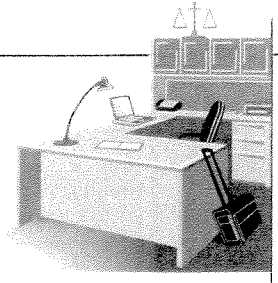


Benjamin C. Sison Jr., Esq. George Neil P. Valdes, Esq.

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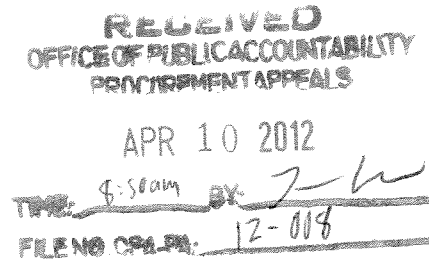
Email: [guamlaw@ite.net](mailto:guamlaw@ite.net)



April 10, 2012

VIA HAND DELIVERY

Doris Flores-Brooks  
CPA, CGFM  
Public Auditor of Guam  
OFFICE OF THE PUBLIC  
AUDITOR OF GUAM  
Suite 401 Pacific News Building  
238 Archbishop Flores Street  
Hagatna, GU 96910



Re: Appeal of DOE Notice of Decision Against E.R. Ilaio & Associates Inc.  
Regarding Procurement for Infrastructure-Wireless Consultant GDOE RFP 011-2011;

Protestant: E.R. Ilaio and Associates, Inc.  
P.O. Box 8769  
Tamuning, GU 96931

Dear Mrs. Flores-Brooks:

Our office has been retained by E.R. Ilaio & Associates Inc. (“Ilaio” or “Protestant”). This letter is an appeal of the Guam Department of Education (“GDOE”) Notice of Decision dated March 26, 2012 denying Protestant’s Protest of the Cancellation/Termination of the contract for Infrastructure-Wireless Consultant Services pursuant to GDOE’s Request for Proposal GDOE RFP 011-2011 (the “RFP”). This appeal is made pursuant to 5 GCA Article 9 §5425(e).<sup>1</sup>

---

<sup>1</sup> 5 Guam Code Annotated (GCA) Article 9 §5425(e) in pertinent part provides as follows:

e. **Appeal.** A decision under Subsection (c) of this Section..., may be appealed by the Protestant, to the Public Auditor within fifteen (15) days after receipt by the protestant of the notice of decision.

## **I. FACTUAL STATEMENT**

On or about March 2011, GDOE issued a Request for Proposal GDOE RFP 011-2011 (the "RFP") for Infrastructure-Wireless Consultant Services. A copy of the RFP is attached hereto as Exhibit "A" and specifically incorporated herein by its reference. Protestant submitted its response to the RFP, and on or about May 23, 2011, GDOE issued a Notice deeming Protestant as Best Qualified Offeror and on or about the same day, GDOE issued a letter of intent to award the contract under the RFP to Protestant. Copies of the Notices delivered to Protestant are attached hereto as Exhibits "B" and "C" and specifically incorporated herein by its reference. Contractual negotiations under the RFP ensued between the GDOE and Protestant and the parties reached agreement with respect to the pricing for the products and services to be delivered under the RFP. A copy of the Agreement reached concerning costs and pricing is attached hereto as Exhibit ("D").

On September 8, 2011, Protestant received a Memorandum informing them of change in the source of funds under the RFP. On February 1, 2012, Protestant received a letter from GDOE informing them that it had rejected all proposals submitted under the RFP apparently for two reasons: First because it was impossible for any contractor to perform services under the RFP by December 2011 and "because of the approval by USDOE to extend the deadline by which the funds for this RFP may be expended, and because prices originally contemplated by Offerors in March 18, 2011 may be stale, it is in GDOE's best interest to again solicit the services originally sought in RFP 011-2011. A copy of said letter dated February 2, 2012 is attached hereto as Exhibit ("E").

Protestant timely delivered a Protest of the GDOE's decision to reject all proposals and on March 26, 2012, GDOE issued its final decision upholding its original decision. A copy of the final decision dated March 26, 2012 is attached hereto as Exhibit ("F"). Protestant requests that GDOE's decision be overturned as its action is in violation of Guam's Procurement Laws.

## **II ERRORS OF FACT AND/OR LAW-GROUNDS FOR APPEAL**

Protestant submits that GDOE has committed the following errors of law and/or facts in rendering its Final Notice of Decision to reject all proposals under the RFP.

1. GDOE awarded a Contract to Protestant and therefore may not subsequently reject any proposal under 2 GAR s. 3115.
2. Even if assuming no Contract was awarded to Protestant, under 2 GAR s.3114, rather than reject all proposals, GDOE was required to negotiate in good faith with Protestant concerning the terms of the proposed Contract and if agreement could not be reached, GDOE was required to then negotiate contractual terms with the next "Best Qualified Offeror" until contractual terms can be reached.
3. Furthermore, assuming arguendo that if GDOE is able to reject all proposals under 2 GAR s. 3115 after it had deemed Protestant to be the Best Qualified

Offeror and had reached pricing agreement with Protestant, GDOE's stated bases for the rejection of all proposals is unwarranted and invalid: GDOE's statement that the services cannot be provided by December 2011 is non-sensical as it has also stated the services are still needed and that it intends to issue a new RFP for the same services. Also, its stated reason for rejection that "Prices may have become stale" is not only speculative and novel, but patently unfair to Protestant as its pricing terms can be disclosed to prospective bidders to the competitive detriment to Protestant.

