



Jerrick Hernandez &lt;jhernandez@guamopa.com&gt;

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**Fwd: OPA Appeal Filing – 1-A GuamWEBZ – IFB No. MCOG-26-002**

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**Office of Public Accountability - Guam** <admin@guamopa.com>  
To: Jerrick Hernandez <jhernandez@guamopa.com>

Fri, May 15, 2026 at 10:19 AM

Hi Jerrick,

Kindly sharing a GuamWEBZ appeal.

Thank you.

----- Forwarded message -----

From: **Operations at Th, Inc.** <operations@thincoutloud.com>  
Date: Tue, May 12, 2026 at 4:43 PM  
Subject: OPA Appeal Filing – 1-A GuamWEBZ – IFB No. MCOG-26-002  
To: <admin@guamopa.com>  
Cc: MCOG Procurement <procurement@mcog.guam.gov>

**Dear Public Auditor and Office of Public Accountability:**

Please find attached the Notice of Appeal and Appeal Statement submitted by 1-A GuamWEBZ pursuant to 5 GCA §5425(f), in connection with IFB No. MCOG-26-002 issued by the Mayors' Council of Guam.

This appeal is filed within the applicable statutory timeframe following receipt of the agency's determination dated April 28, 2026. A copy of the determination from MCOG is attached and included as Exhibit A.

Also attached and included is the completed Appendix A – Notice of Appeal Form.

In accordance with applicable requirements, a copy of this filing is being provided to the Mayors' Council of Guam, copied in this email.

Kindly confirm receipt of this submission and advise if any additional information is required.




Thank you for your attention.

*Sincerely,*  
Rajesh "Rhaj" K. Sharma

1-A GuamWEBZ  
671-647-7167  
[operations@thincoutloud.com](mailto:operations@thincoutloud.com)

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**3 attachments**

-  **Exhibit A – MCOG Determination.pdf**  
69K
-  **Notice of Appeal and Appeal Statement – 1-A GuamWEBZ.pdf**  
221K
-  **MCOG Bid Protest - OPA Appeal Form.pdf**  
476K



**NOTICE OF APPEAL AND APPEAL STATEMENT  
BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY  
TERRITORY OF GUAM**

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**IN THE MATTER OF:  
Appeal of 1-A GuamWEBZ  
Regarding IFB No. MCOG-26-002  
Automated Management System for Residential Verifications**

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**NOTICE OF APPEAL**

1-A GuamWEBZ (“Appellant”), by and through its undersigned representative, hereby appeals, pursuant to 5 GCA §5425(f), the determination issued by the Mayors’ Council of Guam (“MCOG”) dated April 28, 2026, denying Appellant’s protest in connection with IFB No. MCOG-26-002.

This appeal is timely filed within fifteen (15) days of receipt of the agency’s determination. Appellant respectfully requests that the Office of Public Accountability (“OPA”) review and reverse MCOG’s determination and grant the relief set forth herein.

**I. PARTIES**

Appellant: 1-A GuamWEBZ

Procuring Agency: Mayors’ Council of Guam (MCOG)

**II. DECISION ON APPEAL**

This appeal is taken from MCOG’s written determination dated April 28, 2026, which denied Appellant’s protest as untimely. A true and correct copy of the determination is attached as Exhibit A.

**III. STATEMENT OF RELEVANT FACTS**

1. MCOG issued IFB No. MCOG-26-002 for an Automated Management System for Residential Verifications.
2. On February 11, 2026, MCOG issued Amendment No. 3 exactly at or near the time set for bid closing.
3. Material vendor questions and clarifications were addressed after the bid closing deadline.

4. Appellant acknowledged receipt of Amendment No. 3 on February 11, 2026 and thereafter submitted a bid.
5. Following further review of the procurement process and its timing, Appellant identified procedural irregularities affecting the fairness and integrity of the procurement.
6. Appellant filed a protest with MCOG.
7. By determination dated April 28, 2026, MCOG denied the protest on the sole ground that it was untimely under 5 GCA §5425(a).

#### **IV. GROUNDS FOR APPEAL**

##### **A. The Determination Misapplies 5 GCA §5425(a)**

MCOG's determination rests on the conclusion that the protest period commenced on February 11, 2026, based solely on Appellant's acknowledgment of Amendment No. 3. This conclusion reflects an incomplete application of 5 GCA §5425(a).

