated, rephrased in effect an
4 evaluation sheet, and that's Exhibit 12, Number
5 1, *Experience of the firm in this type of*
6 *service and utility scale.*

7 A Uh-huh.

8 Q So --

9 A So, in general, when we --

10 Q One talks about ability, right?
11 Section 2.3 talks about ability and capacity
12 and skill.

13 A Uh-huh.

14 Q And Number 1, under Exhibit 12 --

15 A Uh-huh.

16 Q -- first criteria talks about
17 experience. Would you agree with me that
18 ability, capacity, skill, is different in kind
19 from experience?

20 A Well, ability and capacity and skill, I
21 will in reviewing a proposal, I would look at,
22 okay, current experience they have and what
23 they presented, right? So, how do I validate
24 your capacity and skill without seeing any, I
25 guess prior work or examples or exhibits that

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1 were presented in the proposal?

2 Q But would you agree with me that they
3 are different; experience is different from
4 ability, capacity, and skill?

5 A Yes, but I would know what to look for
6 as far as under that ability, capacity, and
7 skill when reviewing their proposal, and that
8 in line with experience.

9 Q Well, in line with experience?

10 A Yeah.

11 Q That would be another factor?

12 A Okay.

13 Q You'd agree with that, that'd be one
14 more factor along with ability and skill,
15 capacity, we might throw in experience,
16 correct?

17 A Yes.

18 Q Okay. So, they aren't, they're not
19 fungible concepts and they're not -- I mean
20 they are different. One is just, you just said
21 a factor. One additional factor; correct? So,
22 Exhibit 12, which was the evaluation criteria,
23 did not take into consideration three important
24 factors; would you agree with that?

25 A If it just listed experience, yes, it

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1 does not include ability, capacity, and skill
2 in the rating itself.

3 Q Uh-huh.

4 A One. But it does list "experience."

5 Q And of course, 2.3 has previous awards
6 made, and we talked about that.

7 A Uh-huh.

8 Q And now, we don't know really -- you
9 didn't go to Anaheim, California and inspect
10 InfoSend Center, did you?

11 A No.

12 Q Okay. And you didn't communicate with
13 anybody from InfoSend, did you?

14 A No.

15 Q Okay. So, it was really site unseen?
16 You don't -- you have basically a resume, "I
17 did this, I did this, I did this." Did you
18 contact any of the references?

19 A No.

20 Q Okay. Do you know if anybody else on
21 the committee contacted any of the references?

22 A No, I do not.

23 Q Okay. Now, I know you can't speak for
24 them, but to your knowledge, did any of them
25 ever go to Anaheim, California and inspect?

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1 A Not to my knowledge. No.

2 Q And to your knowledge, did anybody else
3 on the committee even communicate with
4 InfoSend?

5 A No.

6 Q So that was, "No," nobody communicated?

7 A (no audible response)

8 Q Okay. So, under D, *The previous and*
9 *existing compliance by the Offeror with laws*
10 *and regulations relative to procurement*, that's
11 under 2.3. That's the RFP's criteria. Would
12 you agree with me that that's not even
13 addressed on the evaluation sheet?

14 A Yeah, it's not addressed.

15 Q Did you discuss this inconsistent
16 approach, as I might characterize it, between
17 the RFP's actual criteria and the criteria set
18 forth on the Evaluation Sheets, which is
19 Exhibit 12? Did the committee members say,
20 "Hey, listen, there are certain things they're
21 asking here, but yet, we have this other
22 criteria"? Did that ever come up?

23 A No.

24 Q Hmm.

25 MR. MAHER: Okay. No further

1 questions.

2 HEARING OFFICER: Mr. Botha.

3

4

CROSS EXAMINATION

5 BY MR. BOTHA:

6 Q Mr. Borja, did the committee or any of
7 the committee members to your knowledge ever
8 send out anything independently?

9 A No, sir.

10 Q Okay. And to your understanding, how
11 does the process work? Who sends out
12 clarification letters, who sends out all the
13 correspondence to any bidder, to your
14 knowledge?

15 A That will be our Supply Management
16 administrator.

17 Q And that would be the someone, a buyer
18 or someone from the procurement division; is
19 that correct?

20 A Yes, sir.

21 Q Okay. So, it would not be expected
22 that any evaluator to independently contact any
23 bidder, any vendor; is that correct?

24 A Yes.

25 Q Okay. When you met as a committee,

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1 were you provided anything by the procurement
2 side of the house?

3 A It would be the RFP and the proposal
4 submitted.

5 Q Okay. So, that would be the RFP, the
6 original RFP that was provided, any amendments,
7 and then in this case, how many proposals do
8 you recall that were provided to you to
9 evaluate and score?

10 A There were two.

11 Q Okay. And that was a proposal by
12 Graphic Center and a proposal by InfoSend; is
13 that accurate?

14 A Yes.

15 Q And Graphic Center is the incumbent
16 providing billing services to date. Is that
17 accurate?

18 A Yes.

19 Q Okay. And then who provided, I think
20 Mr. Maher has made a big deal out of the
21 evaluation sheets that are used to score, who
22 provided those to you?

23 A Procurement.

24 Q Okay. And what were your instructions
25 on scoring those?

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1 A Would be to review the proposals.

2 Q Okay.

3 A And score as we see fit based on what's
4 presented in the proposal.

5 Q Okay. And so, you were to use the
6 criteria listed in those scoring sheets?

7 A Yes.

8 Q Okay. And did you and the other
9 members, to your knowledge, use that criteria
10 and score?

11 A Yes, we did.

12 Q Okay. And then after that, what was
13 done with the individual scoring sheets, if you
14 know?

15 A The scoring sheets are then totaled and
16 then submitted, reviewed with the committee.
17 We then would write our findings or our scoring
18 and present it to the Procurement office.

19 Q Okay. And in this case did you score
20 both proposals, Graphic Center and InfoSend?

21 A Yes, I did.

22 Q Okay. And do you recall which proposal
23 had a higher score?

24 A Yes.

25 Q And which was that?

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1 A InfoSend.

2 Q Okay. And in general terms, can you
3 describe to me why the InfoSend proposal would
4 have a higher score?

5 A Sure. So, based on, as Mr. Maher said,
6 2.3, it's -- you know, although there's an
7 evaluation, it's the standards for determining
8 the most qualified offeror.

9 So, with the proposals presented to us
10 based on the information that's provided and
11 based on our RFP, it was I guess more
12 information was provided to allow for us to --
13 the way I score.

14 Q Okay. And then each evaluator or at
15 least certainly you could speak to yourself,
16 does each evaluator individually score the
17 proposals?

18 A Yes, we do.

19 Q Now in this case, you were able to
20 evaluate the InfoSend proposal based on other
21 utilities that they represented; is that
22 correct?

23 A Yes, that is correct.

24 Q Okay. And are you aware what -- does
25 GPA use the CC&B Billing System?

1 A Yes, we do.

2 Q Okay. And in looking for a proponent
3 to select, qualify as the highest, would it
4 have been important to you to know that any
5 proponent has experience with using the CC&B
6 Billing System as well as, you know, the volume
7 and all the rest of that that they deal with?

8 A Yes.

9 Q Okay. And does the proposal from
10 InfoSend include information as to several
11 fairly large utilities in California?

12 A Yes, it does.

13 Q Okay. And those specifically use the
14 CC&B Billing System; is that accurate?

15 A Yes, they -- yes, they do use the
16 Oracle CC&B System.

17 Q Okay. And those had monthly billings
18 of 130,000, 170,000, 170,000 --

19 A Yes.

20 Q -- do you believe that to be accurate?
21 And in looking through the proposals, did you
22 evaluate to make sure that each proponent was
23 able to answer the questions that GPA wanted
24 answered?

25 A Yes.

1 Q Okay. If you would turn to the binder,
2 in this case, it would be the GPA one provided.
3 Tab D. And if you could tell me what that is.

4 A Tab D, it's -- (unintelligible).

5 Q And does that appear to be the Graphic
6 Center RFP proposal?

7 A Yes, it is.

8 Q And if you would turn, if you look at
9 the top of the page, if you would turn to Page
10 468.

11 A Okay.

12 Q Okay. Under kind of in the middle of
13 the page there, there's a section which has
14 three questions in it, G1, 2, 3. Is that
15 section entitled *Special handling/full bill*?

16 A Yes, it is.

17 Q Okay. And do you see anywhere on those
18 pages any responses in either columns Yes, No,
19 or *Partial*, or in the *Explanation Comments* any
20 response that was provided by Graphic Center?

21 A There's no -- they're all blank.
22 There's no answers to them or comments.

23 Q Okay. And then would you turn two
24 pages further on Page 470? Four-seventy
25 continues, actually there's, I think there's

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1 three questions on that. For Section M,
2 *Disaster recovery plan*, do you see any
3 responses provided by Graphic Center?

4 A There are no responses there.

5 Q Okay. And then if you could turn to
6 Tab E, which I submit to you is the InfoSend
7 proposal. And if you'd turn to Page 380. In
8 Section G under *Special handling full bill*,
9 does there appear to be a response provided by
10 InfoSend?

11 A Yes.

12 Q Okay. And if you'd turn to Page 387 to
13 390. Does there appear to be a response on
14 *Disaster recovery plan*, three or four pages of
15 response provided by InfoSend?

16 A Yes, there is.

17 Q Did you, in reviewing the proposals,
18 have the evaluation committee -- was there
19 different meeting dates that the evaluation
20 committee had to review the proposals of the
21 two proponents?

22 A Just the initial and then I believe
23 when we had the clarification questions that
24 went out and the response.

25 Q Okay. And then there was a response,

1 if you turn to Tab H.

2 A (begins to turn pages)

3 Q Was that what was sent out by
4 Procurement to -- was that the clarification
5 based on evaluation committee's request to
6 those questions sent out to InfoSend?

7 A Yes.

8 Q Okay. And then if you'll turn the
9 following page, Tab I.

10 A (begins to turn pages)

11 Q Did you receive and have the
12 opportunity to review a response from InfoSend?

13 A Yes.

14 Q Dated July 2nd, 2021?

15 A Yes.

16 Q Okay. And do you believe those
17 responded to the request of GPA?

18 A Yes.

19 Q Okay. If you could explain the, I
20 think there's been a lot of questions about
21 time, could you explain the billing process and
22 how much time that the customers have to pay?

23 A Sure. Okay. So, once the meter
24 readings are all completed and entered into the
25 Customer Care & Billing information, CC&B, the

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1 bills are prepared, the files are sent out for
2 bill print and mailed to the customer.

3 Generally, there is a 12-day period,
4 12-day grace period for them to pay. It
5 doesn't necessarily mean that they'll be
6 disconnected; but as a part of our collection
7 process they are reminded on a few occasions,
8 several occasions actually up until the time of
9 disconnection.

10 And as I've mentioned earlier, our
11 collection process, it's after the 45th day
12 which will trigger a disconnection for that
13 customer. And of course, that is also still
14 reviewed by customer service prior to the
15 disconnection.

16 Q Okay. If you can take a look at the
17 RFP. That would be Tab A. And then if you can
18 go to Page 531.

19 A (begins to turn pages)

20 Q And what is that?

21 A This is the *Evaluation Criteria*.

22 Q Okay. And does that Evaluation
23 Criteria, criteria points weighed, does that
24 appear to match what is in your evaluation
25 sheets? If you wanted to flip to, I believe

1 Appellant's Exhibit 12 A to E, that he's asked
2 you about the scoring sheets; does that appear
3 to match up?

4 A (pauses; reviews document) Yes, it
5 does.

6 Q Okay. So, in the RFP, Section 5.0 RFP
7 Evaluation Criteria, those criteria points and
8 the weights limited are in fact on the
9 evaluation sheets that were signed by the five
10 evaluation committee members?

11 A Yes.

12 Q Okay.

13 MR. BOTHA: Nothing further, Your
14 Honor.

15 HEARING OFFICER: Attorney Maher, do
16 you have any questions?

17 MR. MAHER: (no audible response)

18 HEARING OFFICER: Ms. Weil?

19 MR. BOTHA: I can't hear her.

20 HEARING OFFICER: Do you have any
21 questions?

22 MR. BOTHA: I still can't hear her.

23 MR. MAHER: She's muted or something.

24 HEARING OFFICER: Hold on.

25 MR. BOTHA: She's muted but she was

1 shaking her head; but we can't hear her.