For the above-stated reasons, we request that GMHA's Notice of Decision be overturned. We thank you for your utmost consideration in this matter.

Sincerely yours,

SISON P.C.

A handwritten signature in black ink, appearing to read 'Benjamin C. Sison', with a long horizontal flourish extending to the right.

Benjamin C. Sison, Esq.  
A Duly Licensed Employee

Cc: E.R ILAO & ASSOCIATES  
C/O John Ilao

Guam Department of Education  
C/O Marcus Y. Pido, Supply  
Management Administrator

Attachments.



**REQUEST FOR PROPOSAL**  
**FOR THE**  
**GOVERNMENT OF GUAM**  
**GUAM DEPARTMENT OF EDUCATION ("GDOE")**  
**INFRASTRUCTURE – WIRELESS CONSULTANT**

**GDOE RFP 011-2011**

**Request for Proposal**

**Deadline for Submission:**  
**TUESDAY, MARCH 1, 2011,**  
**3:00 p.m. (Chamorro Standard Time)**

**Place:**

**Department of Education**  
**Office of Supply Management, Suite B-220**  
**Manuel F. Leon Guerrero Building**  
**312 Aspinall Avenue, Hagatna, Guam 96910**



**U.S. DEPARTMENT OF EDUCATION**



**AMERICAN RECOVERY & REINVESTMENT ACT**

**Exhibit**     A

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CITDA# 84.394A  
Program: State Fiscal Stabilization Fund (SFSF)  
Project: Infrastructure - Wireless Consultant  
Fed. Award No.: 0997000155A

  
MARCUS Y. PIDO  
Supply Management Administrator

**REQUEST FOR PROPOSAL**

**ISSUING OFFICE:**  
Supply Management Division  
DEPARTMENT OF EDUCATION (GDOE)  
P.O. Box DE, Hagatna, Guam 96932  
Tel: 300-1581-3 \* Telefax: 472-5001

DATE ISSUED: Tuesday, February 8, 2011

REQUEST FOR PROPOSAL NO. GDOE RFP 011-2011

RFP FOR: INFRASTRUCTURE - WIRELESS CONSULTANT

DESTINATION: FINANCIAL STUDENT ADMINISTRATIVE INFORMATION SYSTEMS (FSAIS)

REQUIRED DELIVERY DATE: GDOE's ARRA Grant Federal Funds must be obligated by September 30, 2011 and fully expended by December 31, 2011. **The First Term of any Contract executed pursuant to this RFP will be funded fully by ARRA Funds. Any subsequent Contract terms are subject to the availability of local and/or federal funds.**

The RFP is subject to the attached High Risk Conditions set by the U.S. Department of Education and ARRA Fund Assurances, Certifications, Terms and Conditions

FUNDING SOURCE: ARRA USDOE

**INSTRUCTION TO OFFERORS:**

INDICATE WHETHER:  INDIVIDUAL  PARTNERSHIP  CORPORATION

INCORPORATED IN: \_\_\_\_\_

**SUBMITTAL:** This RFP shall be submitted with one (1) original, two (2) electronic files, and five bound (5) copies to the issuing office above no later than (Time) **3:00 P.M. TUESDAY, MARCH 1, 2011 (Chamorro Standard Time)**. Proposals submitted after this time and date will not be considered. See attached General Terms and Conditions, and RFP for details. This RFP solicitation requires all interested parties to be pre-qualified in order to be considered for award.

**CONTENT AND PACKAGING REQUIREMENTS:** All proposals shall consist of One (1) original, two (2) cd ROMs each containing an electronic copy of the Proposal, and (5) bound printed copies of the original. A "Letter of Transmittal", signed by a duly authorized representative of the company or firm, shall be attached to and serve as the cover of the original Proposal. This letter shall be addressed to: Marcus Y. Pido, Supply Management Administrator, Supply Management Division, Guam Department of Education, P.O. Box DE, Hagatna, Guam 96932. The Original Proposal, electronic and printed copies shall be submitted in a single sealed package, envelope, or box which bears the RFP Number, name of the Offeror, the full name and title of the point of contact for the Offeror, and the email, telephone, fax, and mailing address of the Offeror. The sealed package, envelope or box should then be enclosed in another package bearing the RFP Number and the name and address of the Offeror and addressed to the Department of Education as described above. In consideration of the expense to the Government of Guam in opening, tabulating and evaluating this and other Proposals, and other considerations, the undersigned agrees that the Proposal remains firm and irrevocable for the submission date.

