



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

July 14, 2011

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

JUL 14 2011

TO: Office of Public Accountability - Guam

TIME: 4:36 BY: MV
FILE NO. OPA-PA: 11-010

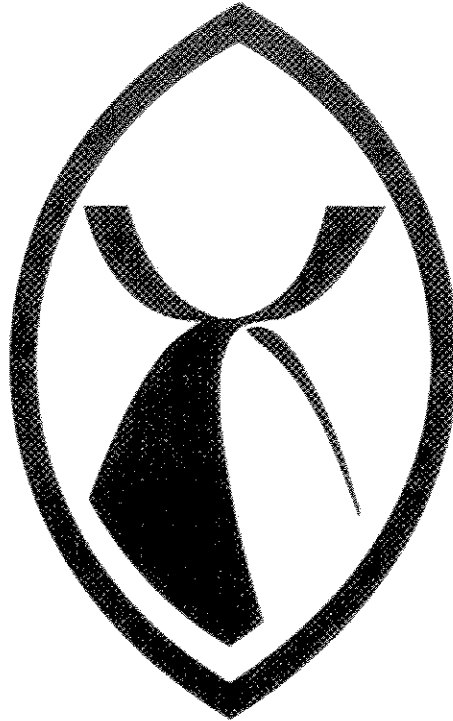
FROM: Chief Information Officer
Bureau of Information Technology

SUBJECT: Agency Report for
Procurement Appeal Case # OPA-PA-11-010
Guam Enterprise Email System RFP-OOG-023-10

Enclosed herewith is the requested Agency Report per the above.

Ed Cruz

Froylan Nishihira



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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

JUL 14 2011

TRE: 4136 BY: fmv
FILE NO. OPA-PA: 11-010

BUREAU OF INFORMATION TECHNOLOGY (BIT)

Bureau of Information Technology


Agency Report
for
OPA Case No.
OPA-PA-11-010

Guam Enterprise Email System
RFP-OOG-023-10

July 14, 2010

TABLE OF CONTENTS


- A. A copy of the protest.
- B. A copy of the bid or offer submitted by the Appellant and a copy of the bid or offer that is being considered for award or whose bid or offer is being protested, if any had been submitted prior to the protest.
- C. A copy of the solicitation, including the specifications or portions thereof relevant to the protest.
- D. A copy of the abstract of bids or offers or relevant or portions thereof relevant to the protest.
- E. Any other documents which are relevant to the protest including the contract, if one has been awarded, pertinent amendments, and plans and drawings.
- F. The decision from which the Appeal is taken, if different than the decision submitted by Appellant.
- G. A statement answering the allegation of the Appeal and setting forth findings, actions, and recommendations in the matter together with any additional evidence or information deemed necessary in determining the validity of the Appeal. The statement shall be fully responsive to the allegations of the Appeal.
- H. If the award was made after receipt of the protest, the report will include the determination required under 2 GAR § 9101(e).
- I. A statement in substantially the same format as Appendix B to this Chapter, indicating whether the matter is the subject of a court proceeding.



A.

A Copy of the Protest.






Please refer to **Exhibit 1** of the Procurement Records for OPA Case No. OPA-PA-11-010 Guam Enterprise Email System RFP-OOG-023-10 submitted on July 13, 2011.



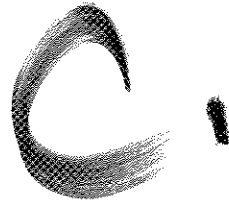
B.

A copy of the bid or offer submitted by the Appellant and a copy of the bid or offer that is being considered for award or whose bid or offer is being protested, if any had been submitted prior to the protest.




Please refer to **Exhibit 3** "DMR Proposal for Guam
Enterprise Email System submitted in response to RFP-OOG-023-10" of the
Procurement Records for OPA Case No. OPA-PA-11-010 Guam Enterprise
Email System RFP-OOG-023-10 submitted on July 13, 2011





A copy of the solicitation,
including the
specifications or
portions thereof relevant
to the protest




Please refer to **Exhibit 4** of the Procurement Records for OPA Case No. OPA-PA-11-010 Guam Enterprise Email System RFP-OOG-023-10 submitted on July 13, 2011





D.

