

JACQUELINE TAITANO TERLAJE, ESQ.

888 NORTH MARINE CORPS DRIVE
STAR BUILDING, SUITE 215
TAMUNING, GUAM 96913
PHONE: 671.648.9001
FAX: 671.648.9002

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

VIA HAND DELIVERY

April 2, 2012

APR 02 2012
TIME: 1:44 PM BY C. Roque
FILE NO. CPA-72-12-007

THE OFFICE OF PUBLIC ACCOUNTABILITY-GUAM

238 Archbishop Flores Street
DNA Bldg., Suite 401
Hagåtña, Guam 96910

In Re: PROTEST APPEAL

by Data Management Resources, LLC of RFP-DOA-014-11

Dear Madam,

Please find enclosed the Notice of Appeal and Request for Hearing relative to General Services Agency and Department of Administration's Decision on Protest of RFP-DOA-014-11 Point of Sale. The Notice of Appeal is in triplicate as required by the Rules of Procedure for Procurement Appeals.

Best regards,


JACQUELINE TAITANO TERLAJE

Enclosures



OFFICE OF THE PUBLIC AUDITOR

**Appendix D: Hearing Request/Waiver Form
PROCUREMENT APPEAL**

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

APR 02 2012

TIME: 1:44PM BY: C. Roque
FILE NO. OPA-PA-12-007

In the Appeal of)
)
)
DATA MANAGEMENT RESOURCES, LLC.)
)
(Name of Company), APPELLANT)
)
_____)

**HEARING
REQUEST/WAIVER**

Docket No. OPA-PA-12-007

Please select one:

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby request a hearing on the appeal stated above.

Pursuant to 2 GAR § 12108(a), the undersigned party does hereby waive his/her right to a hearing and is submitting the appeal stated above on record without a hearing.

Submitted this 2nd day of April, 2012.

By: (Please select one)

- APPELLANT
- Chief Procurement Officer
- Director of Public Works
- Head of Purchasing Agency



Signature

TRICIA T. CRUZ, Authorized Representative

Print Name

ORIGINAL

1 Jacqueline Taitano Terlaje, Esq.
2 **LAW OFFICE OF JACQUELINE TAITANO TERLAJE, P.C.**
3 888 North Marine Corps Drive, Suite 215
4 Tamuning, Guam 96913
5 Telephone 671.648.9001
6 Facsimile 671.648.9002
7 Email: info@terlajelaw.com

8 Attorneys for *Data Management Resources, LLC.*

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

APR 02 2012
TIME: 1:44 PM BY: C. Roque
FILE NO. OPA-PA 12-007

9
10 **THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM**
11 **HAGATNA, GUAM**

12 In the Appeal of) NOTICE OF APPEAL FROM DECISION ON
13) PROTEST
14)
15)
16 DATA MANAGEMENT RESOURCES, LLC,)
17) DOCKET NUMBER. OPA-PA 12-007
18 Appellant.)
19)
20)
21)

22 **PART II Appellant Information**

23 Name: Data Management Resources, LLC. (“DMR”)
24 Mailing Address: 284 W. Chalan Santo Papa, Hagatna, Guam 96910
25 Business Address: 284 W. Chalan Santo Papa, Hagatna, Guam 96910
26 Daytime Contact: Richard C. Taitano, Chief Executive Officer 671.647.3674 x8000

27 **PART III Appeal Information**

- 28 A) Purchasing Agency: General Services Agency (“GSA”), Department of Administration (“DOA”)
B) Number/Description of Procurement:

Request for Proposal No. RFP/DOA-014-11 Point of Sale

ORIGINAL

1 Decision being appealed was dated March 14, 2012, by Claudia S. Acfalle, Chief Procurement
2 Officer, GSA, and received by DMR on March 16, 2012.

3 C) Appeal is made from:

4 *(Please select one and attach a copy of the Decision to this form)*

5 Decision on Protest of Method, Solicitation or Award

6 Decision on Debarment or Suspension

7 Decision on Contract or Breach of Contract Controversy

8 (Excluding claims of money owed to or by the government)

9 Determination on Award not Stayed Pending Protest or Appeal

10 (Agency decision that award pending protest or appeal was necessary to protect
11 the substantial interests of the government of Guam)

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

13 None

14 **PART IV Form and Filing**

15 **A. Grounds for Appeal**

16 (1) This Appeal arises out of the Decision on Protest of the Method, Solicitation and Award
17 of RFP/DOA-014-11 Point of Sale related to the rejection of DMR's best and final offer during
18 cost negotiations. DMR appeals the Decision received on March 16, 2012, on the following
19 grounds:

20 i. GSA and/or DOA failed to evaluate DMR's Best and Final Offer, as "not fair and
21 reasonable", as required by Title 2, Guam Administrative Rules and Regulations,
22 Division 4, §3114(l) and Title 5, Guam Code Annotated, §5216(e).