NAME AND ADDRESS OF OFFEROR:

SIGNATURE AND TITLE OF PERSON  
AUTHORIZED TO SIGN THIS PROPOSAL:

AWARD: CONTRACT NO.: \_\_\_\_\_ AMOUNT: \_\_\_\_\_ DATE: \_\_\_\_\_

ITEM NO(S). AWARDED: \_\_\_\_\_

CONTRACTING OFFICER:

**This form shall be submitted in the Proposal Envelope**

\_\_\_\_\_  
MARCUS Y. PIDO  
Supply Management Administrator

**GOVERNMENT OF GUAM  
DEPARTMENT OF EDUCATION (GDOE)  
REQUEST FOR PROPOSAL  
GDOE RFP 011-2011**

**INFRASTRUCTURE – WIRELESS CONSULTANT**

**AS USED IN THIS DOCUMENT, THE TERM “GDOE” SHALL REFER TO THE GUAM DEPARTMENT OF EDUCATION.**

**1. GENERAL OVERVIEW:**

**1.1 THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)  
PROGRAM Request for Proposal**

Funding for this program is being provided under the American Recovery and Reinvestment Act (ARRA). If you receive funding under this solicitation you may be subject to special terms and conditions, including but not limited to: detailed reporting requirements; audit of your use of ARRA funds; Buy American requirements; and Davis-Bacon prevailing wage requirements for construction activities. You will be required to provide certain information in a timely manner to meet ARRA requirements. See attachments for a complete list of special terms and conditions. Failure to comply may result in the loss of Federal grant funding.

“Goods and/or services procured through this IFB and funded by ARRA are subject to the following grant deadlines for payment and performance: 1) ARRA funds for the goods or services procured through this IFB must be obligated by September 30, 2011; 2) ARRA funded goods must be delivered or services performed by December 30, 2011; and 3) Invoices for ARRA funded goods or services must be submitted and paid by December 31, 2011.”

**2. TERM OF WORK AND FUNDING SOURCES:**

The term of work is for a single term commencing with the execution of contract thru December 31, 2011. The Contract shall be fully funded by ARRA Funds.

**3. RESULTING AGREEMENT:**

Upon selection of a Best Qualified Offeror and successful negotiation of contract terms, GDOE expects to execute an agreement for consulting services to manage the installation of wireless LANS at all GDOE Schools.

**4. SUBMISSION DATE**

Proposals and the required number of electronic and printed copies must be submitted to the attention of

MARCUS Y. PIDO, Supply Management Administrator  
GUAM DEPARTMENT OF EDUCATION  
P.O. BOX DE  
HAGATNA, GUAM 96932

and must be received on or before **3:00 P.M., TUESDAY, MARCH 1, 2011 CHAMORRO STANDARD TIME**. Careful attention should be paid to synchronizing mainland submittals with Chamorro Standard Time. Faxed transmissions will NOT be considered.

**5. PROPOSAL CONTENT:**

Each interested Offeror is required to submit a written Proposal in response to this RFP. The Offeror's Proposal shall contain a Technical Submittal that describes how the Offeror will perform the services described in this RFP and a Cost Submittal that describes the costs associated with the performance of the services outlined in the Offeror's Technical Submittal(34 CFR 80.36).

**6. OPENING OF PROPOSALS AND EVALUATION:**

After expiration of the deadline to submit proposals, all received proposals will be opened in the presence of two or more GDOE procurement officials or designees. A Register of Proposals received will be established and will include all submissions, the name of the Offeror, the number of modifications received if any, and a description sufficient to identify the services offered. Proposals shall not be opened publicly nor disclosed to unauthorized persons. The Register of Proposals shall be opened for public inspection only after a contract has been awarded. Proposals of Offerors who are not awarded the contract shall not be opened for public inspection.

After the opening of the proposals, an Evaluation Committee established by the GDOE will evaluate and rank all qualified proposals based on the criteria identified in Section 4 of this RFP. Failure to comply with any RFP requirements may be grounds for rejection of a proposal. GDOE may waive minor irregularities in proposals that are immaterial or inconsequential in nature whenever it is deemed in the best interest of GDOE. The evaluation will be based on the written proposal submitted in response to this RFP and any information obtained from Offerors during presentations or other allowable discussions between GDOE and prospective offerors.

**7. SELECTION OF BEST QUALIFIED OFFEROR:**

The Evaluation Committee shall score each qualified offer based on the evaluation criteria identified in Section 4 of this RFP. The final selection of a Best Qualified Offeror shall be made by the GDOE Superintendent. The selected Offeror will be issued a "Notice of Intent of Possible Award", given ten (10) working days to submit a copy of the Offeror's Guam Business License, and be advised to begin contract negotiations.

**8. FAILURE TO NEGOTIATE CONTRACT WITH BEST QUALIFIED OFFEROR:**



GDOE will conduct negotiations with the Best Qualified Offeror as determined by the GDOE Superintendent. If the Best Qualified Offeror and GDOE are unable to agree on the terms and conditions of a contract, then GDOE may, at its sole and absolute discretion, terminate negotiations. Upon failure to successfully negotiate a contract with the Best Qualified Offeror, GDOE will have the right to commence negotiations with the next best qualified offeror.

#### **9. TRADE SECRETS AND PROPRIETARY DATA:**

Proposals of Offerors who are not awarded the contract shall not be opened to public inspection, but will be part of the official procurement record. After award, the proposal of the Offeror receiving a contract will become available for public inspection. If the Offeror selected for award has requested in writing *upon submission* of a Proposal the non-disclosure of trade secrets or other proprietary data so identified, GDOE shall examine the designated information to determine whether such information shall be considered proprietary. If GDOE and Offeror are unable to agree as to the disclosure of certain portions of Offeror's proposal, GDOE shall inform the Offeror in writing what portion of the proposal will be disclosed and that, unless the Offeror withdraws the proposal or protests under 5 GCA Article 9 (Legal and Contractual Remedies) of the Guam Procurement Act, the information may be so disclosed. (Refer to Title 2, Guam Administrative Regulations, Division 4, Section 3114(h)(1)).