2 HEARING OFFICER: Is it this thing
3 again? I think -- can you try again?

4 MS. WEIL: Can you hear me now?

5 HEARING OFFICER: There.

6 MS. WEIL: Okay. Great. No questions
7 from me.

8 HEARING OFFICER: Okay, great. Thank
9 you. Did you want to follow-up?

10 MR. MAHER: I just have a few
11 questions.

12

13 **RE-DIRECT EXAMINATION**

14 BY MR. MAHER:

15 Q Mr. Borja, when you talked about this
16 billing cycle, the process, the time, there's a
17 12-day grace period; does GPA assign late fees
18 to people that don't pay --

19 A Yes, there is --

20 Q -- no time?

21 A There is a late fee, however, just to,
22 so for the record, the late fees have not been
23 charged since the start of the pandemic. So,
24 we have not been billing late fees.

25 Q Okay.

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1 A To-date.

2 Q But that's revenue the government isn't
3 going to receive then?

4 A Yes.

5 Q And the government imposes late fees
6 because it impacts its cashflow; isn't that
7 correct?

8 A Yes.

9 Q Okay. So, if it doesn't have cash, it
10 imposes a hardship on the government?

11 A Yes.

12 Q And in turn it imposes problems on the
13 services the government can deliver; correct?

14 A To an extent, but we have adapted to
15 being able to work with what we have.

16 Q So, you mentioned that the evaluation
17 was based on the services that the offeror had
18 provided other utilities?

19 A Yes. The overall package of what was
20 presented.

21 Q And that was in reference to
22 InfoSend's, kind of its references; correct?

23 A Yes.

24 Q Okay. But you never spoke to any of
25 the references?

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1 A No.

2 Q And did you investigate or somehow
3 conduct an evaluation of the services rendered
4 to these other utilities in California?

5 A No.

6 Q Okay. So, would you agree with me that
7 it's not feasible really to evaluate InfoSend's
8 ability, capacity and skill if you do not
9 investigate, speak to, or somehow look into the
10 services they had provided other utilities in
11 the state of California? Would you agree with
12 that?

13 A No.

14 Q You wouldn't?

15 A No.

16 Q So, just simply looking at a reference,
17 you can say, "I've evaluated the ability, the
18 skill and the capacity of InfoSend to render
19 this service"?

20 A Yes.

21 Q Just by looking at a name and a
22 reference?

23 A Yes. Yes.

24 Q Okay. You mentioned the evaluation
25 sheets, if I heard you correctly, they were

1 given to you by Richard?

2 MR. BOTHA: No, he didn't say that.

3 A No.

4 BY MR. MAHER:

5 Q Who did you say?

6 A By the Procurement office.

7 Q Oh, by the Procurement office?

8 A Yes.

9 Q I thought I heard the word "Richard."
10 Okay.

11 MR. MAHER: No further questions.

12 THE WITNESS: All right.

13 HEARING OFFICER: Thank you. GPA, did
14 you want to clarify anything?

15 MR. BOTHA: No. I think we've beaten
16 that sufficiently.

17 HEARING OFFICER: Thank you.

18 MR. BOTHA: Okay. Mr. Kim.

19 HEARING OFFICER: Okay.

20

21 (Deposition concluded; no time indicated)

22 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

23

24

25

CERTIFICATE OF WITNESS

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1
2 I, **James Borja**, the witness herein, do
3 hereby certify that I have read, or had read to
4 me, the foregoing typewritten pages 1 through
5 37 inclusive. My changes thereof, if any, have
6 been noted on a separate sheet of paper, which
7 I have signed, and which I understand will be
8 appended to and made a part of this deposition.
9 I certify that the same is now a true and
10 correct transcript of my testimony.

11

12

13

James Borja

14

15

Dated: _____

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REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 36 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 10th day of February, 2023.

George B. Castro

CHANGES TO TRANSCRIPTION

By Deponent:

James Borja

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2
3
4 **John Kim**

5 being duly sworn, was examined and testified as
6 follows:

7
8
9 **DIRECT EXAMINATION**

10 BY MR. MAHER:

11 Q Hi, Mr. Kim.

12 A Hi.

13 Q I'm going to assume you know a fair
14 amount about the actual documents, you know,
15 who sent what and why. And on that assumption,
16 I'll proceed; but if you don't understand, then
17 just tell me and then I'll dig out the
18 document, you can look at it and then respond;
19 okay?

20 A Yes, I did review the document but
21 that's many months ago.

22 Q Okay.

23 A But I don't remember all.

24 Q Yeah.

25 A I just got to refresh.

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1 Q Of course. Okay. So, what is your
2 position up at GPA?

3 A I'm the CFO.

4 Q Okay. And you were not involved in the
5 evaluation?

6 A No, I was one of the evaluators.

7 Q Okay. And we talked a lot about the
8 actual RFP and the criteria used. If you'll
9 look at Exhibit 1, okay? That's the one to
10 your left.

11 A (begins to search for exhibit)

12 Q The trial exhibits to your left. It
13 should be tabbed. If you go to Exhibit 1.
14 Just pull that tab back.

15 A Oh, okay.

16 Q Okay. And then go to 2.3.

17 A Two (point) three. Okay.

18 Q Now, you're the CFO. So, are you the
19 money -- the man that handles the money up
20 there?

21 A Yeah, I do handle the finances. Yes.

22 Q Yeah. CFO, yeah. Okay. We've just
23 had a lengthy discussion about this particular
24 criteria here, 2.3. As an evaluator, did you
25 utilize this criteria that's in the RFP?

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1 A May I read it?

2 Q Exhibit 1, 2.3.

3 A (reads document) Yes.

4 Q That was utilized?

5 A Yes.

6 Q Okay. We'll come back to that.

7 A Okay.

8 Q Now, there was an amendment to the RFP.

9 Are you familiar with the amendment?

10 A I don't recall, but if you could
11 refresh me.

12 Q Yeah. If you could look at Exhibit 2.

13 A Okay.

14 Q Do you see the amendment?

15 A (reads document)

16 Q It says Amendment Number 1. Do you see
17 that?

18 A Okay.

19 Q It's dated May 27? I just want to make
20 sure we're on the same page. It's signed by
21 Mr. Benavente.

22 A Okay.

23 Q Down at the bottom. Now, I'll just say
24 this and you can, if you don't know, that's
25 fine but it's a matter of record. There was an

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1 inquiry by Graphic Center a few days before --

2 A Uh-huh.

3 Q -- on May 25th about a reference to an
4 exhibit to the RFP. And a question was asked
5 because the actual exhibit made no sense. It
6 was just a bunch of billing cycles. And as a
7 result, this was sent to Graphic Center. And
8 this amendment, if you turn it over, it has a
9 bunch of questions; approximately 70 questions.
10 Okay?

11 A Yeah.

12 Q Do you see those questions?

13 A Yes.

14 Q Real small, kind of hard to read.

15 A Uh-huh.

16 Q This was sent to, and if you'll look
17 just for your reference, it was sent -- it's
18 Exhibit 5, you don't have to go there; I'll
19 just represent to you Exhibit 5 dated May 28th,
20 2021 from Ms. Fejeran, she sent this to Graphic
21 Center and asked for their acknowledgment, and
22 testimonies establish they did acknowledge it.
23 So, my question to you is, was this sent out to
24 InfoSend; this amendment?

25 A I don't know. Because I don't handle

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1 that procedure.

2 Q Who would handle that?

3 A That'd be done by Procurement.

4 Q And any individual?

5 A (no audible response)

6 Q I'm asking --

7 A No, I don't know.

8 Q You don't know?

9 A Yeah.

10 Q Okay. Let's go back to Exhibit 1. And
11 let's go to 1.5.

12 A Okay.

13 Q Okay. And this is titled *Explanation*
14 *to Offerors*.

15 A Yeah.

16 Q Okay. I'll skip to the second full
17 sentence and read it. You tell me if I'm
18 reading it correctly. *Offeror should promptly*
19 *allow sufficient time for a reply to reach them*
20 *before the submission of their proposals.*
21 Okay?

22 Third sentence. *Interpretations if*
23 *required shall be made in the form of an*
24 *amendment to the specifications which will be*
25 *forwarded to all perspective offerors and its*

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1 receipt by the offeror shall be acknowledged on
2 the proposal form. Okay? Did I read that
3 correctly?

4 A I don't have 1.5. Oh, here it is.

5 Q Okay.

6 A Yeah.

7 Q So, we had Graphic Center seeking
8 clarification, or they had an inquiry. And
9 then there was an interpretation rendered and
10 Mr. Benavente sent it in the form of an
11 Amendment, which is Exhibit 2. And we know
12 from testimony from Ms. Fejeran's email, which
13 has been testified to, that Graphic Center
14 received the Amendment which contains the 70
15 questions. And I asked you if InfoSend
16 received this amendment as well. And you said,
17 "I don't know. Somebody in procurement would
18 know that answer."

19 But would you agree with me, based on
20 the RFP, that this Amendment should've been
21 sent to InfoSend?

22 A (reviews document) Yes, it should've
23 been.

24 Q It should've been?

25 A Yeah.

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1 Q And that's what the RFP requires,
2 right?

3 A Yes.

4 Q Okay. One moment. Could you turn to
5 Exhibit, let me make sure I get this right,
6 Exhibit 4?

7 A (turns to exhibit)

8 Q Do you see Exhibit 4?

9 A Yes, I see Exhibit 4. Yes.

10 Q Yeah. That's InfoSend Inc.'s response
11 to, do you see that at the top? It's a
12 response to the RFP; correct?

13 A Yes.

14 Q Do you see Exhibit Number 1, the
15 Amendment? Do you see an amendment in here, or
16 -- (pauses)?

17 MR. BOTHA: Are we going to have him
18 read the entire proposal? That'd be the only
19 way he could know independently. He's already
20 said he hasn't seen it initially. You can do
21 that if you'd like.

22 A (pauses; reads document)

23 HEARING OFFICER: He's going page by
24 page because you don't give him the page number
25 that has the responses.

1 MR. MAHER: The exhibit number?
2 HEARING OFFICER: Yeah.
3 MR. MAHER: It's Exhibit 4.
4 HEARING OFFICER: Yeah, Exhibit 4.
5 MR. MAHER: That's InfoSend's Response.
6 MR. BOTHA: Yeah, what page?
7 HEARING OFFICER: They're --
8 MR. BOTHA: But 4 is, I mean 80 pages.
9 MR. MAHER: Well --
10 HEARING OFFICER: And there are
11 responses to those questions --
12 MR. MAHER: I mean --
13 HEARING OFFICER: -- maybe not in the
14 form that you deem it.
15 MR. MAHER: Well.
16 HEARING OFFICER: The responses.
17 MR. MAHER: I don't see the response to
18 those questions. I guess we can argue that
19 they responded.
20 MR. BOTHA: Other witnesses have
21 testified there were responses to those
22 questions. And even including --
23 MR. MAHER: Well -- okay.
24 MR. BOTHA: -- Graphic Center's
25 witnesses.

1 MR. MAHER: The statements of counsel
2 are not evidence. I'm trying to keep this
3 evidence-based.

4 MR. BOTHA: Exactly, just as your
5 statements which I haven't objected to, you've
6 been trying to lead the witness around -- I
7 haven't objected yet. But let's be careful
8 about that.

9 HEARING OFFICER: Your witness already
10 pointed out that there was a response to G and
11 there was a response to M; and it wasn't the
12 response that you guys see as an A. But there
13 is an answer to that same question.

14 MR. MAHER: Just for the record, there
15 are 70 questions. If they answered 70
16 questions, that's fine. We discussed two and
17 perhaps three subparts of two questions. That
18 would be six responses. Okay, I accept that
19 it's plausible. But that has 70 questions.
20 And all I'm asking the witness, did they answer
21 the 70 questions. If he doesn't know, then he
22 can say, "I don't know."

23 A (pauses)

24 BY MR. MAHER:

25 Q Mr. Kim?

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1 A Are you asking me a question?