23 ii. Government of Guam, including but not limited to GSA and DOA, did not act in
24 good faith during cost negotiations, as required by Title 5, Guam Code Annotated,
25 §5003;

26 iii. GSA and DOA failed to produce the entire procurement record related to
27 RFP/DOA-014-11, as required by law, and is the subject of a Sunshine Reform
28 Act and Guam Procurement Law proceeding in the Superior Court of Guam; and

1 iv. GSA arbitrarily rejected the Best and Final Offer of DMR pursuant to Title 2,
2 Guam Administrative Rules and Regulations, Division 4, §3115(e)(3)(B), after a
3 protest was lodged.

4 v. GSA and DOA failed to convene the evaluation committee prior to outright
5 rejection of DMR's Best and Final Offer.

6 (2) On February 29, 2012, DMR received a Notice of Rejection of its Best and Final Offer
7 under RFP/DOA-014-11. A true and correct copy of the Notice of Rejection is attached hereto
8 as Exhibit 1.

9 (3) On March 13, 2012, DMR lodged its protest (hereinafter "Protest"). A true and correct
10 copy of the Protest is attached hereto as Exhibit 2.

11 (4) On March 16, 2012, DMR received Notice of its Decision on the Protest. A true and
12 correct copy of the Decision is attached hereto as Exhibit 3.

13 (5) DMR appeals GSA/DOA's Decision, pursuant to Title 5 Guam Code Annotated,
14 §5425(a).

15 (6) DMR is an actual bidder, aggrieved by the rejection of its Best and Final Offer, a
16 determination of award, of RFP/DOA-014-11.

17 **B. PRAYER FOR RELIEF**

18 Appellant seeks ratification and affirmation in this Appeal of its Protest to RFP/DOA-014-11, and
19 requests that the Public Auditor order GSA/DOA to make a determination of "fair and reasonable"
20 compensation for the services requested, and to comply with Guam law related to cost negotiation of
21 RFP/DOA-014-11. Appellant seeks any other relief that the Office of the Public Auditor deems just and
22 appropriate under the circumstances, including costs and attorney's fees where authorized by law.

23
24 **C. SUPPORTING EXHIBITS, EVIDENCE OR DOCUMENTS**

- 25
26 Exhibit 1 February 29, 2012 Notice of Rejection
27 Exhibit 2 March 13, 2012 Protest
28 Exhibit 3 March 16, 2012 GSA Decision and Response to Protest

1
2 **D. DECLARATION RE COURT ACTION**
3

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

7
8 The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action
9 concerning the subject of this Appeal has been commenced in court.

10 DMR hereby discloses that a Special Proceedings in the Superior Court of Guam was filed on April 2,
11 2012 related to the failure of both GSA and DOA to produce procurement records as required by both
12 the Guam Sunshine Reform Act and Guan Procurement Law. However, the subject of this Appeal is not
13 before the Superior Court of Guam, as an appeal of the Decision of GSA/DOA on the Protest lodged in
14 RFP/DOA-014-11.

15
16 All parties are required to and the undersigned party agrees to notify the Office of the Public Auditor
17 within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

18 Submitted this 2nd day of April, 2012.

19
20 By: 

21 **TRICIA T. CRUZ**
22 Appellant's Duly Authorized Representative
23 284 W. Chalan Santo Papa, Hagåtña, Guam 96910
24 671.647.3674

25 **LAW OFFICE OF**
26 **JACQUELINE TAITANO TERLAJE, P.C.**

27 By: 

28 **JACQUELINE TAITANO TERLAJE**
Attorney for Appellant

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
Director

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

George A. Santos
Deputy Director

February 28, 2012

Richard C. Taitano
CEO and Managing Member
Data Management Resources, LLC
284 W. Chalan Santo Papa
Hagatna, Guam 96910

Re: Notice of Rejection - Request for Proposal No.: RFP/DOA-014-11
(Point-of-Sale (POS))


Dear Mr. Taitano:

Buenas Yan Hafa Adai! This is to acknowledge receipt of your Best and Final Offer dated February 10, 2012, for RFP/DOA-014-11 (POS). We regret to inform you, based on the best and final offer submitted by DMR in the amount of \$1,823,100.00 is rejected due to insufficient funds for such project.

