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**RECEIVED**  
 OFFICE OF PUBLIC ACCOUNTABILITY  
 PROCUREMENT APPEALS

JUL 22 2011

TIME: 2:19 BY: JMV  
 FILE NO. OPA-PA: 11-010

Attorneys for the Government of Guam

**THE OFFICE OF PUBLIC ACCOUNTABILITY  
 HAGÁTÑA, GUAM**

In the Appeal of:	)	DOCKET NO. OPA-PA-11-010
	)	
DATA MANAGEMENT RESOURCES LLC,	)	
Appellant	)	
	)	
	)	
	)	
	)	
	)	
	)	<b>AUGMENTATION OF PROCUREMENT RECORD</b>

The Bureau of Information Technology, through Counsel, Assistant Attorney General, Fred Nishihira hereby augments the Procurement Record filed on July 13, 2011. Please insert the attached protest response dated July 18, 2011 into Exhibit 2.

Dated this 22nd day of July, 2011.

OFFICE OF THE ATTORNEY GENERAL  
 Leonardo M. Rapadas, Attorney General

By:   
 FRED NISHIHIRA  
 Assistant Attorney General

Copy  
 ORIGINAL



07/20/11 am

EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

July 18, 2011

Jacqueline Taitano Terlaje  
Law Offices of Jacqueline Taitano Terlaje, P.C.  
888 North Marine Corps Drive, Suite 215  
Tamuning, Guam 96913

RE: RESPONSE TO DMR PROTEST OF RFP-OOG-023-10

Dear Ms. Terlaje,

The Bureau of Information Technology (BIT) hereby submits its response, in line, to the protest of RFP-OOG-023-10 Termination of Negotiations noted in your letter dated April 21, 2011.

(1) BIT failed to act in good faith, as required by §5003 of Title 5 of the Guam Code Annotated in information of the contract under the award of IFB-023-2010.

**RESPONSE: BIT acted in good faith as required by §5003 of Title 5 of the Guam Code Annotated.**

(2) BIT failed to act in good faith, as required by §1105 of the Guam Administrative Rules and Regulations (GAR).

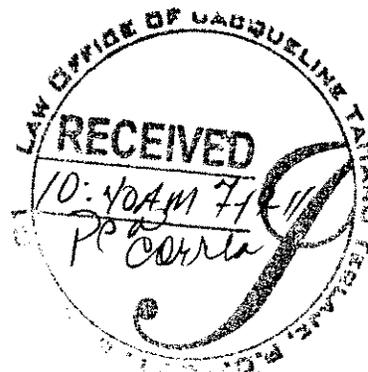
**RESPONSE: BIT acted in good faith as required by §1105 of the Guam Administrative Rules and Regulations (GAR). See also 5 GCA §5216 (e).**

(3) BIT failed to comply with 2 GAR §3114 (I). Specifically the following:

- i. BIT failed to specify the reasons it was "unable to meet the compensation rate of your final offer;"

**RESPONSE: The Government of Guam lacks funding for Fiscal Year 2011 and "is unable to meet the compensation rate of your final offer."**

- ii. BIT failed to determine in writing that the compensation offered by DMR was not fair and reasonable;



EDDIE BAZA CALVO  
Governor



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Lieutenant Governor

*Office of the Governor of Guam*

**RESPONSE:** This was stated in the Termination of Negotiations Notice. "Please be informed that the Government is unable to meet the compensation rate of your final offer."

- iii. BIT failed to direct its negotiations to agree upon compensation which is fair and reasonable prior to terminating the negotiations;

**RESPONSE:** BIT made every effort necessary in ensuring that negotiations were fair and reasonable. The RFP committee members were present and had clear knowledge of the Government's availability of funding for this RFP.

- iv. BIT failed to make a written record stating the reasons that the contract could not be agreed upon; and

**RESPONSE:** BIT issued a termination notice informing DMR that the Government is unable to meet DMR's lowest proposed compensation rate. (see answer to "ii" above)

- v. BIT failed to provide written notice of the termination of negotiations within three (3) business days.

**RESPONSE:** See attached email from DMR confirming receipt.

The Government of Guam does not have the funding available to meet DMR's proposed compensation and thus cannot proceed with the award of RFP-OOG-023-10. Based on the above statements, DMR's protest is denied.

Sincerely,

Ed Camacho Cruz  
Chief Information Officer  
Bureau of Information Technology  
Office of the Governor of Guam

**Mary Mendiola**

**From:** Mary Mendiola  
**Sent:** Friday, April 08, 2011 4:01 PM  
**To:** 'dmr@dmrguam.com'  
**Cc:** 'Ed Cruz'  
**Subject:** Guam Enterprise Email System (RFP-OOG-023-10): Termination of Negotiation Notice  
**Attachments:** img-406175523-0001.pdf

Termination of Negotiation Notice attached.

Best Regards,

Mary Mendiola  
DOA Data Processing Division

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

February 21, 2011

Richard Taitano  
284 W. Chalan Santo Papa  
Hagatna, Guam 96910

Re: Termination of Negotiation Notice  
Request for Proposal No.: RFP-OOG-023-10  
(Guam Enterprise Email System)

Dear Mr. Taitano:

Buenas Yan Hafa Adai! Thank you for submitting your best and final offer on February 4, 2011. Please be informed that the government is unable to meet the compensation rate of your final offer.

Pursuant to 2 GAR §3114(l)(4)(a) you are hereby notified that negotiations are now terminated.

Sincerely,

  
Ed C. Cruz  
BIT Chief Information Officer

**Mary Mendiola**

**From:** Data Management Resources, LLC. [dmr@dmrguam.com]  
**Sent:** Monday, April 11, 2011 1:58 PM  
**To:** mary.mendiola@doa.guam.gov  
**Cc:** 'Ed Cruz'  
**Subject:** Re: FW: Guam Enterprise Email System (RFP-OOG-023-10): Termination of Negotiation Notice

Hafa adai Mary,  
Acknowledging receipt of the attached today.

Sincerely,  
Gina

Data Management Resources, LLC.  
284 W. Chalan Santo Papa  
Hagatna, Guam 96910  
[www.dmr-guam.com](http://www.dmr-guam.com)  
ph. 671.647.3674  
fax. 671.477.3677

\*\* Dell Certified Enterprise Architecture Partner \*\*  
\*\* VMware Enterprise Solution Provider \*\*

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On 4/11/2011 1:51 PM, MMendiola wrote:

This is a follow up. Please acknowledge receipt of this email.

Best Regards,  
Mary Mendiola

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**From:** Mary Mendiola  
**Sent:** Friday, April 08, 2011 4:01 PM  
**To:** 'dmr@dmrguam.com'  
**Cc:** 'Ed Cruz'  
**Subject:** Guam Enterprise Email System (RFP-OOG-023-10): Termination of Negotiation Notice

Termination of Negotiation Notice attached.

Best Regards,

Mary Mendiola  
DOA Data Processing Division