2 Q Yes.

3 A Well, what's the question?

4 Q Did they answer the 70 questions that
5 are contained on exhibit -- the exhibit sent to
6 Graphic Center? Which is Exhibit 2.

7 A Okay. So, what's the question.

8 Q Did they answer the 70 questions
9 contained on the Amendment sent to Graphic
10 Center?

11 A You mean the question they had? I
12 don't see in the document.

13 Q Okay.

14 MR. MAHER: Thank you. Okay. Okay.
15 No further questions.

16 HEARING OFFICER: Mr. Botha.

17 MR. BOTHA: Okay.

18

19 **CROSS EXAMINATION**

20 BY MR. BOTHA:

21 Q I guess if you take the GPA binder and
22 we can turn to Tab A and Page 531.

23 A Okay.

24 Q Have you had an opportunity to take a
25 look at that? Does that list the evaluation

1 criteria that you and the evaluation committee
2 used to evaluate the proposals from Graphic
3 Center and InfoSend?

4 A No. I mean did I use -- the question
5 was, did I use the questionnaire as the
6 criteria?

7 Q No. Are those evaluation criteria
8 listed in the RFP?

9 A (peruses documents) I mean -- okay.
10 Can you repeat the question?

11 Q In the RFP.

12 A Yes.

13 Q If you could turn to Exhibit 12 in the
14 other binder.

15 A Exhibit 12.

16 HEARING OFFICER: No, not that. In the
17 other binder.

18 MR. BOTHA: Oh, I'm sorry, the one --
19 it has two.

20 HEARING OFFICER: Right there.

21 MR. BOTHA: It's together at the top.

22 A Oh, okay. It's 12. Okay. Okay.

23 MR. BOTHA: Okay.

24 BY MR. BOTHA:

25 Q And were those the -- if you see five

1 sheets in Exhibits 12 A through E, were those
2 the scoring sheets that the committee members
3 used to evaluate the two RFP proposals?

4 A Yes.

5 Q Okay. And if you compare those with
6 Page 531 on Tab A of the other binder, do those
7 appear to represent the same criteria?

8 A Yes, they do.

9 Q Okay. Now, if you turn to Tab E. And
10 if you turn, I guess you can tell me what that
11 is.

12 A This Tab E is a proposal from InfoSend.

13 Q Okay. And then if you turn to Page 374
14 of the proposal.

15 A Yes.

16 Q Okay. And what is that?

17 A Three-Seventy-Four is their scopes of
18 the work.

19 Q Okay. And is that provided by InfoSend
20 to the questions asked by GPA?

21 A Yes. It came most of the -- almost all
22 the other data we're looking for.

23 Q Okay. And then if you turn to Page
24 380.

25 A Yes.

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1 Q Okay. There's a Section G. *Special*
2 *Handling/Pull Bill*.

3 A Yes.

4 Q Did they provide a response to that
5 question?

6 A Yes.

7 Q Okay. And if we turn to Page 387
8 through 390. *Disaster Recovery*?

9 A Yes.

10 Q Do they provide a fairly extensive
11 response to the questions asked on Disaster
12 Recovery?

13 A Yes, they did.

14 Q Okay. Why is disaster recovery plan
15 important to GPA?

16 A Well, what we experienced during the
17 pandemic is if something happens or let's say
18 the database gets corrupted, or if the location
19 is compromised, we need to have alternate
20 solutions. And that was one of the
21 requirements that the IT department wanted to
22 have it in the bid proposal.

23 Q Okay. And then if you could look to
24 Tab D.

25 A Yes.

1 Q Okay. What is that particular tab? Is
2 that the Graphic Center Proposal?

3 A Yes. This is I believe Graphic sent a
4 proposal.

5 Q Okay. If you could turn to Page 468 on
6 the top.

7 A Four-Sixty-Eight.

8 Q And it has Section G, Special
9 Handling/Pull Bill?

10 A Yes.

11 Q Okay. Does there appear to be any
12 response of any kind, yes, no, partial,
13 explanation comments provided by Graphic
14 Center?

15 A No.

16 Q Okay. And similarly if you turn to
17 Page 470.

18 A Yes.

19 Q Under Disaster Recovery Plan.

20 A Yes.

21 Q Does there appear to be anything there,
22 any references to disaster recovery plan?

23 A No.

24 Q Okay. If you turn to the next page, N
25 for Reporting. Page 471.

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1 A Yes.

2 Q Are there any responses provided on
3 that page?

4 A For?

5 Q For N, *Section N, Reporting?*

6 A (pauses)

7 Q On page 471.

8 A What do you mean *N for reporting?*

9 Q If you turn to Page 471 at the top of
10 the Graphic Center one. Did Graphic Center in
11 that case under that requirement, did they
12 provide an explanation and comments?

13 A For -- (pauses)?

14 Q For the reporting requirement, Section
15 N?

16 A They did put "Yes." It's marked on
17 "Yes."

18 Q Okay. And then they did provide
19 explanation and comments --

20 A Yes, they did.

21 Q -- on that section? Okay.

22 A Yes.

23 Q Okay. When the committee scored the
24 different proposals, what were they provided by
25 the Procurement?

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1 A Procurement, the proposal from the
2 Graphic Center and proposal from the InfoSend.

3 Q Okay. And then you had a scoring sheet
4 to score those?

5 A Yes.

6 Q Okay. And at the end, is it your
7 understanding the scores were tabulated and
8 then the committee met and recommended the
9 highest scoring proponent?

10 A Yes.

11 Q Okay. And that was InfoSend; is that
12 correct?

13 A Yes.

14 Q Okay. What would be your basis for
15 scoring InfoSend higher than Graphic Center?
16 Considering that Graphic Center is the
17 incumbent that has represented GPA for the last
18 five or six years, what was the basis of
19 scoring InfoSend higher?

20 A One was they are pretty extensive.
21 InfoSend has pretty extensive experience with
22 utility services. The second was they had
23 disaster recovery solution.

24 Q And then is it important to you to
25 choose a firm that has experience with CC&B?

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1 A Yes. That's one of the good points
2 about InfoSend.

3 Q Okay. And they listed as reference
4 California utilities that had extensive CC&B
5 and a large number of customers; is that
6 accurate?

7 A Yes, that is correct.

8 Q Okay. When Graphic Center started, did
9 they know anything about CC&B?

10 A No.

11 Q Okay. So, it took them a while to get
12 spun off?

13 A Yes. I believe it took almost a year
14 of testing.

15 Q Okay. Before they could interact with
16 the CC&B database?

17 A Actually, to print.

18 Q Okay. What is the, you know, what is
19 the importance of timeliness as far as the
20 billing process?

21 A It is important for our operations,
22 yes.

23 Q Okay. Is there a cashflow that's
24 critical to the operations of GPA?

25 A Yes. We do cycle printing on a cycle

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1 basis to smooth our operation, also help us
2 with steady flow of cash.

3 Q Okay. But some bill of some kind of --
4 or one or more cycles goes out practically
5 every business day; is that accurate?

6 A Yes, almost -- yes, on a weekly basis.
7 Yes.

8 Q Okay. Now, did the committee send an
9 evaluation or clarification letter, request
10 that that be sent to InfoSend?

11 A Yes. There was a clarification that we
12 did send, yes.

13 Q Okay. And then the response was
14 provided to the committee and the committee
15 reviewed that clarification response prior to
16 scoring the two proponents?

17 A That is correct. Yes.

18 Q Okay.

19 MR. BOTHA: Nothing further, Your
20 Honor.

21 HEARING OFFICER: Okay. Ms. Weil, do
22 you have any question?

23 MS. WEIL: I do not. Thank you.

24 HEARING OFFICER: Thank you. Do you
25 have follow-up?

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1 MR. MAHER: Yes, a few. Thank you.

2

3

RE-DIRECT EXAMINATION

4 BY MR. MAHER:

5 Q Mr. Kim, the first question Mr. Botha
6 directed at you was on Page 531 of the GPA's
7 exhibits, that's Exhibit A.

8 A (pauses)

9 Q That's in the binder.

10 A Yes.

11 Q Okay. So, it was 531 and it was, the
12 title here. And Mr. Botha's question was, is
13 this what you used to evaluate the offerors.
14 And your answer was -- or "Is this the criteria
15 you used?" And your answer was, "No." So, you
16 did not use this?

17 A Oh, no, no, I'm sorry. That'll be -- I
18 must have answered wrong. This is the criteria
19 we used for rating the -- rating the proposal;
20 yes.

21 Q No? So, you've changed. So, now your
22 answer is "yes"?

23 A (pauses)

24 Q This is the criteria you used?

25 A Yes, this is the criteria.

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1 Q I see. Okay. Is there a reason you
2 didn't use 2.3 that's set forth in the RFP?

3 A Two (point) three?

4 Q Yeah, we looked at that. That was
5 Exhibit A of our exhibits.

6 A (pauses; searches documents) Sorry.
7 What were you referring to?

8 Q Exhibit Number 1, 2.3.

9 A (pauses; searches documents)

10 Q All right. I'm trying to figure out
11 why you made a choice between using one
12 criteria versus another. How does the
13 committee -- how did the committee make that
14 choice?

15 A You mean this questionnaire in here?

16 Q Well, it's not a -- well, it's four --
17 I guess you could categorize it as four
18 questions or four categories. You know?

19 A I'm sorry.

20 Q Exhibit 1, 2.3.

21 A Exhibit 1, 2.3?

22 Q Yeah.

23 A (pauses; reviews document) -- 2.3 says
24 stand for determining -- (unintelligible).

25 Q Yes, that's correct.

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1 A Yeah. So?

2 Q So, you chose -- apparently, the
3 committee chose to use the other criteria,
4 which is on Page 531 of GPA's Exhibit A. And
5 it's also in our exhibit as Exhibit 12 A
6 through E. Okay? So, I guess we've
7 established that GPA used that criteria.

8 My question is, who made the decision
9 or how is the decision made not to use the
10 criteria set forth in 2.3, which is in the RFP?

11 A I don't really understand your
12 question.

13 Q Okay.

14 A It says 2.3 is, A says *The ability,*
15 *capacity and skill of the Offeror to perform*
16 *the work specified, right? Whether Offeror can*
17 *perform promptly or within the time specified.*
18 (begins to read to self) -- *of performance of*
19 *the Offeror with regard to* (continues reading
20 to self) -- *comply with Offeror with laws and -*
21 - (reads silently; unintelligible).

22 Q You didn't use that. So, why?

23 A (pauses)

24 Q If you don't know, just tell us you
25 don't know.

1 A Okay. I don't understand the question.

2 Q Okay. I'll move on.

3 A Okay.

4 Q We have two criteria here. One is set
5 forth in 2.3.

6 A Uh-huh.

7 Q Okay? And another is set forth, and I
8 will say in Exhibit 12, that's our exhibit,
9 that's the Evaluation Sheets. That's also
10 Exhibit A, Page 531, that's GPA's exhibit.

11 A Okay.

12 Q So, you have two separate criteria.

13 HEARING OFFICER: Mr. Maher, please
14 also make mention of the fact that it's listed
15 in the RFP at --

16 BY MR. MAHER:

17 Q And it's also listed in the RFP. It's
18 5.0. Okay? So, we have 2.3 in the RFP, we
19 have 5.0. Five (point) zero is also in
20 exhibit, our Exhibit 12. How is it that you
21 decided to use one and not the other?

22 A I don't understand your question how
23 these two are one or the other. I don't
24 understand the question.

25 Q Okay. We'll come back to that. You

1 said that you had -- there was concerns about
2 the pandemic and therefore a disaster plan was
3 important. Is that correct?

4 A Yes.

5 Q Okay. So, the pandemic I guess in
6 theory has been going on almost two years,
7 would you agree? I think it was March of 2020?

8 A Yes.

9 Q About that time? So, during that
10 period, has Graphic Center been servicing this
11 contract for GPA?

12 A Yes, they have.

13 Q Okay. Have there been any problems?

14 A There were some delays, yes.

15 Q There were problems?

16 A There were delays.

17 Q Okay. What kind of delays?

18 A Oh, when the pandemic hit back in 2020,
19 when they had a shutdown, Graphic Center was
20 down for about a week.

21 Q Okay. When you say "they were down,"
22 what does that mean? They didn't bill anything
23 or?

24 A There were not operation. They didn't
25 ask that.

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1 Q Okay. Did the bills not go out?