A copy of the abstract of bids or offers or relevant or portions there of relevant to the protest.



Please refer to **Exhibit 3** of the Procurement Records for OPA Case No. OPA-PA-11-010 Guam Enterprise Email System RFP-OOG-023-10 submitted on July 13, 2011.



E.

Any other documents which are relevant to the protest including the contract, if one has been awarded, pertinent amendments, and plans and drawings.



Mary Mendiola

From: Ed Cruz [ed.cruz@bit.guam.gov]
Sent: Monday, March 21, 2011 1:38 PM
To: Mary Mendiola; Claudia Acfalle; Anita Cruz; Fred Nishihira; James Canto
Subject: Fwd: Clarification on Email Budgets


Fred, Claudia,

Please see response from Stephen Guerrero of BBMR.

It is clear that Gov Guam does not have funding to proceed with the current Email RFP.

Where do we go from here?

Please advise.



Ed C. Cruz
Chief Information Officer
Bureau of Information Technology
671.929.4463

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


From: **Stephen Guerrero** <stephen.guerrero@bbmr.guam.gov>
Date: Mon, Mar 21, 2011 at 11:22 AM
Subject: Re: Clarification on Email Budgets
To: Ed Cruz <ed.cruz@bit.guam.gov>
Cc: "B.F. Artero" <Bernadette.Artero@guam.gov>, James Canto <james.canto@guam.gov>

Ed,

My apologies for not responding sooner.

In response to your questions.

There are no specific amounts appropriated in the line department's FY2011 appropriations for the Guam Enterprise Email System. Currently, Government line departments are facing an anticipated budgetary shortfall for the remainder of FY2011.



The \$38,316.25 amount cited was derived from amounts identified by the following departments: GPD \$13,316.25, DOA \$5,000, PHSS \$15,000, DMHSA \$5,000. It is my understanding that these amounts were identified in the first quarter of FY2011 as funds available for the said RFP. Currently however, these same departments have all reported that they will incur budget shortfalls by the end

of the fiscal year.

Let me know if I can be of further assistance.

Thanks,
Stephen

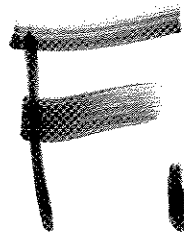
On Wed, Feb 23, 2011 at 10:00 AM, Ed Cruz <ed.cruz@bit.guam.gov> wrote:
Stephen,

1. It is BIT's understanding is that \$38,316.25 has been reserved for RFP-OOG-023-10, for email services for the Guam Enterprise Email System. Can BBMR assist by confirming the amount and provide a breakdown by agency.
2. The current best offer for the RFP is \$122,772, can the Government fund it?
3. What is the maximum amount of funds that BIT may use to fund the current current RFP? If this amount is sufficient to cover the cost for the current RFP an award can be made. If the amount is insufficient to fund the current RFP then BIT can cancel for cost. Please understand that the answer to this question will also be the cost limitation that BIT will be limited to for the remainder fiscal year should BIT elect to issue another bid.


Look forward to your response.

Regards,

Ed C. Cruz
CIO, Bureau of Information Technology
Office of the Governor of Guam
671.929.4463

A handwritten capital letter 'F' in black ink, consisting of a vertical stem on the left and two horizontal bars extending to the right.

The decision from which
the Appeal is taken, if
different than the
decision submitted by
appellant



Protest continues to be denied based on failure to negotiate a contract because the parties could not agree on compensation, (2 GAR §3114(I)(4)(B)).



G.