Please accept this letter as an official notice that your proposal is rejected and no further negotiation will be conducted.

We would like to take this opportunity to thank you for your participation on this request for proposal.

Sincerely,


CLAUDIA S. ACFALLE
Chief Procurement Officer

Please Print	
ACKNOWLEDGEMENT COPY (Re-fax to GSA)	
Received BY:	_____
Date:	_____
Vendor Name:	_____
Fax #'s :	472-4217 / 475-1727 / 1716

COMMITTED TO EXCELLENCE

EXHIBIT 1
NOTICE OF APPEAL
RFP/DOA-014-11

March 13, 2012

VIA FACSIMILE NO. 671.475.1727

CLAUDIA S. ACFALLE
Chief Procurement Officer
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

RE: **PROTEST** In Re RFP/DOA-014-11 Point-of-Sale (POS)

Dear Ms. Acfalle,

Hafa Adai! On behalf of Data Management Resources, LLC (DMR), I hereby submit this formal protest of the Notice of Rejection, dated February 28, 2012, and received on February 29, 2012. This protest is made pursuant to Title 5 of the Guam Code Annotated, §5425(a), and within fourteen (14) days of notice of the events giving rise to this protest.

“GSA/DOA” herein shall mean the General Services Agency, Department of Administration, Government of Guam.

RFP/DOA-014-11 Point-of-Sale (POS) shall hereafter be referred to as “RFP-POS.”

DMR protests the Notice of Rejection on the following grounds:

- (1) Rejection is not warranted under 2 GARR §3114(l). GSA/DOA has failed to determine that the Best and Final Offer submitted by DMR was not fair and reasonable, as required by law.
- (2) GSA/DOA failed to act in good faith in the negotiations with DMR, as required by 5 GCA §5003 and 2 GAR §1105.

A rejection in this procurement violates procurement regulations. Specifically, 2 GAR §3114(l) provides, in part “The head of the agency conducting the procurement or a designee of such officer shall negotiate a contract with the best qualified offeror for the required services at compensation determined in writing to be fair and reasonable. (emphasis added). It further provides, in part, that GSA/DOA is required to conduct itself in the negotiation towards “agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.”

EXHIBIT 2
NOTICE OF APPEAL
RFP/DOA-014-11

GSA/DOA in evaluating the Best and Final Offer submitted by DMR failed to make a determination that the offer provided by DMR was not fair and reasonable compensation for the services requested.

GSA/DOA's rejection of DMR's final offer in the amount of \$1,823,100.00 based on a claim of "insufficient funds for such project" was made in bad faith. Where the parties have entered into contract negotiations, lack of funds is not a sufficient basis to reject a Best and Final Offer under Guam procurement law. Rejection of an offer under RFP-POS is governed by 2 GAR §3114(l). Because GSA/DOA failed to comply with the requirements of law, the rejection must be vacated and DMR's protest sustained.

As set forth above, GSA/DOA has failed to act in good faith in the administration of this procurement. Please see enclosed the September 28, 2011 First Counter Offer submitted by GSA/DOA offering a Total of \$2,295,582.69 for RFP-POS. In contrast, DMR's Best and Final Offer was **below** the initial First Counter Offer of GSA/DOA. Thus, GSA/DOA's claim that there is no funding despite its previous offer is clearly a bad faith attempt to terminate negotiation and reject DMR's Best and Final Offer.

Additionally, GSA/DOA acted in bad faith in the negotiation of the contract for RFP-POS; specifically, GSA/DOA, by and through its employees and in collusion with other Government of Guam employees, met with and entered into discussion on a Point-of-Sale integration plan with a third party, during the pendency of the negotiation of RFP-POS.

On behalf of DMR, I respectfully submit this PROTEST, and request that you keep me informed of the status.

Please be advised that the Department of Administration, Bureau of Information Technology, Department of Revenue and Taxation, Treasurer of Guam and the General Services Agency were served with Requests for Disclosure of Public Documents under the Sunshine Reform Act of 1999, as Amended. Pending the disclosure of public documents, DMR reserves its right to amend this Protest within a reasonable time of the disclosure, as permitted under Guam law.