#### **10. CONTENTS OF OFFEROR'S PROPOSAL:**

At a minimum, the Offeror's Proposal shall contain:

##### **1. Technical Submittal, including:**

- a. The Offeror's name;
- b. The Offeror's aliases (if doing business under another name);
- c. The Offeror's principle place of business (address);
- d. The Offeror's satellite locations (address)
- e. The Offeror's contact information;
- f. The age of Offeror's business;
- g. The average number of employees employed by Offeror over the past year;
- h. A record of Past Performance and Work – including other contract over the last 10 years under which services similar in scope, size or discipline similar to those in this RFP were prepared and a list of past clients (including contact information), the type of services provided to each client, and the amount of the contract award;
- i. A Statement of Financial Ability identifying the Offeror's ability and resources to perform the services described throughout this RFP;
- j. The names, experience levels, and qualifications of each individual proposed to provide services on this engagement;
- k. The names, experience levels, and qualifications of each subcontractor proposed to provide services on this engagement; and
- l. The Offeror's plan to provide the services described throughout this RFP, including a timeline of key milestones and deliverables.

2. Cost Submittal, including:

- a. The total cost of the services proposed in Offeror's Technical Submittal; and
- b. The hourly cost for Offeror's services.

All Offerors are also hereby notified of the following events:

**MANDATORY PRE-PROPOSAL CONFERENCE:      Tuesday, February 15, 2011  
10:00 AM**

**Location:                      1<sup>st</sup> Floor Federal Programs Conference Room  
Manuel F.L. Guerrero/Administration Building  
312 Aspinal Avenue, Hagatna, Guam 96910**

**DEADLINE FOR SUBMISSION OF WRITTEN INQUIRIES OR REQUESTS FOR  
CLARIFICATIONS: Thursday, February 17, 2011**

**11. INFORMATION ABOUT THE GUAM DEPARTMENT OF EDUCATION:**

Offerors should review information with regard to GDOE available at :

<https://sites.google.com/a/gdoe.net/gdoe/>

**General Background**

GDOE oversees a single unified school district (the "School District") that provides public education to young people throughout Guam in grades Kindergarten through twelve (K-12). GDOE is a department of the executive branch of the Government of Guam administered by a Superintendent of Education (the "Superintendent"). The Superintendent is responsible for the implementation of policies of the Guam Education Policy Board ("Board"), which appoints the Superintendent.

On August 25, 2010, Public Law restructured the Board to include ten voting members, three members appointed by the Governor, six board members elected at large, and one student member elected by the Islandwide School Board of Governing Students. The Board will also include one non-voting member appointed by the exclusive bargaining unit representing teachers and other Department employees. Election for the first members of this Board shall be during the 2012 General Election. Appointed members shall be appointed on the first Monday of January 2011. Members of the Board elected prior to this act shall serve the remainder of their terms. The board shall have general supervision over GDOE and the control and direction of all funds of, and appropriated to, the Department. GDOE is Guam's public education system. It currently has an annual budget of approximately 270 million dollars. The budget consists of appropriations from the Government of Guam, special funds, and federal funds.

In 2005, the Guam Legislature enacted Public Law 28-45, known as the "Every Child is Entitled to an Adequate Public Education Act" (the "Adequate Education Act"). In the Adequate Education Act, the Guam Legislature declared its policy that the education of Guam's children is

The School District consists of 27 elementary schools, 8 middle schools, 5 high schools and an Alternative School, which together serve a total of approximately 31,000 students in Guam. Of those, approximately 10,000 are high school students. The GDOE secured financing in late 2006 for the construction of four additional public schools and possible renovation of one existing public school. Three of the new schools opened for the 2008-2009 school year, and the fourth school, an elementary school, opened for the 2009-2010 school year, bringing the total number of public schools on Guam to 41.

Guam statutes mandate that every child on Guam from age 5 through 16 must be enrolled in and attending school. Any such child, regardless of citizenship or military status, is eligible to attend School District schools. In addition to the 41 public schools in the School District, Guam currently has 24 private schools and four Department of Defense schools providing K-12 education. Guam statutes also permit charter schools to be established on Guam. Even in light of these alternatives to School District schools on Guam, GDOE anticipates that the School District's current enrollment will increase in connection with the pending military buildup on Guam, potentially requiring the construction of more School District schools.

Guam Department of Education's (GDOE) technology plan, *Gateway to Success*, is the district's action plan and serves as guiding document in the implementation of technology in the public schools. One of its goals is to develop, maintain, and improve GDOE infrastructure. Therefore GDOE will be installing wireless networks to improve access in all GDOE campuses.

Considering the magnitude, and the specifics of this project, the expertise of a consultant is needed to ensure there is quality control, timelines are met, and to protect the interest of GDOE.