A statement answering the allegation of the Appeal and setting forth findings, actions, and recommendations in the matter together with any additional evidence or information deemed necessary in determining the validity of the Appeal. The statement shall be fully responsive to the allegations of the Appeal

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

July 14, 2011

Doris Flores Brooks, CPA, CGFM
Public Auditor
Office of Public Accountability
Suite 401, DNA Building
238 Archbishop Flores Street
Hagatna, Guam 96910
Tel: (671) 475-0390
Fax: (671) 472-7951

SUBJECT: Response to Appeal Regarding Request for Proposal RFP-OOG-023-10 Guam Enterprise Email System

Madam Public Auditor:

RFP-OOG-023-10 Guam Enterprise Email System went out to RFP on August 25, 2010. RFP preparation, documentation, etc. was done through the Office of the Governor (then Governor Camacho) and the prior Chief Information Officer of the Bureau of Information Technology, Jim Lacson. Since being appointed as Mr. Lacson's replacement on the 7th of January 2011, I (Ed Cruz) immediately moved to finalize this RFP. The RFP review committee convened and selected the most qualified offeror, Data Management Resources (DMR). A notice stating this was sent from my office on February 3, 2011. A memo request for pricing was sent and a response was received with two pricing options at \$44.40 per user per year and \$84.85 per user per year.

Upon notifying the Office of the Governor on BIT's intention to move forward with the award of this RFP, I was informed that there was no money or budgeted dollars to fund this. Through advice and guidance from the Attorney General's Office, we conducted an assessment with each line agency to see what money was available to fund this RFP. The grand total the government found from all the line agencies was \$38,316.25. Clarification was sought with the Bureau of Budget and Management Resources (BBMR) office on the true bottom line each agency had available to fund this RFP.

Stephen Guerrero, Acting Deputy Director, articulated through an email that, "There are no specific amounts appropriated in the line department's FY2011 appropriations for the Guam Enterprise Email System. Currently, Government line departments are facing an anticipated budgetary shortfall for the remainder of FY2011. The \$38,316.25 amount cited was derived from amounts identified by the following departments: GPD \$13,316.25, DOA \$5,000, PHSS \$15,000, DMHSA \$5,000. It is my understanding that these amounts were identified in the first quarter of FY2011 as funds available for the said RFP. Currently however, these same departments have all reported that they will incur budget shortfalls by the end of the fiscal year."



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The RFP committee convened once again and conducted negotiations with DMR. The DMR's best and final offer came to \$39.00 per user per year. The total cost that the line agencies indicated was available was \$38,316.15 divided by the total number of email accounts indicated in the RFP of 3,148 amounted to \$12.17 per user per year that the Government was able to afford. This was \$26.83 more than the Government had available.

Once again with guidance from the Attorney General's Office, the BIT moved to terminate negotiations due to the inability of both parties to agree to negotiations of compensation, (2 GAR §3114(l)(4)).

Sincerely,

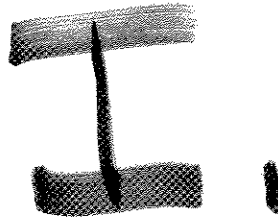


Ed C. Cruz
Chief Information Officer
Bureau of Information Technology

H.

If the award was made
after receipt of the
protest, the report will
include the
determination
required under 2 GAR §
9101(e)

No award has been made.



A statement in substantially the same format as Appendix B to this Chapter, indicating whether the matter is the subject of a court proceeding.



OFFICE OF THE PUBLIC AUDITOR

**Appendix B: Declaration Form
PROCUREMENT APPEAL**

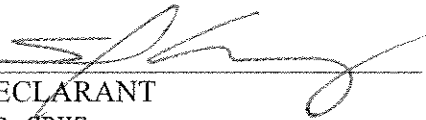
In the Appeal of)	
)	
DATA MANAGEMENT RESOURCES,)	
)	
LLC, Appellant)	Docket No. OPA-PA-11-010
)	
_____)	

DECLARATION RE COURT ACTION

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

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

Submitted this 14th day of July, 2011 .

By: 

DECLARANT
ED CRUZ
Chief Information Officer, Bureau of Information Technology

Print Declarant's Name