2 A (pauses)

3 Q In other words, was there a delay in
4 the billing?

5 A There was a delay in billing.

6 Q Of GPA customers?

7 A Yes. But they did eventually get it
8 out.

9 Q And that lasted, what, seven days?

10 A I believe it was less than seven days.

11 Q Well, one day, two days; how many days?

12 A I don't remember. I don't know exact
13 number of days. I think it was two or three
14 days, but -- (pauses).

15 Q Okay. And you said the basis for your
16 decision, this one basis, was the extensive
17 experience InfoSend had with other utilities.
18 Do you recall that?

19 A Yes.

20 Q Okay. Did you contact the other
21 utilities?

22 A No.

23 Q Okay. So, you just took them at their
24 word then?

25 A Yes. Based on their proposal, yes.

1 Q Okay. Now, there was some talk -- Mr.
2 Botha asked you some questions about the time,
3 the delivery of bills, invoices, and what not,
4 and the processing. Do you recall that?

5 A Yes.

6 Q Okay. Do you know why GPA has placed
7 Graphic Center on a one-day turnaround time
8 from the delivery of the information to the
9 mailing of the bill?

10 A I'm sorry?

11 Q Do you know why GPA insists on a one-
12 day turnaround from its delivery of
13 information, customer information, to Graphic
14 Center and then the sending out of the bill?
15 There's a one-day turnaround period that GPA
16 has insisted upon.

17 A Yes.

18 Q Do you know why?

19 A We wanted the bill to come out.

20 Q So, time is fairly important; correct?

21 A Yes.

22 Q Okay.

23 MR. MAHER: Okay. No further
24 questions.

25 MR. BOTHA: Nothing further, Your

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1 Honor.

2 HEARING OFFICER: Thank you.

3

4 (Deposition concluded; no time indicated)

5 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

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1 CERTIFICATE OF WITNESS

2

3 I, **John Kim**, the witness herein, do hereby
4 certify that I have read, or had read to me,
5 the foregoing typewritten pages 1 through 30
6 inclusive. My changes thereof, if any, have
7 been noted on a separate sheet of paper, which
8 I have signed, and which I understand will be
9 appended to and made a part of this deposition.
10 I certify that the same is now a true and
11 correct transcript of my testimony.

12

13

John Kim

14

15

16

Dated: _____

17

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REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 29 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 10th day of February, 2023.

George B. Castro

CHANGES TO TRANSCRIPTION

By Deponent:

John Kim

Page	Line	Change	Reason
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**BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM**

IN THE APPEAL OF) DOCKET NUMBER OPA-PA-21-012
)
)
Graphic Center, Inc.,)
)
Appellant.)
)
)

**TRANSCRIPTION
OF
OFFICE OF THE PUBLIC AUDITOR
FORMAL HEARING**

February 4, 2022

(Dawn Fejeran)

ORIGINAL

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**BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM**

IN THE APPEAL OF)	DOCKET NUMBER OPA-PA-21-012
)	
)	
Graphic Center, Inc.,)	
)	
Appellant.)	
)	
)	

Transcription of **Office of The Public Auditor Formal Hearing** of OPA-PA-21-012, in the Appeal of Graphic Center, Inc., February 4, 2022, at Suite 401 DNA Building, 238 Archbishop Flores St., Hagatna, Guam. That at said time and place there transpired the following:

APPEARANCES

Public Auditor	Benjamin J.F. Cruz
Guam Power Authority	Graham Botha, Esq.
Graphic Center Inc.	James M. Maher, Esq.
InfoSend, Inc.	Roxana Weil, Esq.
Also Present	Jerrick Hernandez and Thyrza Bagana.

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2
3
4 **Dawn Fejeran**

5 being duly sworn, was examined and testified as
6 follows:

7
8
9 **DIRECT EXAMINATION**

10 BY MR. MAHER:

11 Q Ms. Fejeran, never met you but I've seen
12 your name on a few emails. If you don't remember,
13 just tell me and I'll draw your attention to the
14 exhibit which we have your name on it. But do
15 you recall communicating with Jesse Rosario of
16 Graphic Inc. regarding a clarification?

17 A Yes.

18 Q Okay. And that had to do with the RFP;
19 correct?

20 A Yes.

21 Q And you're in the Procurement Division?

22 A Yes, I am.

23 Q So, do you recall then communicating with
24 -- by extending this amendment that Mr. Benavente
25 sent; do you recall sending that to Mr. Rosario?

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1 A Yes.

2 Q Okay. And do you recall the following
3 you emailed Mr. Rosario from Graphic Center to
4 ask that he acknowledge receipt of the amendment?

5 A Yes.

6 Q Do you remember that? Okay. So, if you
7 don't, they're in the exhibits. I can point them
8 out if you want to just verify them. So, is it
9 your position that you make sure that the
10 offerors or the bidders receive all
11 communications; is that a part of your job
12 description in procurement?

13 A Yes.

14 Q And of course, you did these follow-ups
15 to make sure they received it; correct?

16 A Yes.

17 Q Okay. Now, if you could look at our
18 exhibits, those are on your left side, and
19 they're tabbed. Okay? Now, if you could look
20 at Exhibit 1, that's the RFP. Okay. And if you
21 open it to page, the very top, righthand corner,
22 it's kind of obscured by the paper. But if you'll
23 look at page 14 of 59 pages.

24 A (reviews document)

25 Q Do you see page 14?

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1 A Uh-huh.

2 Q Okay. And then it says under 2.12,
3 *Required Forms.*

4 A Yes.

5 Q Do you see that?

6 A Yes.

7 Q It's A and G. And G is Exhibit A. Do
8 you see that?

9 A Uh-huh.

10 Q And was Exhibit A the Amendment that Mr.
11 Benavente sent to you which you then sent to
12 Graphic Center?

13 A Yes.

14 Q Okay. If you recall, if you don't,
15 that's fine, did the exhibit have questions
16 appended to it?

17 A I don't recall that.

18 Q Okay. Well, let's just take a look at
19 the exhibit. If you just take a look at page --
20 or Exhibit 2. Okay. Look at the second page and
21 then the third page. Do you see all those
22 questions?

23 A Yes.

24 Q Okay. And I can represent to you there
25 are about 70 questions there. Okay. So, that's

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1 Exhibit A; right?

2 A Yes.

3 Q Okay. And it says here this is a required
4 form under 2.12 of the RFP. That section. So,
5 we have eight -- I'm sorry, one, two, three, four,
6 five, six, seven required forms, A through G, G
7 is Exhibit A. Okay?

8 A Uh-huh.

9 Q Now, if we could turn to Exhibit 6. Okay.
10 That's Graphic Center's response to the RFP;
11 correct?

12 A Yes.

13 Q Now, we don't have these marked but if
14 you could go basically about halfway through
15 right after Declaration regarding compliance with
16 U.S. DOL, Wage Determination Affidavit,
17 Restrictions Against Sex Offenders, okay? And
18 then the next one is Graphic Center's Exhibit A.
19 Do you see that?

20 A Yes.

21 Q So, this is Graphic Center's response to
22 Exhibit A; correct?

23 A Yes.

24 Q Which is the Amendment that Mr. Benavente
25 sent out which is an amendment to the RFP.

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1 Correct?

2 A Correct.

3 Q Okay. So, it's appended to the Graphic
4 Center's response. You would agree with that?

5 A It is not in the form that we actually
6 send out but it looks like it. Yes.

7 Q But it's appended to the --

8 A Yes.

9 Q It is. Okay. Now, let's take a look at
10 Exhibit 4. Okay. You see Exhibit 4?

11 A Yes.

12 Q Now, we know that Exhibit A, which is the
13 Amendment, is a required form.

14 A Uh-huh.

15 Q Now, we're going to look through this,
16 take a few seconds and tell me, do you find the
17 required form Exhibit A appended to InfoSend
18 Inc.'s response to the RFP?

19 A (lengthy review of document; pauses) I
20 don't see the form I --

21 Q It's not there, is it?

22 A I don't see it.

23 Q Okay. Well, let's turn to Exhibit 15.
24 Okay. This is a Letter from Mr. Benavente to
25 Moonlight BPO to a man named Peter Nye. Do you

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1 see that?

2 A I see that.

3 Q And just tell me if I'm reading this
4 correctly that *Guam Power Authority* has reviewed
5 your first proposal in regards to the form, that
6 your proposal is deemed disqualified and rejected
7 due to the following: *Affidavit of Disclosure of*
8 *Major Shareholders* is rejected due to no entry
9 on the affidavit aside from the notarized
10 signature. Therefore, your submission failed to
11 meet the requirements of the RFP. Did I read
12 that correctly?

13 A Yes.

14 Q Okay. Now, let's go back, we're jumping
15 around a little. Let's go back to 2.12 of Exhibit
16 1.

17 HEARING OFFICER: Can you speak a little
18 louder so that they can record it?

19 THE WITNESS: Okay.

20 A I'm sorry. Section?

21 Q 2.12.

22 HEARING OFFICER: If you want, you can
23 take off your mask. It might be easier.

24 THE WITNESS: Oh, okay.

25 BY MR. MAHER:

1 Q Okay.

2 A Two (point) one-two?

3 Q Yeah, 2.12. The required.

4 A Yes.

5 Q Okay. These are the required forms. So,
6 Exhibit 15 references a failure of Moonlight BPO
7 to satisfactorily provide, I guess, the major
8 shareholder disclosure affidavit.

9 A Yes.

10 Q If I'm reading Mr. Benavente's letter
11 correctly. And apparently, major shareholder
12 disclosure affidavit was a required form. And
13 they didn't provide it. Therefore they were
14 disqualified.

15 So, my question to you is, InfoSend did
16 not provide the required form, that is Exhibit
17 A, which is the Amendment Mr. Benavente sent out.
18 Why were they not disqualified, if you know?

19 A The committee will be the one to value
20 those documents. So, we just need to go off of
21 the -- we take what the committee recommends
22 after reviewing the documents, when they submit
23 the documents.

24 Q Okay. Okay. Would there be a record of
25 that why they over -- gave a waiver of that

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1 required form, if you know?

2 A No.

3 Q Are you aware of any explanation for
4 that?

5 A No.

6 Q Do you know how InfoSend learned of this
7 RFP?

8 A We just -- we received an email I
9 believe. They sent an email. To be registered
10 and noticed to be -- (inaudible).

11 Q Okay.

12 MR. MAHER: No further questions.

13 HEARING OFFICER: Mr. Botha.

14 MR. BOTHA: Sure.

15

16 **CROSS EXAMINATION**

17 BY MR. BOTHA:

18 Q Ms. Fejeran, what is your current
19 position with GPA?

20 A Buyer II.

21 Q And how long have you been with GPA?

22 A I've been with GPA for 19 years.

23 Q Okay.

24 A In the procurement.

25 Q In the procurement side?

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1 A Yeah.

2 Q Okay.

3 A I'm sorry. In procurement, I'm 12 years.
4 In procurement.

5 Q Okay. So, were you the buyer in this
6 particular case, the RFP in this matter?

7 A Yes

8 Q Okay. And as a buyer, are the committee
9 members ever allowed to communicate with vendors?

10 A No.

11 Q Okay. And so, that strictly goes to the
12 procurement section. Is that accurate?

13 A Yeah. Yes, it is.

14 Q Okay. And so, in this case, when
15 committee members were selected and they were
16 brought in, what documents did you provide them
17 to review?

18 A I provided them the form portfolio.

19 Q Okay.

20 A Which is in the -- part of the RFP.

21 Q Okay.

22 A And the purple book.

23 Q Okay. And then do you allow them to take
24 any of those materials outside of your
25 procurement room?

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1 A Yes.