I look forward to your prompt response.

Best regards,


JACQUELINE TAITANO TERLAJE

cc: Richard Taitano, Data Management Resources, LLC
Maria Cenzon, Legal Counsel Office of the Governor of Guam 671.477.4826
Robert Kono, Advisor General Services Agency 671.475.1727
Timothy McLaughlin,
Legal Counsel Department of Revenue and Taxation 671.633.2643
Fred Nishihira, Legal Counsel Department of Administration 671.477.6188

(1) Enclosure

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
Director

George A. Santos
Deputy Director

September 28, 2011

Richard C. Taitano
CEO and Managing Member
Data Management Resources, LLC
284 W. Chalan Santo Papa
Hagatna, Guam 96910

Re: **First Counter Offer**
(Request for Proposal No.: RFP/DOA-014-11 Point-of-Sale)

Dear Mr. Taitano:

Buenas Yan Hafa Adai! Based on the cost breakdown submitted by DMR the evaluation committee is proposing its first counter offer as follows:

- Point-of-Sale System Hardware, Workstations, with peripherals with installation.

Sub-item	QTY	UOM	Unit Cost	Extnd Cost
Computer Workstation with one (1) year Manufacturer's warranty	37	Each	\$850.00	\$31,450.00
Uninterrupted Power Source with five (5)Year Warranty	37	Each	\$322.37	\$11,927.69
Receipt Printer without multi-line validation Printer	50	Each	\$600.60	\$30,030.00
5 Year warranty: Receipt printer & multi-line Validation printer				Deleted
Check Scanner				Deleted
5 Year warranty : Check Scanner				Deleted
Card Reader with one (1) year manufacturer's	50	Each	\$110.50	\$5,525.00
5 Year warranty: Card Reader				Deleted
Hardware installation: installation of workstations at up to 7 sites	37	Each	\$450.00	\$16,650.00
Total				\$95,582.69

COMMITTED TO EXCELLENCE

- Point-of-Sale System Software Solution: Custom developed software, object transfer only. Web Based Point-of-Sale

Module	Amount
Start of Day Processing	\$50,000.00
Transaction Processing	\$150,000.00
A/R Invoices	\$50,000.00
Manual Invoices	\$50,000.00
Close Out Processing	\$50,000.00
Drop Box Processing Start from line 1 to 3	\$50,000.00
Check Processing	\$150,000.00
Check Stop Payment File	Deleted
Bounced Check File	Deleted
Reports Pre-Defined	\$50,000.00
Reports Report Genarator	\$50,000.00
Admin Tools	\$150,000.00
Query Tools	\$50,000.00
Refunding Processing	Deleted
Correction Processing (AS/400 Based)	\$150,000.00
User Custom GUI	\$150,000.00
Reference Files (Majority AS/400 Based)	\$50,000.00
Reversals, Voids, and Returned Items	\$50,000.00
Bar Code	Deleted
Printer Validation	Deleted
Documentation	\$50,000.00
Data Conversion (Bad Check DB)	Deleted
Interface with FMS	\$150,000.00
Interface with DRT	\$150,000.00
SUBTOTAL-----	\$1,600,000.00


- Online Payment System/

Web-User Registration	50,000.00
My Saved Accounts	50,000.00
Shopping Cart	50,000.00
Express Payment	50,000.00
Transaction Processing	50,000.00
DRT PIN Integration	50,000.00
SUBTOTAL	\$ 300,000.00
Test Environment, Testing, Documentation & Risk Insurance	\$ 300,000.00
TOTAL	\$2,295,582.69

Please be advised the evaluation committee will begin the cost negotiation at 2:00 p.m., Wednesday October 5, 2011.

If you are unable to meet the schedule as noted above please contact Ms. Euphrasia Lujan to reschedule at the earliest possible date.

Sincerely,


CLAUDIA S. ACFALLE
Chief Procurement Officer

TRANSMISSION VERIFICATION REPORT

TIME : 03/13/2012 16:42
NAME : JACQUELINE TERLAJE
FAX : 6716489002
TEL : 6716489001
SER.# : A8J220579

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

03/13 16:40
4751727
00:01:27
05 ✓
OK
STANDARD
ECM

DOA Procurement

JACQUELINE TAITANO TERLAJE, ESQ.