The statute provides that a protest must be filed within fourteen (14) days after a bidder knows or should know of the facts giving rise to the protest. The operative trigger is not mere awareness that an event occurred, but when the bidder knows or reasonably should know that such facts give rise to a protestable issue, including resulting prejudice or a material impact on the fairness of the procurement.

##### **B. Appellant Was Not Aggrieved on February 11, 2026**

At the time of acknowledging Amendment No. 3, Appellant was not yet aggrieved within the meaning of §5425(a). The circumstances giving rise to the protest—including the issuance of an amendment at or near the exact bid closing time and the provision of material clarifications after bid closing—presented procedural irregularities whose significance and impact were not reasonably apparent at that time.

Appellant became aggrieved only when it became reasonably clear that these actions affected equal access to material information and undermined fair competition. Accordingly, the protest period should be measured from the point at which the material impact of these irregularities became reasonably known, not from the mere acknowledgment of the amendment.

##### **C. Participation Does Not Constitute Waiver**

To the extent the determination relies on Appellant's acknowledgment of Amendment No. 3 and participation in the procurement process, such reliance is misplaced. Participation in a procurement, including submission of a bid, does not constitute a waiver of the right to challenge defects in the procurement process, particularly where such defects are procedural in nature and not fully apparent at the time of participation.

A contrary conclusion would effectively require bidders to forgo participation in order to preserve protest rights, which is inconsistent with the principles of fair and open competition underlying Guam procurement law.

#### **D. The Identified Irregularities Warrant Substantive Review**

The timing of Amendment No. 3 and the issuance of material clarifications after bid closing raise legitimate concerns regarding transparency, equal treatment of bidders, and the integrity of the procurement process. These are fundamental considerations that warrant review on the merits rather than dismissal on procedural grounds.

#### **V. RELIEF REQUESTED**

Appellant respectfully requests that OPA:

1. Reverse MCOG's determination that the protest was untimely;
2. Direct that the protest be considered on its substantive merits; and
3. Grant such further relief as OPA deems just and appropriate, including, if warranted, corrective action with respect to the procurement.

#### **VI. RESERVATION OF RIGHTS**

Appellant reserves the right to supplement this appeal and to submit additional argument and evidence as appropriate.

#### **VII. CONCLUSION**

For the foregoing reasons, Appellant respectfully requests that OPA grant this appeal and provide appropriate relief.

**Dated:** May 12, 2026

**Submitted by:**  
Rajesh K. Sharma



*President,*  
**1-A GuamWEBZ**



**Appendix A: Notice of Appeal Form  
PROCUREMENT APPEAL**

**PART I- To be completed by OPA**

In the Appeal of \_\_\_\_\_ )  
 ) **NOTICE OF APPEAL**  
 )  
 )  
(Name of Company), APPELLANT ) Docket No. OPA-PA \_\_\_\_\_  
 )  
 )  
 )

**PART II- Appellant Information**

Name: 1-A GuamWEBZ  
Mailing Address: P.O. Box 7725  
Tamuning, Guam 96931  
Business Address: 220 Ypao Road  
Tamuning, Guam 96913  
Email Address: operations@thincoutloud.com  
Daytime Contact No: 671-647-7167  
Fax No.: N/A

**PART III- Appeal Information**

- A) Purchasing Agency: Mayors' Council of Guam (MCOG)
- B) Identification/Number of Procurement, Solicitation, or Contract: IFB No. MCOG-26-002
- C) Decision being appealed was made on April 28, 2026 (date) by:  
 Chief Procurement Officer  Director of Public Works  Head of Purchasing Agency

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

- D) Appeal is made from:  
(Please select one and attach a copy of the Decision to this form)  
 Decision on Protest of Method, Solicitation or Award  
 Decision on Debarment or Suspension  
 Decision on Contract or Breach of Contract Controversy  
(Excluding claims of money owed to or by the government)  
 Determination on Award not Stayed Pending Protest or Appeal  
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

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

<u>Not known at this time</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____

**PART IV- Form and Filing**

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

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

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

**PART V- Declaration Re Court Action**

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

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

Submitted this 12 day of May, 2026.