2 Q Okay. So, in other words, everything is
3 collected when they have a meeting and then once
4 they leave?

5 A Yeah.

6 Q Okay. And then when it is scored, what
7 is the process after that?

8 A After they score, they also attach a
9 committee recommendation.

10 Q Okay.

11 A And we forward that for management
12 approval.

13 Q Okay. And then the GM would then send
14 out a letter to the proponents saying who's the
15 highest proponent?

16 A To the best qualified.

17 Q Okay. To the best qualified. Is that
18 what happened in this particular RFP, to your
19 knowledge?

20 A Yes.

21 Q Was there a, if you recall, I could point
22 you to the exhibit, was there a clarification
23 letter sent out in this case?

24 A I think I need to see it.

25 Q Okay. If you'll take the other binder,

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1 and at Exhibit I.

2 A (searches for document)

3 Q I think exhibit -- (pauses). I'm sorry,
4 Exhibit H. As a result of -- if you can turn to
5 I guess the page before that, Exhibit G. What
6 is that?

7 A That is the committee recommendation
8 memo.

9 Q Okay. And then after that, a letter was
10 sent out to InfoSend as Exhibit H, requesting the
11 information that the committee had -- was in
12 their memo?

13 A Yes.

14 Q Okay. And after that, Exhibit I, is that
15 the Response? If you look at that, is that the
16 Response that InfoSend provided in response to
17 the clarification letter?

18 A Yes.

19 Q And then if you turn to Exhibit M. On
20 the back.

21 A All right. Okay.

22 Q Yeah. What is Exhibit M?

23 A It is the letter to the -- advising
24 InfoSend that they are the -- they were deemed
25 as the qualified offeror.

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1 Q And then did they have to provide a sale
2 price proposal?

3 A Yes.

4 Q They did. And in fact, did GPA receive
5 a sale price proposal from InfoSend?

6 A Yes.

7 Q They did. Okay. And if you turn to the
8 next page, Exhibit O, does that represent their
9 sale price proposal?

10 A Yes.

11 Q And then if you turn to, what is Exhibit
12 P? Tell us what that is.

13 A Exhibit P is the Committee's, Evaluation
14 Committee's recommendation, request for InfoSend
15 to send their best and firm offer.

16 Q Okay.

17 A I believe.

18 Q And after that, what is Exhibit Q?

19 A (pauses)

20 Q The next page.

21 MR. MAHER: Excuse me. What was Exhibit
22 P?

23 A It's the Committee, Evaluation
24 Committee's memo requesting the best qualified
25 proponent to submit their --

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1 MR. MAHER: Oh, price.

2 A -- best and final offer price.

3 MR. MAHER: I see. Okay. Thank you.

4 MR. BOTHA: Okay.

5 BY MR. BOTHA:

6 Q And then Exhibit Q. What is that?

7 A Graphic Center Protest.

8 Q Okay. What did you do upon GPA receiving
9 the protest?

10 A We acknowledged the protest letter and
11 forwarded it for attorneys review.

12 Q Okay. And did you do a stay of
13 procurement after that?

14 A Yes. Yeah, we did a stay.

15 Q Okay. Okay. If you could turn to what's
16 tabbed as Exhibit A. And if you turn to page 5
17 of 31.

18 A Okay.

19 Q Okay. And as part of the RFP, what is
20 Section 5.0; what is the purpose of that?

21 A It is the RFP Evaluation Criteria where
22 the committee would base their scoring on these
23 -- list of criteria.

24 Q Okay. And if you could take the other
25 binder and turn to Exhibit 12. Are those the

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1 Scoring Sheets that you provided to the five
2 committee evaluators?

3 A Yes.

4 Q Okay. And do they contain the scoring
5 and the weights of the points that are listed in
6 Section 5.0, Evaluation Criteria?

7 A Yes.

8 Q Okay. Yeah. Also, while you're at it,
9 could you turn to Section 2.3 in the page, we
10 have, I think it's 5 -- (sorts pages) -- five --
11 (pauses).

12 MR. MAHER: Seventeen.

13 MR. BOTHA: I think on the top is -- it's
14 5.17?

15 MR. MAHER: Yeah.

16 A Back to the binder?

17 MR. BOTHA: Yes.

18 A Okay.

19 MR. BOTHA: Okay.

20 BY MR. BOTHA:

21 Q And what is that section?

22 A Can you ask it again?

23 Q What is Section 2.3, the Standards for
24 Determination of the Most Qualified Offeror; why
25 is that in the RFP?

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1 A Basically, a criteria from -- determining
2 the most qualified offeror.

3 Q But the Scoring Criteria, page 531 in the
4 Evaluation Sheets, are what is used to score each
5 proponent?

6 A Yes.

7 Q Okay. And in the binder, there are only
8 two proponents in this case, right? InfoSend and
9 the incumbent, Graphic Center.

10 A Yes.

11 MR. BOTHA: I don't have any further
12 questions.

13 HEARING OFFICER: Do you have any
14 questions, Ms. Weil?

15 MS. WEIL: Can you hear me okay?

16 HEARING OFFICER: Yes.

17 MS. WEIL: Okay.

18

19 **CROSS EXAMINATION**

20 BY MS. WELL:

21 Q I did have just a couple of brief
22 questions for Ms. Fejeran. Is it accurate from
23 your understanding that InfoSend submitted its
24 RFP response to GPA prior to the RFP submission
25 deadline?

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1 A I'm so sorry. One more time?

2 Q Can you hear me okay?

3 A Yes.

4 Q Is it your understanding from your
5 recollection of your records that InfoSend
6 submitted its RFP response on May 27th, 2021 which
7 was prior to the deadline for submission?

8 A I would have to look at the -- I don't
9 recall the actual date. I'd have to look at the
10 bid register to confirm that.

11 Q Okay. Is it accurate from your
12 understanding that GPA did not issue the
13 substance of Exhibit A for response until it was
14 requested by Graphic Center? To rephrase my
15 question, was Exhibit A substantively included in
16 the original RFP?

17 A It was stated in the RFP, in a section of
18 the RFP, but it was not in the original submission
19 of it.

20 Q Right. Okay. Thank you. And is it your
21 understanding from looking at the, I believe it's
22 your Exhibit 4, InfoSend's RFP Response, page 43,
23 that InfoSend did in fact acknowledge Exhibit A
24 by answering that "We accept this requirement"?

25 A Can I just reference the -- is it Exhibit

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1 4?

2 Q I believe it's your Exhibit 4. It's
3 InfoSend's RFP Response. And it's page 43 of our
4 Response. It says, *Additional requests. Each*
5 *proponent must complete Exhibit A. InfoSend*
6 *accepts this requirement.*

7 A Yes.

8 Q Thank you. And is it your understanding
9 that upon issuing Exhibit A subsequent to the
10 issuance of the original RFP that InfoSend did
11 in fact respond substantively and provide answers
12 to all of the questions listed in that exhibit?

13 A I'm not part of the committee, so when
14 it comes to the technical aspect of the scope or
15 RFP, we are not -- on that part of the review of
16 the actual proposal.

17 Q Okay.

18 MS. WELL: No further questions. Thank
19 you.

20 HEARING OFFICER: Did you wish to follow
21 up?

22 MR. MAHER: Yes, just a few questions.
23

24 **RE-DIRECT EXAMINATION**

25 BY MR. MAHER:

1 Q Mr. Botha asked you about 5.0, which is
2 the Criteria used by the evaluation committee,
3 and then 2.3 of the RFP. If you can just take a
4 look at those and then I'm going to ask you, do
5 they resemble, are they similar in nature, the
6 criteria?

7 A (pauses; reviews document) It's not
8 verbatim to the Section 5.0. It's not verbatim.

9 Q Uh-huh. Do you have any idea why they
10 wouldn't use 2.3?

11 A (pauses)

12 Q GPA? I mean you've been there several
13 years. You've been in procurement, what did you
14 say, 12 years?

15 A Twelve years, yes.

16 Q So, in your 12 years, has it evolved
17 somehow that we're not going to follow maybe the
18 criteria of the RFP even though we put it in the
19 RFP; but we might use something else to evaluate
20 it?

21 A When we get the approved package,
22 procurement, we go -- the committee -- I mean
23 will be the one to create that criteria for that
24 section of the RFP.

25 Q Uh-huh. Okay. So, InfoSend directed

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1 your attention to Exhibit 4, that's our exhibit,
2 page 43 regarding the exhibit, Exhibit A, that's
3 Mr. Benavente's Amendment. And it reads, *Each*
4 *proponent must complete Exhibit A.* Do you see
5 that?

6 A Yes.

7 Q Okay. And there are 70 questions there.
8 So, remember, I asked you if you can find answers
9 in InfoSend's response to those 70 questions.
10 And you said you couldn't.

11 A I don't see the actually form that we did
12 issue out.

13 Q Uh-huh.

14 A I'm not sure within the document I saw
15 earlier. I'm not part of the committee, so we
16 don't -- that's not our part to review the
17 proposals.

18 Q I see.

19 A The technical aspect of it.

20 Q But as we sit here today, you can't find
21 responses to the 70 questions?

22 A I'm not familiar with all 70 questions.
23 So, no.

24 Q Okay.

25 MR. MAHER: Okay. Okay. No further

1 questions.

2 MR. BOTHA: Nothing further.

3 HEARING OFFICER: Thank you.

4

5 (Examination concluded; no time indicated)

6 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

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1 CERTIFICATE OF WITNESS

2
3 I, **Dawn Fejeran**, the witness herein, do
4 hereby certify that I have read, or had read to
5 me, the foregoing typewritten pages 1 through 24
6 inclusive. My changes thereof, if any, have been
7 noted on a separate sheet of paper, which I have
8 signed, and which I understand will be appended
9 to and made a part of this deposition. I certify
10 that the same is now a true and correct transcript
11 of my testimony.

12
13 _____
14 Dawn Fejeran

15
16 Dated: _____
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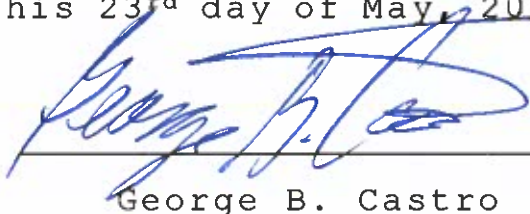
REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 23 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 23rd day of May, 2025.



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CHANGES TO TRANSCRIPTION

By Deponent:

Dawn Fejeran

Page	Line	Change	Reason
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BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM

IN THE APPEAL OF) DOCKET NUMBER OPA-PA-21-012
)
)
Graphic Center, Inc.,)
)
Appellant.)
)
)

TRANSCRIPTION
OF
OFFICE OF THE PUBLIC AUDITOR
FORMAL HEARING
February 4, 2022
(Kelly Law)

ORIGINAL

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**BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM**

IN THE APPEAL OF)	DOCKET NUMBER OPA-PA-21-012
)	
)	
Graphic Center, Inc.,)	
)	
Appellant.)	
)	
)	

Transcription of **Office of The Public Auditor Formal Hearing** of OPA-PA-21-012, in the Appeal of Graphic Center, Inc., February 4, 2022, at Suite 401 DNA Building, 238 Archbishop Flores St., Hagatna, Guam. That at said time and place there transpired the following:

APPEARANCES

Public Auditor	Benjamin J.F. Cruz
Guam Power Authority	Graham Botha, Esq.
Graphic Center Inc.	James M. Maher, Esq.
InfoSend, Inc.	Roxana Weil, Esq.
Also Present	Jerrick Hernandez and Thyrza Bagana.

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2
3
4 **Kelly Law**

5 being duly sworn, was examined and testified as
6 follows:

7
8
9 **DIRECT EXAMINATION**

10 BY MR. BOTHA:

11 Q Ms. Law, where are you currently
12 employed?

13 A At InfoSend.

14 Q Okay. And how long have you been
15 there?

16 A Fourteen years.

17 Q Okay. And did you participate in the
18 submission of a proposal for the RFP that is
19 the subject of this hearing?

20 A Yes, I did.

21 Q Okay. And as part of that, did you
22 review the scope of work and all the parts that
23 GPA was asking for in the RFP?

24 A Yes, I did.

25 Q Okay. And then can you tell us a

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1 little bit about InfoSend and their
2 qualifications for this RFP?