888 NORTH MARINE CORPS DRIVE
STAR BUILDING, SUITE 215
TAMUNING, GUAM 96913
PHONE: 671.648.9001
FAX: 671.648.9002

March 13, 2012

VIA FACSIMILE NO. 671.475.1727

CLAUDIA S. ACFALLE
Chief Procurement Officer
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

RE: **PROTEST** In Re RFP/DOA-014-11 Point-of-Sale (POS)

Dear Ms. Acfalle,

Hafa Adai! On behalf of Data Management Resources, LLC (DMR), I hereby submit this formal protest of the Notice of Rejection, dated February 28, 2012, and received on February 29, 2012. This protest is made pursuant to Title 5 of the Guam Code Annotated, §5425(a), and within fourteen (14) days of notice of the events giving rise to this protest.

"GSA/DOA" herein shall mean the General Services Agency, Department of Administration, Government of Guam.

RFP/DOA-014-11 Point-of-Sale (POS) shall hereafter be referred to as "RFP-POS."

DMR protests the Notice of Rejection on the following grounds:

TRANSMISSION VERIFICATION REPORT

TIME : 03/13/2012 16:18
NAME : JACQUELINE TERLAJE
FAX : 6716489002
TEL : 6716489001
SER.# : A8J220579

DATE, TIME 03/13 16:17
FAX NO./NAME 4774826
DURATION 00:00:41
PAGE(S) 05
RESULT OK
MODE STANDARD
ECM

Cur. Ofc'
Maria Cenyon

JACQUELINE TAITANO TERLAJE, ESQ.

888 NORTH MARINE CORPS DRIVE
STAR BUILDING, SUITE 215
TAMUNING, GUAM 96913
PHONE: 671.648.9001
FAX: 671.648.9002

March 13, 2012

VIA FACSIMILE NO. 671.475.1727

CLAUDIA S. ACFALLE
Chief Procurement Officer
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

RE: **PROTEST** In Re RFP/DOA-014-11 Point-of-Sale (POS)

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RFP/DOA-014-11 Point-of-Sale (POS) shall hereafter be referred to as "RFP-POS."

DMR protests the Notice of Rejection on the following grounds:

TRANSMISSION VERIFICATION REPORT

TIME : 03/13/2012 16:24
NAME : JACQUELINE TERLAJE
FAX : 6716489002
TEL : 6716489001
SER.# : ABJ220579

DATE, TIME 03/13 16:22
FAX NO./NAME 4751727
DURATION 00:01:29
PAGE(S) 05
RESULT OK
MODE STANDARD
ECM

GSA

JACQUELINE TAITANO TERLAJE, ESQ.

888 NORTH MARINE CORPS DRIVE
STAR BUILDING, SUITE 215
TAMUNING, GUAM 96913
PHONE: 671.648.9001
FAX: 671.648.9002

March 13, 2012

VIA FACSIMILE NO. 671.475.1727

CLAUDIA S. ACFALLE
Chief Procurement Officer
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

RE: **PROTEST** In Re RFP/DOA-014-11 Point-of-Sale (POS)

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RFP/DOA-014-11 Point-of-Sale (POS) shall hereafter be referred to as “RFP-POS.”

DMR protests the Notice of Rejection on the following grounds:

TRANSMISSION VERIFICATION REPORT

TIME : 03/13/2012 16:20
NAME : JACQUELINE TERLAJE
FAX : 6716489002
TEL : 6716489001
SER.# : A8J220579

DATE, TIME 03/13 16:19
FAX NO./NAME 6332643
DURATION 00:00:59
PAGE(S) 05
RESULT OK
MODE STANDARD
ECM

VRT

JACQUELINE TAITANO TERLAJE, ESQ.

888 NORTH MARINE CORPS DRIVE
STAR BUILDING, SUITE 215
TAMUNING, GUAM 96913
PHONE: 671.648.9001
FAX: 671.648.9002

March 13, 2012

VIA FACSIMILE NO. 671.475.1727

CLAUDIA S. ACFALLE
Chief Procurement Officer
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

RE: **PROTEST** In Re RFP/DOA-014-11 Point-of-Sale (POS)

Dear Ms. Acfalle,

Hafa Adai! On behalf of Data Management Resources, LLC (DMR), I hereby submit this formal protest of the Notice of Rejection, dated February 28, 2012, and received on February 29, 2012. This protest is made pursuant to Title 5 of the Guam Code Annotated, §5425(a), and within fourteen (14) days of notice of the events giving rise to this protest.