CTDA# 84-394A  
Program: State Fiscal Stabilization Fund (SFSF)  
Project: Financial Infrastructure - Wireless Consultant  
Fed. Award No.: 5394AD90055A

**GOVERNMENT OF GUAM  
DEPARTMENT OF EDUCATION  
REQUEST FOR PROPOSAL  
GDOE RFP No.: 011-2011  
INFRASTRUCTURE – WIRELESS CONSULTANT,**

**SECTION I: GENERAL TERMS AND CONDITIONS**

**ALL PROPOSALS MUST INCLUDE A STATEMENT THAT THE OFFEROR ACCEPTS ALL TERMS AND CONDITIONS CONTAINED IN THIS SECTION.**

**1. AUTHORITY:**

This Request for Proposal (RFP) is issued subject to all the provisions of Title 5, Chapter 5, Guam Code Annotated (the Guam Procurement Act) and its attendant regulations which may be accessed electronically at <http://www.justice.gov.gu/compileroflaws/GCA/05gca/5gc005.PDF> and the Department of Education Procurement Regulations (GDOEPR). As Federal grant funds will be used for the procurement, the provisions of the Education Department General Administrative Regulations (EDGAR), §§80.36(b)-(j), apply. This RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

This RFP is being funded, either wholly or in part, by Federal education grant funds. Procurements funded wholly or in part by federal education grant funds are governed by the Education Department General Administrative Regulations (EDGAR) – 34 CFR Parts 74, 75, 79, 80, 81, 82, 84, 85, 86, 97, 98, 99.

In the event that a conflict arises between Government of Guam and Guam Department of Education procurement laws and regulations, federal laws and regulations shall prevail.

Offerors submitting proposals in response to this RFP should be familiar with the requirements of the federal procurement guidelines outlined in EDGAR and with provisions of any federal grants that may be the funding source for this procurement. Offerors should also be aware that GDOE is currently under high risk status for Federal grants. Offerors are advised that per EDGAR both the Offeror's cost proposal and technical proposal will be considered in the determination of each offeror's ranking pursuant to evaluation criteria.

EDGAR may be accessed via the Internet at <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>, by dialing 866-512-1800, or in writing by sending correspondence to the Superintendent of Documents, P.O. Box 37954, Pittsburgh, PA 15250-7954.

**2. COMMUNICATION WITH REGARD TO THE RFP:**

No oral explanation in regard to the meaning of the specifications will be made and no oral instructions will be given to individual prospective Offerors before the deadline for submission of proposals. Discrepancies, omissions, or doubts as to the meaning of the specifications or other information in this RFP should be communicated in writing to the GDOE Supply Management Administrator for interpretation. All questions received from prospective Offerors, along with any written response from GDOE, will be provided to each entity that picked up an RFP package. Changes or clarifications to the RFP, if required, shall be made in the form of an RFP amendment which will be forwarded to all prospective Offerors. Receipt of any and all amendments issued by GDOE must be acknowledged by the Offeror in the proposal form. All inquires should contain "GDOE RFP # 011-2011" in the reference or subject line.

### **3. INCLUSION OF PROPOSAL IN FINAL CONTRACT:**

GDOE reserves the right to include any part of an Offeror's proposal in a final agreement or contract resulting from this RFP. Proposals may be subject to additional conditions and terms as may be imposed by GDOE during contract negotiations.

### **4. DUTY TO CLARIFY:**

By submitting a proposal, Offeror specifically understands and agrees that it has a duty to explain and clarify any and all conditions regarding responses to this RFP. The Offeror understands that it has an affirmative duty to inquire in writing about and clarify any RFP provisions that the Offeror does not understand or that the Offeror believes may be susceptible to more than one interpretation. (See Section 2 above)

### **5. APPLICATION OF USDOE GRANTS**

Federal laws and regulations applicable to USDOE grants will be applicable to work performed by the successful Offeror under the project, including 34 CFR Parts 75, 76, 77, 80, 84, 85, OMB Circular A-87, applicable USDOE grant program statutes, and any special conditions attached to the USDOE grants.

### **6. USE OF INFORMATION OBTAINED FROM RFP**

All data and information gathered by the Offeror and its agents, including this RFP and all reports, recommendations, specifications and data, shall be treated by the Offeror and its agents as confidential. The Offeror and its agents shall not disclose or communicate the aforesaid matters to a third party or use them in advertising, publicity, propaganda, and/or in another job or jobs, unless written consent is obtained from GDOE.

### **7. INDEMNIFICATION**

The Offeror agrees to protect, defend, indemnify and hold GDOE, its officers, officials, agents, and employees, (hereafter 'the Indemnified Parties'), free and harmless from and against any and all claims, damages, demands, injury or death, in consequence of awarding the contract or arising out of or being in any way connected with the Offeror's performance or lack thereof under the contract, except for matters shown by final judgment to have been solely caused by or

attributable to the gross negligence or intentional wrongful act of the Indemnified Parties. The indemnification provided herein should be effective to the maximum extent permitted by applicable law. This indemnity extends to all legal costs, including, without limitation: attorney's fees, costs, liens, judgments, settlements, penalties, professional fees or other expenses incurred by GDOE. This indemnification is not limited by any amount of insurance required under the contract and shall cover the cost of defense of any claim of liability within the scope of the indemnity whether or not such claim is meritorious. The Offeror shall be solely responsible for the defense of any and all claims, demands or suits against the Indemnified Parties, including, without limitation, claims by employees, subcontractors, agents, or servants of the Offeror provided that the GDOE shall have the right to designate separate counsel to defend the GDOE in which event the fees and expenses of such counsel shall be paid by the Offeror.