3 A Yes. So, InfoSend is -- we've been in
4 the mail and utility billing phase since the
5 inception of our company in 1996. We provide
6 data processing, printing and mailing services
7 as well as E-billing services. To date we have
8 I think, the most updated count is 712 clients.
9 And approximately 600 of those are utility
10 billers. Does that suffice, or would you like
11 more information?

12 Q If you could provide a little bit more.
13 Did you provide us references from the
14 California Anaheim area, Los Angeles area
15 specifically that dealt with the CC&B billing
16 system?

17 A Yes. That's correct. So, when we have
18 an RFP, we -- obviously we have a vast breadth
19 of references to use. And so, we try to
20 provide references of the topical -- the case.
21 So, we take a look at utility billing software,
22 that's one of the main components. And so, we
23 did match up with Oracle CC&B clients. And
24 then the second goal is to match up with the
25 clients of a similar volume of billing, which

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1 is why we provided the references we did.

2 Q Okay. And in fact, were most of the
3 references actually greatly exceeded the amount
4 of billing that GPA had projected for the RFP?

5 A That's correct. Our Oracle CC&B
6 clients tend to be the larger volume clients
7 that we support. Or amongst the larger
8 volumes. Some of the smaller utilities can't
9 afford to buy the CC&B software. So, it tends
10 to be larger billers.

11 Q Okay. And among those is the City of
12 Long Beach and Irvine Ranch & Water, are those
13 utility clients?

14 A Yes, correct. Yes. All of the
15 references provided were utility clients.

16 Q Okay. And those, your billings are in
17 the 170,000 billings per month?

18 A Yes, correct.

19 Q Okay. How many employees, if you know,
20 approximately, does InfoSend employ?

21 A A hundred and eighty-five across our
22 four production facilities.

23 Q Okay. And now, what -- if there was
24 something that happened to your Anaheim
25 facility, how would you -- or could you produce

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1 the bills in your other locations?

2 A Yes. So, we have disaster recovery
3 protection across our four production
4 facilities. It's one of the things that we're
5 proud of in terms of the investment in our
6 infrastructure. Unlike other vendors in our
7 industry, some of them simply don't have
8 disaster recovery. Some of them will lease
9 space from other print providers. But we have
10 true disaster recovery with servers that are
11 saved from one location to the next. We also
12 have reinforced our Anaheim headquarters with
13 generators.

14 Obviously, we have very strict SLAs in
15 our business. And so, being down for a matter
16 of hours, not to mention days, would be
17 disastrous for our business. So, the disaster
18 recovery is something that we always provide in
19 RFP responses. You know, as a testament to the
20 company and the investment that we've made.

21 Q Okay. And what is an SLA?

22 A Oh, Service Level Agreement.

23 Q Okay. And that's just one where you
24 commit to the clients your downtime or --

25 A No, so that's out turnaround time.

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1 Q Okay.

2 A So, typically, in contracting, we talk
3 about a client's mail needs whether it's same-
4 day production or next-business-day production.
5 I believe in the case of GPA, we actually left
6 it up to the prospects, being GPA, to determine
7 which turnaround time they would require.

8 We know that, you know, postage and
9 mailing turnaround is sensitive. And so,
10 during contracting, it would be my job to
11 discuss that with the future client and then we
12 would agree upon that service level agreement
13 and set that up with our automated system going
14 forward.

15 Q Okay. What can you tell me about the -
16 - your detached mail facility unit in your
17 Anaheim offices; what is that?

18 A So, InfoSend is designated as a USPS
19 detachment unit, which means we have USPS staff
20 on site at our facility. They actually have an
21 office out back in our warehouse where they,
22 you know, they show up to work at our facility
23 every day and they're accepting from our
24 facility on behalf of USPS.

25 So, the mail is inducted into the

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1 postal stream within InfoSend's facility, and
2 then it's trucked by the USPS to the bulk mail
3 entry unit in Santa Ana, California.

4 Q Okay. And what is the advantage of
5 that?

6 A It means that it skips a number of
7 certification steps. As the mail is inducted,
8 it also means that InfoSend has proven its
9 capability in terms of pre-sorting capabilities
10 and following USPS compliance and regulation.

11 Q Okay. And then what is your
12 understanding about the postal service, I mean
13 presumably this detachment unit adds -- I mean
14 it cuts out time from the process it is already
15 in the postal system, what is your
16 understanding of the mail delivery time from
17 L.A. to Guam?

18 A So, it's not my role to understand what
19 the USPS can do, because the USPS is
20 consistently shifting regulations. And as a
21 default, in my history of working with the
22 company and dealing with USPS items, they don't
23 guarantee mail turnaround times. They never
24 have first class mail. But they do provide
25 guidance.

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1 And so, we did provide in our RFP
2 response the USPS turnaround time with the
3 induction zip code of Anaheim, California and
4 the mailing estimate to Guam. I believe that
5 the turnaround time was listed as five days
6 back in May 2021 when we submitted our
7 response. And then upon follow-up, the USPS
8 has, again, like I said, been changing
9 expectations for mailing turnaround time. And
10 with every change expectation, their estimate
11 has been consistent with the five-day
12 turnaround time from California; California to
13 Guam.

14 So, while parts of the US had changed
15 in terms of turnaround time, from our
16 perspective, seeing the USPS map from
17 California to Guam, has not changed.

18 Q Okay. And what other discounts is --
19 or I guess advantages is InfoSend able to have
20 with having postal service in your own
21 warehouse? Are there any discounts or benefits
22 to the sending out 50,000, in our case, let's
23 say 50,000 GPA mailings?

24 A Yeah. So, the detached mail unit
25 doesn't specifically give discounts. But

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1 InfoSend, in the data processing setup that we
2 provide to all of our clients will implement
3 the pull service intelligent mail barcode. And
4 we add it to all of the statements. It's known
5 as the Pull Service IMb. And by adding this
6 barcode to the statements, we do get a 0.003
7 cents discount on all first-class mail pieces.
8 And that is the discount that InfoSend passes
9 on to clients.

10 All of our postage invoicing is a
11 direct passthrough cost. So, we provide
12 reporting in terms of postage estimates during
13 the data processing as well as the USPS'
14 invoices or reporting as we invoice our client;
15 so you know that you're paying what you would
16 pay, what we're paying. So, you pay the direct
17 passthrough cost of USPS postage. Including
18 discounts.

19 Q Okay. When did you, if you're aware,
20 when did InfoSend send the proposal for the RFP
21 in response to GPA?

22 A We sent it on May 27th. We mailed it
23 out via DHL.

24 Q Okay. And that was to make sure that
25 it got here in what was listed on the deadline.

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1 Is that fair to say?

2 A That's correct.

3 Q Okay. Were you aware thereafter that
4 there was an Exhibit A or an Amendment 1?

5 A No. So, we were not made aware of the
6 Amendment 1 until the appeal was filed and we
7 were downloading materials from website; we
8 noticed in -- that Graphic Center was
9 practically saying this, and we saw that after
10 the fact.

11 Q Okay.

12 A I will say that when we finally
13 received the Amendment 1 and the exhibit, that
14 InfoSend had answered those items in our
15 standard RFP response. When we receive an RFP,
16 we look at the scope of work and it's primarily
17 the item that we're focusing on and providing
18 information. And through the scope of work as
19 well as supplemental information that we
20 typically include, if my understanding is
21 correct, I believe we answered most if not all
22 of the questions in that exhibit in our
23 original response.

24 Q Okay.

25 A And in addition, we also accepted the

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1 requirements to provide information. But it
2 was a little confusing because we noticed the
3 exhibit in the RFP specs, and we offered to --
4 we assumed that it would've been a follow-up
5 item.

6 Q Okay. But is your position that the
7 RFP proposal did in fact, even though -- I mean
8 it was sent in prior to your knowledge of
9 Exhibit A that it answered all of the
10 questions, or substantiality all the questions?

11 A Correct. That's correct.

12 Q And I guess in terms of whether the
13 delivery times take five days or eight days, do
14 you feel that would impact your ability to send
15 out regular bills and E-bills on behalf of GPA?

16 A No. So, again, I can't speak to the
17 USPS turnaround time. But in terms of
18 InfoSend's ability to get the mail out of the
19 door quickly, we have offered two solutions.
20 So, the first would be same-day printing. And
21 then the second is our is next-business-day
22 printing.

23 So, there are the two options there.
24 InfoSend's system is an automated system; we
25 never rely on data sent to us via email or on

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1 people approving jobs on our site -- on our
2 side, in order for the data to process.
3 Everything is set up in an automated system
4 that is available 24/7, 365. So, GPA would be
5 able to send us data at any time of day.

6 Additionally, we did bid on the E-bill
7 component as well. That's one of our core
8 competencies. And E-bills are generated and
9 mailed out the same day that mail pieces are
10 released to the USPS for mailing.

11 So, as soon as a mail piece is entered
12 into the postal stream, those electronic
13 customers receive their bills via email.

14 Q Okay. And did you provide GPA a
15 timeline for which you're expected to -- you
16 were able to set the system up integrating with
17 the CC&B system?

18 A Yes. So, we provided our
19 implementation timeline and it's a 12-week
20 implementation from start to finish on the CC&B
21 itself.

22 Q Okay. And how did you base that
23 timeline; I mean is it your experience with
24 other CC&B systems or -- (pauses)?

25 A Yes, it is. So, in consultation with

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1 our clients, services team and our operations
2 team and one of our other witnesses, Matthew
3 Schmidt might be able to talk more about
4 InfoSend's internal capabilities regarding
5 implementation.

6 But on the sale side, I can say that
7 each opportunity is thoroughly reviewed during
8 the RFP vetting phase. And then we do get to
9 sign off on the implementation timeline that we
10 quote. Obviously, we need to make sure that
11 we're not -- not providing unrealistic
12 timelines. You know, we want to start a new
13 client relationship with the best foot forward.
14 And so, it wouldn't suit us or the client
15 relationship to provide a timeline that
16 wouldn't work for them, so.

17 Q Okay. And I believe there was --
18 contained within your proposal, there was
19 another timeline of two to three weeks for a
20 PDF form.

21 A That's correct.

22 Q What is that?

23 A So, the two to three weeks' timeline is
24 what we refer to as our express PDF timeline.
25 A much shorter implementation. I would assume

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1 that GPA would be able to provide formatted
2 PDFs available to us.

3 So, essentially, what that means is
4 they send us the bill format in PDF, InfoSend
5 takes that PDF, process it as data, apply the
6 postal barcoding as needed. We could still
7 provide all of the data processing
8 functionality that we do; bill suppression,
9 envelope suppressions. But we can quickly
10 implement because we're not having to mock up a
11 bill design template, work with data
12 calculations on the back end on that side, it's
13 you know, assuming that the PDF is formatted or
14 close to finalized and formatted for us.

15 It's my understanding that this is
16 probably not an option for GPA but we wanted to
17 include it because we didn't have the scope,
18 the full scope of the data on the back end.
19 So, we inputted both of the implementation
20 options.

21 MR. BOTHA: I don't have anything
22 further.

23 HEARING OFFICER: All right.

24

25 **EXAMINATION BY THE HEARING OFFICER**

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1 BY THE HEARING OFFICER

2 Q Ms. Well, I'm going to ask a few
3 questions. Counsel, at the very beginning of
4 this had stipulation that their exhibit
5 packages are to be accepted and received by
6 this tribunal as evidence in this case. And
7 so, I have to ask some questions because I'm a
8 little bit confused. Did you testify that you
9 were not aware of Exhibit A until much later
10 after you had -- is that correct?

11 A It's correct. And I can provide a
12 little bit more feedback on the Exhibit A. It
13 was a question that came up in GPA's
14 specifications. We noticed that Exhibit A was
15 mentioned. But in the specification provided
16 to us that we have received, Exhibit A was just
17 an item that said mailing -- that had mailing
18 frequency. So, it didn't require an answer.

19 We received the RFP. We became
20 aware of the RFP on May 25th, which was after
21 the deadline for the Q&A of May 20th. We
22 respond to multiple RFPs per year, and it's in
23 my experience that if you've received the RFP
24 after the Q&A deadline, you don't have an
25 opportunity to submit questions.