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RFP/DOA-014-11 Point-of-Sale (POS) shall hereafter be referred to as "RFP-POS."

DMR protests the Notice of Rejection on the following grounds:

TRANSMISSION VERIFICATION REPORT

TIME : 03/13/2012 16:24
NAME : JACQUELINE TERLAJE
FAX : 6716489002
TEL : 6716489001
SER.# : A8J220579

DATE, TIME 03/13 16:24
FAX NO./NAME 4776188
DURATION 00:00:00
PAGE(S) 00
RESULT BUSY
MODE STANDARD

Fred Nishihara

BUSY: BUSY/NO RESPONSE

JACQUELINE TAITANO TERLAJE, ESQ.

888 NORTH MARINE CORPS DRIVE
STAR BUILDING, SUITE 215
TAMUNING, GUAM 96913
PHONE: 671.648.9001
FAX: 671.648.9002

March 13, 2012

VIA FACSIMILE NO. 671.475.1727

CLAUDIA S. ACFALLE
Chief Procurement Officer
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

RE: **PROTEST** In Re RFP/DOA-014-11 Point-of-Sale (POS)

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Hafa Adai! On behalf of Data Management Resources, LLC (DMR), I hereby submit this formal protest of the Notice of Rejection, dated February 28, 2012, and received on February 29, 2012. This protest is made pursuant to Title 5 of the Guam Code Annotated, §5425(a), and within fourteen (14) days of notice of the events giving rise to this protest.

"GSA/DOA" herein shall mean the General Services Agency, Department of Administration, Government of Guam.

RFP/DOA-014-11 Point-of-Sale (POS) shall hereafter be referred to as "RFP-POS."

DMR protests the Notice of Rejection on the following grounds:

(1) Rejection is not warranted under 2 CARR 52114(D) GSA/DOA 1 5 1 1

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration

Ray Tenorio
Lieutenant Governor

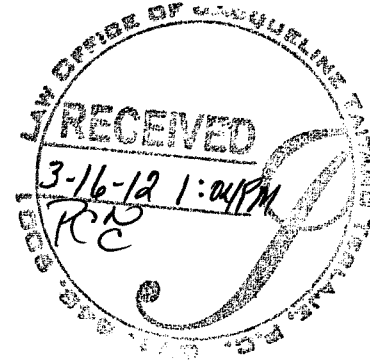
Benita A. Manglona
Director

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Anthony C. Blaz
Deputy Director

March 14, 2012

Ms. Jacqueline Taitano Terlaje, Esq
c/o Law Office of Jacqueline Taitano Terlaje
888 North Marine Corp Drive
Star Building, Suite 215
Tamuning, Guam 96913



Re: Protest Letter of March 13, 2012 RFP/DOA-014-11
(Point of Sale System (POS))

Dear Ms. Taitano Terlaje:

Buenas Yan Hafa Adai! This is to acknowledge receipt of your protest letter dated 13 March 2012, in which you protested the government's rejection for Request for Proposal No.: RFP/DOA-014-11. The appropriate section for rejection of this proposal is 2 GARR Division 4, Section 3115(e)(3)(B) which states in pertinent part:

(e) Rejection of Individual Bids or Proposals

(b)As used in this Subsection, proposal means any offer submitted in response to any solicitation,except a bid as defined in Subsection 3115 (c)(3)(a) of this Section. Unless the solicitation states otherwise, proposals need not be unconditionally accepted without alteration or correction, and the territory's stated requirements may be revised or clarified after proposals are submitted. The flexibility must be considered in determining whether reasons exist for rejecting all or any part of a proposal. Reasons for rejecting proposals include but are not limited to:

(iii) the proposed price is clearly unreasonable.

The proposed price is clearly unreasonable to what the government had believed such service to be worth. Since the government did not have the funds available, rejection is authorized by the procurement regulations.

Therefore, your protest on this issue is deemed to be without merit and is denied. Please be advised that upon receipt of this letter this is the final decision of the Chief

COMMITTED TO EXCELLENCE

Procurement Officer. You have the right to seek administrative or judicial review as authorized by law.

As to the other issues raised, the General Services Agency is unaware of any facts to form a response to your protest.

Sincerely,


CLAUDIA S. ACFALLE
Chief Procurement Officer

cc: Office of the Attorney General