By:   
 \_\_\_\_\_  
 APPELLANT

*or*

By: \_\_\_\_\_  
 Appellant's Duly Authorized Representative  
 (Address)  
 (Phone No.)



# Mayors' Council of Guam

*Konsichelon Malet Guahan*

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April 28, 2026

Via email – [operations@thincoutloud.com](mailto:operations@thincoutloud.com)

Mr. Rajesh K. Sharma  
President  
1-A GuamWEBZ  
P.O. Box 786  
Hagatna, Guam 96932

**Re: Notice of Protest dated April 12, 2026: IFB No. MCOG-26-002  
Automated Management System for Residential Verifications**

*Hafa Adai* Mr. Sharma:

We are in receipt of your protest dated April 12, 2026, in which you, 1-A GuamWEBZ, are protesting that:

1. MCOG issued an amendment extending the bid submission deadline exactly at February 11, 2026 10:00 AM Chst – the same recorded time as the original bid closing – with no prior amendment or advance notice issued at any time before the deadline.
2. Material Clarifications Issued After Bid Closing. Vendor questions submitted as early as December 31, 2025 were not answered until approximately 11:00am ChST on February 11, 2026 – after bid closing.

**MCOG factual analysis and response:**

**Firstly**, it is noted, the bid submission deadline that MCOG issued Amendment #3 on February 11, 2026 extending the bid opening date from 10:00am Wednesday, February 11, 2026 to 10:00am Wednesday, February 25 2026.

1-A GuamWEBZ acknowledged receipt of the Amendment #3 on that same day, 11:47am February 11, 2026. Accordingly, 1-A GuamWEBZ was aware of the facts on February 11<sup>th</sup>, and proceeded to participate in the amended bid opening on February 25, 2026. 1-A GuamWEBZ filed its protest (60) sixty days later on April 12, 2026.

Pursuant to 5 GCA §5425 (a) The protest shall be submitted in writing fourteen 14 (days) after such aggrieved person knows or should know of the facts giving rise thereto.

**Secondly**, the timing of material clarifications, MCOG received questions on December 31, 2026 and provided its response on February 11, 2026. 1-A GuamWEBZ acknowledged receipt of the responses at 12:02pm February 11, 2026.



P.O. Box 786, Hagatna, Guam 96932  
Office: (671) 472-6940 / (671) 477-8461 Fax: (671) 477-8777  
E-Mail: [mcogadmin@teleguam.net](mailto:mcogadmin@teleguam.net)

Letter to 1-A Guam WEBZ  
Re: Protest of MCOG-26-002  
Page 2 of 2

Additionally, 1-A GuamWEBZ acknowledged Amendment #3 at 11:47am February 11, 2026, which informed 1-A GuamWEBZ of the amended bid opening date of 10:00am, Wednesday, February 25, 2026. MCOG issued response on February 11, 2026, two weeks prior to the bid opening date of February 25, 2026. This timeframe is consistent with the principle of providing sufficient notice for bidders to incorporate clarifications into their proposals. The extension of the bid submission deadline further mitigated any potential disadvantage by affording bidders with additional preparation time.

Thus, 1-A GuamWEBZ knew of the relevant facts on February 11, 2026 and filed its protest (60) sixty days later on April 12, 2026.  
Pursuant to 5 GCA §5425 (a) The protest shall be submitted in writing fourteen 14 (days) after such aggrieved person knows or should know of the facts giving rise thereto.

Despite 1-A GuamWEBZ having knowledge of these facts on February 11, 2026 and participating in the bid opening on February 25<sup>th</sup> filed its protest (60) sixty days later on April 12, 2026, which does not comply with the Guam Procurement Act. 1-A GuamWEBZ must comply with the requirements of the Guam Procurement Act, which 1-A GuamWEBZ did not do so. Its protest is untimely and is denied on that basis. MCOG determines your protest is without merit.

Therefore, based on the above, the Mayors Council of Guam (MCOG), determine that your protest is without merit. You are hereby advised that you have the right to seek administrative or judicial review as authorize by law.

Sincerely,



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JoyJean Arceo  
Executive Director

**Please Print**  
**Acknowledgement Copy**

Received By: \_\_\_\_\_

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

(Email to [procurement@mcog.guam.gov](mailto:procurement@mcog.guam.gov))