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1 So, we didn't submit the question,
2 which is why in our RFP response, we
3 acknowledged that we would complete that
4 exhibit. But we in fact did not receive it
5 until we pulled the appeal documents online.
6 We became aware of it and realized that there
7 was an exhibit that wasn't provided to us. And
8 it wasn't asked in the follow-up questions that
9 were sent out to me over the summer.

10 Q I don't think you would know how GPA
11 drew up Exhibit A. Would you?

12 A No. No.

13 Q Is it coincidental that your response
14 tracks almost exactly the questions that are
15 asked in Exhibit A?

16 A I don't think it's coincidental, again,
17 because I think it's due to our experience
18 working in the utility phase.

19 Q Well, that's why I'm asking it because
20 I know that both counsel have been arguing that
21 you didn't respond to it in the form or in the
22 format that they had. But in my looking
23 through, and people don't think that I read,
24 but starting on page 15, with "A" on
25 Communication, it's got communication. Then

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1 "B," you have Security down further on page 15.
2 And you've answered a whole series of questions
3 there.

4 A All of these questions in the Scope of
5 Work were standard questions of utility
6 billers.

7 Q Yeah, I understand. And that's why I'm
8 saying is that it almost tracks exactly because
9 they both have been arguing about the fact that
10 there was no "M" filing because of -- what was
11 it, Disaster Recovery. I find you have an "M"
12 on page (flipping pages) --

13 MR. BOTHA: Three-eighty-seven, Your
14 Honor.

15 BY THE HEARING OFFICER:

16 Q On page 28 of your -- which does list
17 your -- and I've gone through and I keep
18 finding them and they're almost exactly the
19 same. They're not in the format. They came --
20 you actually added more information than was
21 provided in the format that Graphics did, Guam
22 Graphics did. And I'm just -- and I know the
23 two counsels have been fighting about the form
24 and the format. But actually, as I go through
25 this, your scope of work answers every single

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1 question that's on that, and coincidentally has
2 the same letter, a letter designation. I keep
3 waiting for both counsels to raise that, or one
4 of them. But since I have to make the
5 decision, I had to put it on the record that
6 I'm not blind. I had my cornea removed and
7 replaced, and so I can see without glasses.
8 And so, I can read that it's the same thing,
9 and I don't understand what everybody is
10 arguing about.

11 A (pauses)

12 Q Thank you.

13 HEARING OFFICER: I just needed to put
14 that on the record that I've been following
15 this and find the answers that I need in
16 Exhibit A throughout your scope of work and
17 with almost exactly the same letter. So, I'm
18 wondering whether or not the Amendment A that
19 was sent out by GPA, was just what should be
20 provided in these kinds of RFPs. Thank you.
21 Counsel can follow up.

22 MR. MAHER: Okay.

23 MR. BOTHA: I think it is on for Mr.
24 Maher.

25 HEARING OFFICER: Graham?

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1 MR. BOTHA: Mr. Maher.

2 MR. MAHER: Okay.

3

4 **CROSS EXAMINATION**

5 BY MR. MAHER:

6 Q Okay. Ms. Law, so you're -- I guess
7 what we're learning is there -- we disagree
8 that all of the questions in Exhibit A were
9 answered. But you've testified that all those
10 questions that you later learned of just
11 happened to be answered in your original
12 response to the RFP. Is that correct?

13 A I responded to each of the items in the
14 Scope of Work line by line and provided more
15 context where I felt the items needed more
16 context given our utility billing experience.

17 Q Okay. But my question is, you've just
18 heard from the tribunal that all the questions
19 set forth in Mr. Benavente's Amendment, you
20 just happen to answer in your original RFP. Do
21 you agree with that?

22 A I do agree with it.

23 Q Okay. Have you ever sent mail from
24 Anaheim to Guam first-class and tracked it for
25 an update?

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1 A InfoSend has mailed to Guam on multiple
2 occasions. We do what we consider foreign
3 mail. And not that Guam is foreign, but we do
4 mail out of the U.S. and but I am not a mail
5 professional. I'm on the sales team.

6 Q But did you track it; in other words,
7 it took four days, it took three days?

8 A InfoSend has mail tracking
9 capabilities.

10 Q Understand. But have you done that?

11 A They give us, yes, intelligent mail
12 barcoding. But again, I have not personally
13 tracked mail from Anaheim to Guam.

14 Q Okay. So, you don't know how long it
15 takes?

16 A No.

17 Q Okay. Were you present today when Mr.
18 Biolchino testified?

19 A No, I was waiting online in the waiting
20 room.

21 Q Okay.

22 MR. BOTHA: Your Honor, isn't it clear
23 that these two witnesses have been excluded
24 from the proceedings?

25 HEARING OFFICER: Yes.

1 MR. BOTHA: So -- (pauses).

2 MR. MAHER: Well, I don't know.

3 HEARING OFFICER: Oh, okay. Just to be
4 clear, they weren't allowed into the Zoom.

5 MR. MAHER: Okay.

6 BY MR. MAHER:

7 Q So, you were aware of Exhibit A, and
8 you said it came up for discussion. Is that
9 correct?

10 A We were aware that there was the ask to
11 complete Exhibit A in the original RFP scope.
12 And we responded that we would complete Exhibit
13 A.

14 Q Yeah. But it came up. Is there a
15 reason you didn't ask GPA like, "Hey, you have
16 as a required form this Exhibit A. What do you
17 want us to do?"

18 A As I said earlier, we became aware of
19 the RFP on May 25th which was after the Q&A's
20 deadline of May 20th. And so, we respected that
21 that deadline and did not reach out to them for
22 clarification.

23 Q Okay. Have you ever spoken to the
24 postmaster here?

25 A No.

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1 Q And when you say that USPS is
2 constantly shifting their regulations, is that
3 in California or -- what did you mean by that?
4 Who --

5 A So, again, I am not a postal
6 professional. I am a territory sales associate
7 with InfoSend. And I talk to clients all the
8 time about USPS, but I'm not a professional.
9 The USPS has slow delivery timelines in certain
10 regions. But given the USPS delivery maps that
11 we have available to us, posted online, they
12 have not slowed delivery timelines from
13 California to Guam.

14 Q Okay. And just the last question.
15 Even though we are arguing about whether you
16 answered Exhibit A, would you agree with me on
17 behalf of InfoSend that your RFP as a required
18 form did not contain Exhibit A? That's the
19 Amendment. Would you agree with that?

20 A Our RFP --

21 Q Yes or no?

22 A Our RFP contained the statement that we
23 would comply with Exhibit A.

24 Q But you did not have the Exhibit A
25 appended to your RFP, to the response to the

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1 RFP. Correct or not correct?

2 A We did not receive the Amendment;
3 that's correct.

4 Q Well, the question was, was it appended
5 to your response; yes or no?

6 A No, Exhibit A was not appended to our
7 response. In our original response, we
8 provided information that we would respond to
9 Exhibit A.

10 Q One last question. How did you find
11 out about the RFP?

12 A We subscribed to bid notification
13 sites.

14 Q Okay.

15 MR. MAHER: No further questions.

16 MR. BOTHA: Nothing further.

17 HEARING OFFICER: Thank you. Your next
18 witness.

19

20 (Examination concluded; no time indicated)

21 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

22

23

24

25

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1 CERTIFICATE OF WITNESS

2
3 I, **Kelly Law**, the witness herein, do hereby
4 certify that I have read, or had read to me,
5 the foregoing typewritten pages 1 through 26
6 inclusive. My changes thereof, if any, have
7 been noted on a separate sheet of paper, which
8 I have signed, and which I understand will be
9 appended to and made a part of this deposition.
10 I certify that the same is now a true and
11 correct transcript of my testimony.

12
13 _____
14 Kelly Law

15
16 Dated: _____
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REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 25 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 23rd day of May, 2025.



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CHANGES TO TRANSCRIPTION

By Deponent:

Kelly Law

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BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM

IN THE APPEAL OF) DOCKET NUMBER OPA-PA-21-012
)
)
Graphic Center, Inc.,)
)
Appellant.)
)
)

TRANSCRIPTION
OF
OFFICE OF THE PUBLIC AUDITOR
FORMAL HEARING

February 4, 2022

(Matthew Schmidt)

ORIGINAL

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**BEFORE THE PUBLIC AUDITOR
PROCUREMENT APPEALS
TERRITORY OF GUAM**

IN THE APPEAL OF)	DOCKET NUMBER OPA-PA-21-012
)	
)	
Graphic Center, Inc.,)	
)	
Appellant.)	
)	
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Transcription of **Office of The Public Auditor Formal Hearing** of OPA-PA-21-012, in the Appeal of Graphic Center, Inc., February 4, 2022, at Suite 401 DNA Building, 238 Archbishop Flores St., Hagatna, Guam. That at said time and place there transpired the following:

APPEARANCES

Public Auditor	Benjamin J.F. Cruz
Guam Power Authority	Graham Botha, Esq.
Graphic Center Inc.	James M. Maher, Esq.
InfoSend, Inc.	Roxana Weil, Esq.
Also Present	Jerrick Hernandez and Thyrza Bagana.

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1 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

2
3
4 **Matthew Schmidt**

5 being duly sworn, was examined and testified as
6 follows:

7
8
9 **DIRECT EXAMINATION**

10 BY MR. BOTHA:

11 Q Mr. Schmidt, where are you currently
12 employed?

13 A I'm with InfoSend, out of our
14 California headquarters.

15 Q Okay. So, you're in the Anaheim
16 headquarters office?

17 A That's correct.

18 Q Okay. And how long have you been with
19 InfoSend?

20 A About 15 years.

21 Q Okay. And what did you do prior to
22 that?

23 A Prior to that, I'm in -- outside sales
24 with a health and safety company.

25 Q And what is your current position with

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1 InfoSend now?

2 A I'm the Chief Operating Officer with
3 InfoSend.

4 Q Okay. Did you work on the RFP proposal
5 that InfoSend submitted to Guam Power
6 Authority?

7 A I did not work on the proposal, but I
8 reviewed it in preparation for this time.

9 Q Okay. So, could you tell us how in the
10 InfoSend proposal responded to what GPA was
11 looking for in their scope of work, and then
12 the qualifications of InfoSend as to responding
13 to the RFP?

14 A I'm not sure I completely understand
15 the question, but, yeah. So, in a draft --
16 well, in the proposal, we gave our standard RFP
17 copy to the best of my knowledge. So, I
18 usually weigh in with any questions that come
19 along with any of the operations related areas
20 or the client services, but mostly I copy
21 pretty standard use. We work with a number of
22 utilities across the country. So, in these
23 types of applications, we tend to use the
24 general copy. So, I might be speaking any
25 specifics about it that come up, I but I'm not

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1 sure about the generalities.

2 Q Okay. So, as far as the operations or
3 client services side, would you be the one or
4 your division be the one to do the
5 implementation for tying into the GPA CC&B
6 software?

7 A Yes. That's correct.

8 Q Okay. And how would that work? I
9 think you gave a 12-week deadline. Do you
10 think that's a -- you're able to complete it
11 within that time, or what did you base that on?

12 A Yes. And also prior to my role as a
13 chief operating officer, I was the director of
14 Client Services. So, I managed that team and
15 filled most of the process around the
16 implementations. So, the 12-week timeline, it
17 is kind of our standard for a raw data
18 implementation, taking everything from
19 basically executing the agreement to developing
20 the mock-ups of the outputs, drafting the S and
21 W -- doing the actual application development
22 and then do the UAT testing, training, and we
23 go live the process.

24 So, generally speaking, we go up in the
25 thirds, four-week sections where we'll do the

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1 deliverables gathering, enter data files, do
2 the mock-ups, working with the team on the
3 client side to getting a custom program and
4 logic or anything else like that that's going
5 to be in the application bill.

6 And then, we have in to the second,
7 third, we just typically enter the application
8 development where we take all of that
9 information, hand it over to our in-house IT
10 group, and then the IT team is actually going
11 to do the bill. We'll work with the developer,
12 send samples back and forth internally until we
13 get to the point where it's ready to share with
14 the clients, and then we'll work back and forth
15 with the clients.