The Offeror shall promptly provide, or cause to be provided, to GDOE and GDOE counsel copies of any such notices as they may receive of any claims, actions or suits as may be given or filed in connection with the Offeror's or any subcontractor's performance of the contract and for which the Indemnified Parties may claim indemnification hereunder and give the Indemnified Parties authority, information, and/or assistance for the defense of any claim or action.

#### **8. RETENTION OF OFFEROR MATERIAL**

All items submitted in response to this RFP become the property of GDOE. Proprietary material or unopened proposals may be returned upon request pursuant to 2 GAR §3115(g).

#### **9. DISPOSITION OF PROPERTY AND MATERIALS; INTELLECTUAL PROPERTY RIGHTS**

All non-proprietary plans, outlines, briefs, memoranda, studies, reports, analyses and all other work product and materials which are produced by a contract arising from this RFP shall be and remain the property of GDOE, regardless of whether Offeror is in possession of such Work Product, and may be used by GDOE without permission from Offeror and without any additional costs to GDOE. All Work Product, including any and all intellectual property rights in said Work Product, arising out of the contract shall be the sole and exclusive property of GDOE. Offeror explicitly acknowledges that GDOE possesses exclusive rights to the Work Product. Offeror shall not use or permit others to use in any way or form the Work Product without the express written consent of the Port.

#### **10. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION**

By submission of a proposal, each Offeror certifies that in connection with this procurement the prices in this proposal have been arrived at independently, without consultation, communication, or agreement with any other Offeror, competitor, GDOE employee or consultant for the purpose of restricting competition on any matter relating to this proposal and that unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to award directly or indirectly to any other Offeror or to any competitor.

#### **11. INSURANCE COVERAGE**

The Offeror agrees to procure and maintain in effect insurance policies in the amount and with the type of coverage shown below:

Workers compensation insurance in the form and amount required by the law of the Government of Guam.

## **12. CONTRACTOR PROJECT PERSONNEL**

Offeror project personnel will not be removed from the project without GDOE approval. GDOE may adopt contractual provisions that provide disincentives for removing project personnel from this project.

## **13. SERVICES AND SCOPE OF WORK**

The intent of the contract will be for services to be completed at GDOE offices within Guam in the detail described in the Scope of Work, which will be attached to, and part of, any contract executed pursuant to this RFP. Except as otherwise explicitly stated in the contract, Offeror will furnish all labor, materials, equipment, hardware, software, products, tools, transportation, and supplies required to complete the services.

Offeror will provide services to GDOE as required in the contract and the Scope of Work.

## **14. PROFESSIONAL STANDARDS**

The successful Offeror agrees to maintain the professional standards applicable to its profession, such as Generally Accepted Accounting Principles (GAAP), and to contractors doing business in the Territory of Guam.

## **15. TERMINATION**

GDOE reserves the right to terminate any contract for convenience, or any part of the contract, upon thirty (30) days written notice. In case of such termination, the successful Offeror shall be entitled to receive payment from the GDOE for work completed to date in accordance with the terms and conditions of the contract. In the event that the contract is terminated due to the Offeror's default, GDOE shall be entitled to purchase substitute items and/or services elsewhere and charge the Offeror with any or all losses incurred, including attorney's fees and expenses.

## **16. CONFLICT OF INTEREST**

An Offeror filing a proposal hereby certifies that no officer, agent or employee of GDOE has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of GDOE; that the proposal is made in good faith without fraud, collusion or connection of any kind with any other Offeror for the same request for proposals; and the Offeror is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.

## **17. RIGHT TO AMEND, CANCEL, OR RE-ISSUE THE RFP:**

GDOE reserves the right to amend, supplement or cancel the RFP as serves the best interest of GDOE, and to re-issue this RFP

**18. RIGHT TO REJECT PROPOSALS:**

GDOE reserves the right to reject any or all proposals, in whole, or in part, and to waive informalities and minor irregularities in proposals if such action is determined to be in the best interest of GDOE. GDOE reserves the right to determine what constitutes informalities and minor irregularities in proposals.

**19. TAXES:**

Offerors are cautioned that they may be subject to Guam income taxes as well as all other taxes on Guam transactions and that liability for any Guam taxes is solely the responsibility of Offeror. Information on Guam taxes may be obtained from the Director of the Guam Department of Revenue and Taxation.

**20. COMPLIANCE WITH APPLICABLE LAW:**

Offeror accepts sole responsibility for compliance with any applicable federal and local laws, codes, ordinances, and regulations which in any manner affect those employed in the performance of the services contemplated by this RFP. No misunderstanding or ignorance of applicable law, codes, ordinances, or regulations by an Offeror will in any way serve to modify any contract executed pursuant to this RFP.