16 Usually, it's for tri-copies of the
17 samples and we'll hash out any changes, any
18 modifications, adjustments; anything else that
19 needs to be done, and then we move into that
20 testing training, go live phase, which where
21 everybody signs off on the outputs and the
22 application, memory to push in the wide
23 environment and go live.

24 So, this is a process we've replicated
25 countless times at this point. We have

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1 hundreds of applications that we just process
2 and it's pretty tried and true; and the team is
3 trained up and is very familiar with it. In
4 the context, it is general applications but it
5 is also specifically with the CCP product as
6 well.

7 Q Okay. And how many CCP clients do you
8 have, if you're aware?

9 A I believe we have nine of those
10 clients. I checked earlier, I see that is what
11 we have listed.

12 Q Okay. Was there another --

13 A And a couple of more I think to that.

14 Q Okay. Was there another proposal that
15 you had with a shorter period, two to three
16 weeks using a PDF? What is that?

17 A Oh, yeah. So, that's the alternative.
18 So, we have had Oracle users in the past, being
19 able to provide us thorough a PDF. But when --
20 so, we can basically extract the customer
21 information from a PDF file. That's usually
22 going to be pre-formatted in the output that
23 clients are going to be looking for.

24 So, in that scenario, basically the
25 first two-thirds of the project are essentially

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1 moot because the document composition aspect,
2 the data processing document composition, it's
3 already taken care of. Because that's
4 basically what the PDF that we're receiving is.
5 And so, then it's just a matter of putting it
6 through a parts-and-routines that is going to
7 extract the address information, account
8 number, due dates, and all that kind of
9 information.

10 And then, we can just put that on the
11 database and then basically represent the PDF
12 output with the mailing information, add in the
13 barcodes, integrity text, all that kind of
14 information. So, it's a much shorter process,
15 much less heavy lifting involved on the
16 InfoSend's side; mostly just because the
17 compositioning pieces are usually taken care in
18 forms.

19 Q Okay. Can you as part of your
20 operation stuff, can you address the postal
21 service and your relationship with them and
22 mail delivery times?

23 A Yeah. So, we have out of the Anaheim
24 facility and our other facticity, for that
25 matter, we have a detached mailing unit on site

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1 where we have postal representative that comes
2 on site and does the induction of mail at our
3 facility. All four of our sites now comply
4 with the USPS seamless standards. So, that's
5 kind of the -- as of last year, the
6 requirements from those mailers doing first-
7 class mail induction.

8 And so, technically, we don't have to
9 have somebody on site to actually do that
10 review, but they typically send somebody out to
11 do spot-check some of the jobs and do some
12 manual process.

13 So, we work very closely with them.
14 Really, I work closely with postal
15 representatives on all four locations. But
16 because I'm physically located here, we've been
17 in here the longest. I probably know the
18 people here the best after the local offices.

19 So, yeah, so we'll -- in the mail, they
20 come and pick it up from our facility every
21 day. And then they truck it to the county
22 accepting station. And then it goes on from
23 there. So, yeah, we work very closely with the
24 -- we have a good relationship. It combines
25 with all standards and everything else we do.

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1 And so, that part is -- runs pretty seamless on
2 our part at the most.

3 Q Okay. When the, I guess the
4 implementation is done with the CC&B, is that
5 an automated process; do you -- I mean is there
6 intervention required by the InfoSend folks, or
7 how does that work?

8 A Yeah, so at the -- so, once that
9 billing is approved and pushed through the live
10 environment, the process from there is
11 basically all automated. Certainly from the
12 client's perspective.

13 We give the option of approving
14 samples, but that is really the only
15 intervention necessary other than sending the
16 file. And then we can always turn that feature
17 off so that we take the file directly from
18 receipt to data processing document
19 composition, and then it's released to the
20 print screen to begin the production process on
21 our end.

22 So, yeah, if clients choose to approve
23 samples, and then that's the one stopping that
24 process, then we'll go through automated
25 transfer, data processing, document comp, and

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1 then we'll close the sample files for clients.
2 And they go in, review them, quick approve or
3 reject. And then once it's approved, then
4 that's the only intervention that is required
5 on their side; we'll go through printing and
6 mailing automatically after that.

7 Q Okay. And you're able to do a same-day
8 turnaround for either billing or E-billing,
9 that's what it's called now?

10 A Yes. Yeah, typically the E-billing
11 will be to do separate services that are
12 joined, that we provide, but the -- yeah, we
13 have a number of clients out of all facilities
14 that run on same-day mailing. So, that's
15 something we're very familiar with. And
16 typically we load electronic documents upon
17 completion the print and mail job. So, those
18 follow the same turnaround standard.

19 Q Okay.

20 MR. BOTHA: I don't have any additional
21 questions.

22 HEARING OFFICER: Okay.

23 MR. MAHER: Okay. Thank you.
24

25 **CROSS EXAMINATION**

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1 BY MR. MAHER:

2 Q Hi, Mr. Schmidt. Can you hear me?

3 A Faintly, but yes.

4 Q Can you hear me now?

5 A Yes.

6 Q Still faint?

7 A That's better.

8 Q Okay. So, I take it from your initial
9 answers to Mr. Botha's questions, you did not
10 have much direct participation in the
11 preparation of the RFP. Is that correct?

12 A Yes. That's correct.

13 Q Okay. And if that there is a letter,
14 it's -- I don't know if you have the exhibits
15 in front of you. It's our exhibits. It's
16 Exhibit -- it's actually InfoSend's Response;
17 that's Exhibit 4. And it's page 3. Do you
18 have that in front of you or -- (pauses)?

19 A I can get it in a moment.

20 Q Okay.

21 A I have it right here.

22 Q Okay.

23 A I believe it is here.

24 Q It's a letter to GPA to the evaluation
25 committee dated May 27th, 2021.

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1 A Okay.

2 Q Well, let me just say the second full
3 lines says Kelly Law, she just -- she's been on
4 here, and Glen Everroad, Everroad, are
5 authorized to represent InfoSend with regard to
6 this response. The response is the RFP.

7 A Yeah.

8 Q Yeah. Does that make sense?

9 A Yes.

10 Q So, they'd been the only ones --

11 A I did find that in here.

12 Q They'd been the only people really to
13 add anything to this process. Would you agree?

14 A I'm sorry, I didn't hear the first part
15 of that.

16 Q They'd been the only ones, at least
17 based on your letter, your company's letter,
18 they'd be the only people who could really
19 opine on this RFP response. Would you agree?

20 A (pauses)

21 Q Yeah, I mean you didn't participate --

22 A I mean -- well, the content of the RFPs
23 are built over a period of time. So, while I
24 contributed a copy that we use in our RFPs, and
25 almost certainly is included in this RFP, but I

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1 didn't work directly on this particular one.

2 Q Now, you mentioned in this billing
3 process, you talked about CCP, I guess that's
4 an Oracle system; is that correct?

5 A CC&B, that's correct.

6 Q Yeah. I think we had the Oracle system
7 here once at DOE years ago. You mentioned that
8 there was -- I think you used the word
9 "intervention" in the process. So, the client
10 would -- there'd be one instance where the
11 client would approve or I guess disapproved;
12 did I understand that correctly?

13 A Yeah, that's an option that we'd offer
14 after processing the data. So, we will approve
15 or reject samples of the billing output.

16 Q So, GPA could -- there'd been an
17 opportunity for GPA to look at what you'd
18 produce, like a bill, and say, "Well, we don't
19 agree with that," or "There's a problem here."
20 Is that correct?

21 A Yes, that's correct. Yeah. The
22 samples are an exact PDF production of the
23 billing outputs that are going to be printed
24 and mailed. And that's all post go-live.
25 That's just on the day to day process. During

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1 the implementation, there's a lot of back and
2 forth to get the samples finalized. But then
3 any file is sent for billing, they have that
4 option to turn that feature on or off, will
5 approve or reject the samples.

6 Q And would you agree with me, now you're
7 in California and we're in Guam, so I think
8 it's what, about -- I don't know if we're on
9 daylight savings or what, but we're probably 15
10 or 16 hours ahead of you. You'd probably agree
11 with that; correct?

12 A Yes. Yeah, it's about 9 p.m. here, on
13 Thursday.

14 Q So, this process whereby you would
15 submit information data, I guess, and there
16 would be a possibility that they could review
17 it, would be complicated by the time
18 difference. Would you agree with that?
19 Because it might be the middle of the night for
20 you or the middle of the night for Guam. Would
21 you agree with that?

22 A The time -- yeah, I mean the time
23 speaks for itself. The process is automated
24 24/7.

25 Q Yeah.

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1 A So, there is nothing on our side that's
2 needed. We get files literally 24/7. And
3 everything from the transfer to posting the
4 samples is all automated. So, yeah, if you
5 send a file midnight our time, you would get
6 the samples the same as if you sent it in
7 there.

8 Q But if GPA wanted to respond, they
9 receive the information but it's midnight here,
10 there'd be a delay at least of eight hours
11 until someone woke up, put some eyes on that
12 and then respond then. Would you agree with
13 that?

14 A Yeah. I think you're saying that if
15 they rejected the file, that if they found
16 something that would need to be resolved, yeah,
17 we wouldn't have anybody until 6 a.m. pacific
18 to look at it.

19 Q Okay.

20 MR. MAHER: No further questions.

21

22 **RE-DIRECT EXAMINATION**

23 BY MR. BOTHA:

24 Q Just for clarification, Mr. Schmidt.
25 Isn't it correct that once the go-live process

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1 has been done, that while that is an option to
2 turn it on or off, that most clients -- it's
3 fully automated, pulls from the CC&B database?

4 A Yes. Yeah, many of our clients
5 especially larger mailers will run the samples
6 for the first month or so after go-live and
7 then turn that feature off to streamline the
8 process. And by far, the most common reason
9 that somebody rejects a file would be to make a
10 data adjustment on their side so that they
11 could resend.

12 Q Thank you.

13 MR. BOTHA: Nothing further.

14 HEARING OFFICER: Thank you. I have no
15 further questions. Thank you. That's your
16 case in chief?

17 MR. BOTHA: That's it.

18 HEARING OFFICER: Your rebuttal?

19 MR. MAHER: One moment. Okay.

20

21 (Examination concluded; no time indicated)

22 **HAGATNA, GUAM, FRIDAY, FEBRUARY 4, 2022**

23

24

25

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1 CERTIFICATE OF WITNESS

2
3 I, **Matthew Schmidt**, the witness herein, do
4 hereby certify that I have read, or had read to
5 me, the foregoing typewritten pages 1 through
6 19 inclusive. My changes thereof, if any, have
7 been noted on a separate sheet of paper, which
8 I have signed, and which I understand will be
9 appended to and made a part of this deposition.
10 I certify that the same is now a true and
11 correct transcript of my testimony.

12
13 _____
14 Matthew Schmidt

15
16 Dated: _____
17
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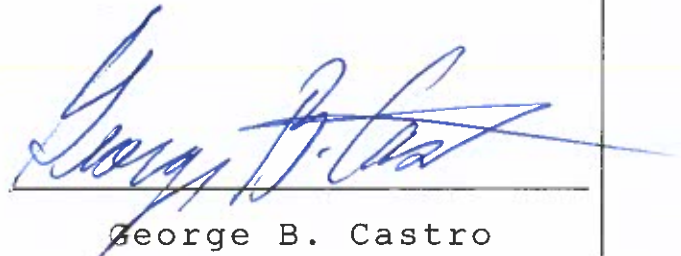
REPORTER'S CERTIFICATE

I, **George B. Castro**, Court Reporter, do hereby certify the foregoing 18 pages to be a true and correct transcript of the audio recording provided to me in the within-entitled and numbered case at the time and place as set forth herein.

I do hereby certify that prior to examination the deponent was duly sworn upon oath and that a request for review was not made; that thereafter the transcript was prepared by me or under my supervision.

I further certify that I am not a direct relative, employee, attorney or counsel of any of the parties, nor a direct relative or employee of such attorney or counsel, and that I am not directly or indirectly interested in the matters in controversy.

In testimony whereof, I have hereunto set my hand and seal of Court this 23rd day of May, 2025.



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CHANGES TO TRANSCRIPTION

By Deponent:

Matthew Schmidt

Page	Line	Change	Reason
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