**21. LICENSING AND PERMITS:**

Offerors are cautioned that GDOE will not consider for award any proposal submitted by an Offeror who has not complied with Guam Licensing Law. Information on Guam licenses may be obtained from the Guam Department of Revenue and Taxation. Upon receipt of "Notice of Intent of Possible Award", the Offeror will have ten (10) working days to submit a copy of the Offeror's Guam business license. Failure to submit a copy of a valid Guam business license within the specified time allowed may be cause for rejection of an Offer, unless an extension of time to so submit is permitted by GDOE. GDOE reserves the right to exercise sole discretion on whether an extension of time shall be granted. Offerors shall at their own expense procure all necessary permits, certificates, and licenses required, and shall bear responsibility for any legally required notices or reports, for the performance of the services contemplated by this RFP.

**22. COVENANT AGAINST CONTINGENT FEES:**

The Offeror warrants that no person has been employed to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give GDOE the right to terminate the contract, or, at its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to a commission payable by contractors upon contracts or sales secured or made through a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.



**23. TIMELY PERFORMANCE OF SERVICES:**

The Offeror who is awarded the contract guarantees that the services contemplated by this RFP will be completed within the agreed upon completion date. If, however, the Offeror cannot comply with the completion requirement, it is the Offeror's responsibility to advise GDOE in writing to explain the cause and reasons for the delay.

**24. EQUAL EMPLOYMENT OPPORTUNITY:**

Offerors shall not discriminate against any employee or applicant for employment because of race, sex, creed, color or national origin. The Offeror will take affirmative action to ensure that applicants and employees are treated equally during hiring and employment without regard to their race, creed, color or national origin.

**25. RESTRICTION ON EMPLOYMENT OF SEX OFFENDERS:  
(Pursuant to TITLE 5, SUBSECTION 5253, GUAM CODE ANNOTATED)**

Offeror warrants that no person shall provide services relative to this contract who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction which, at a minimum, the same elements as such offenses, or who is listed in the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway. If any person providing services on behalf of the Offeror is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at Guam Department of Education and the GDOE Superintendent will be informed of such within twenty-four (24) hours of such conviction. Any Offeror found in violation of this section, after notice from GDOE of such violation, shall, within twenty-four hours, take corrective action and shall report such action to GDOE. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of GDOE.

**26. ASSIGNMENT/SUBCONTRACTORS:**

It is expressly acknowledged that Offeror is solely responsible for the fulfillment of its duties and obligations under a contract executed pursuant to this RFP, regardless of whether or not offeror utilizes one or more subcontractors for such purpose. The right and interest of Offeror under this contract pursuant to this RFP (including, but not limited to, offeror's right to or interest in any part or all of payments under such contract) may not be assigned, transferred or subcontracted to any other person, firm, corporation, or other entity, whether by agreement, merger, operation of law, or otherwise, without the prior, express written consent of GDOE. In the event of a permissive subcontract or assignment of this Agreement by Offeror, Offeror agrees that any subcontractors retained by offeror or assignees shall be subject to all provisions of this Agreement.

**27. LIABILITY FOR COSTS OF THE PROPOSAL AND FEES AND EXPENSES:**

GDOE is not liable for any costs incurred by an Offeror in connection with this RFP. By submitting a proposal, Offeror specifically waives any claim against GDOE for any expenses incurred in preparation or negotiation of the Proposal. Submitted Proposals become the property of GDOE. Requests by an Offeror for the return of specific proprietary material will be considered by GDOE. Offeror shall bear its own expenses in connection with the negotiation and consummation of any contract or other transactions pursuant to this RFP.

## **28. AMENDMENT TO PROPOSALS**

A submitted proposal may only be amended or modified prior to the deadline for submission of proposals, except that once a proposal has been received by GDOE it may be revised in response to clarifying discussions with GDOE. At the point when GDOE has concluded discussions with Offerors, all Offerors will be notified of a final date for submission of amendments to proposals, if any.

## **29. DISCLOSURE OF MAJOR SHAREHOLDERS PURSUANT TO 5 GCA §5233:**

Guam law requires all Offerors to submit an affidavit of disclosure of major shareholders as a qualifying condition for participation in any Government of Guam RFP. In addition, the notarization of the affidavit shall be in accordance with current notary public law. Failure to comply with these provisions will result in disqualification and rejection of the Proposal.

5 GCA §5233, provides:

Section 5233. Disclosure of major shareholders. As a condition of bidding, any partnership, sole proprietorship or corporation doing business with the Government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid. The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have been held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who received or is entitled to receive a commission, gratuity or the compensation for procuring or assisting in obtaining business related to the proposal for the Offeror and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying.

## **30. WITHDRAWAL OF PROPOSALS**

Proposals may be withdrawn by written or facsimile notice received by USDOE at any time prior to the conclusion of any discussions that may take place between GDOE and one or more Offerors. Proposals may be withdrawn in person by an Offeror's authorized representative upon verification of the representative's authority to so act.

31.

### **ADDITIONAL TERMS AND CONDITIONS**

Offeror Proposals may be subject to additional conditions and terms as may be imposed by GDOE during contract negotiations.

### **32. STATUS OF OFFEROR**

Offeror and its officers, agents, servants, subcontractors and employees are independent contractors performing professional services for GDOE and are not employees of either GDOE or the Government of Guam. Offeror and its officers, agents, servants and employees shall not accrue vacation or sick leave, participate in the Government of Guam retirement system, insurance coverage, bonding, use of government vehicles or any other benefits accorded to Government of Guam employees. Offeror agrees that Offeror and its employees, officers, directors, agents, servants, and subcontractors are not and will not become an employee, officer or Board member of GDOE at any time during the duration of this RFP or any contract resulting therefrom, and will otherwise comply with the provisions of the Guam Procurement law regarding ethics in public contracting (Title 5 Guam Code Annotated, Chapter 5, Article 11, and its attendant rules and regulations). Nothing in any contract pursuant to this RFP or any action taken pursuant to this RFP shall be deemed or construed in any manner or for any purpose to evidence or establish as between Offeror and GDOE a relationship of partnership, agency, association, joint venture or representative, nor authorize any party to undertake or bind any obligation or responsibility on behalf of the other party. In addition, there shall be no withholding of taxes by GDOE for the Offeror.

### **33. ETHICAL STANDARDS**

Offeror represents that it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in Guam's procurement code or regulations pertaining to ethics in public contracting. Offeror represents that it will comply with its ethical obligations under Guam Procurement Law. See 5 GCA §§5601-5677.

### **34. PROHIBITION AGAINST GRATUITIES AND KICKBACKS**

Offeror represents that it has not violated, is not violating, and promises that it will not violate, the prohibition against gratuities and kickbacks set forth in the Guam Procurement law. The prohibition is as follows: It is a breach of ethical standards for any person to offer, give, or agree to give any government employee or former government employee, or for any government employee or former government employee to solicit, demand, accept, or agree to accept from another person, a gratuity or any offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. Further, it shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime

contractor or higher tier subcontractor or any person associated therewith, as an inducement of the award of a subcontract or order.

### **35. GOVERNING LAW AND FORUM**

Except to the extent U.S. federal law is applicable, the laws and regulations of Guam shall govern the interpretation, effect, and validity of this RFP and any contract executed pursuant to this RFP. Therefore, any court action to enforce, interpret, or otherwise establish rights pursuant to this RFP or a contract pursuant thereto shall be pursued exclusively in Guam.

### **36. CONFIDENTIALITY**

Offeror shall not disclose to unauthorized persons any documents, materials or information, whether verbal, written, recorded magnetic media or otherwise (collectively, the "Information"), made available or acquired for the purpose of executing a contract pursuant to this RFP. Only authorized persons (parties to negotiation or contract execution) shall use and have access to the Information, and then only for the period such access is required to negotiate or perform services under a contract pursuant to this RFP. All necessary steps shall be taken by Offeror to safeguard the confidentiality of the Information in conformance with any applicable United States and Guam laws, statutes, and regulations.

### **37. LIABILITY**

Offeror assumes responsibility for its personnel and subcontractors providing services hereunder and will make all deductions and payments for social security and withholding taxes and for contributions to employment compensation funds, or any other payments required by the governments of the U.S. and Guam. Offeror is responsible for paying when due any and all income taxes, gross receipts taxes, or any other taxes or assessment incurred as a result of the services performed by the offeror and Offeror's employees or agents or the compensation paid to offeror for services performed under a contract pursuant to this RFP. Furthermore, offeror shall maintain at the Offeror's expense all necessary insurance for its employees including but not limited to Worker's Compensation, Errors and Omissions, and liability insurance for each employee as required under U.S. and Guam law and the mandates of the underlying RFP. Offeror agrees to hold harmless and indemnify GDOE, its officers, directors, employees, agents, representatives, successors and assigns, for any and all claims, demands, costs, losses, fees, penalties, interest, or damages, including attorney's fees, which may be brought or asserted due to (i) any injury, death, or property damage arising from the negligence or other wrongful or tortuous acts of Offeror or Offeror's employees, officers, contractors, directors, agents, representatives, successors, or assigns, or (ii) offeror's failure to comply with terms of this Section.

### **38. COMPLIANCE WITH WAGE LAWS**

The Offeror who is awarded a contract shall pay employees, at a minimum, in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of labor for such labor as is employed in the direct delivery of contract deliverables to GDOE. In the event of a renewal of a contract, the Wage Determination promulgated by the U.S. department of Labor on a date most recent to the renewal date of the

contract shall apply to that renewal contract. In addition to the applicable Wage Determination, the contract shall contain provisions mandating health and similar benefits for employees, such benefits having a minimum value as detailed in the Wage Determination promulgated by the U.S. Department of labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum for each employee.

The Offeror is required to execute the enclosed Declaration Re: Compliance with US DOL Wage Determination, and submit the executed declaration with the Offeror's proposal.

**39. RESPONSIBILITY OF THE OFFEROR:**

The Offeror shall be responsible for the professional and technical accuracy of all work and materials furnished under the awarded contract. The Offeror shall, without additional cost to the Government, correct or revise all errors or deficiencies in its work identified during the term of the contract.

GDOE's review, approval, acceptance of, and payment of fees for services required under the awarded contract shall not be construed to operate as a waiver of any rights under the contract, and the Contractor shall be and remain liable to the GDOE for all direct costs which may be incurred by the Government as a result of the Contractor's negligent performance of any of the services performed under the contract.

**40. PENALTY FOR FRAUD, BRIBERY AND OTHER VIOLATIONS**

The bidder is cautioned to carefully observe local and federal statutes and regulations involving fraud, bribery and other violations with regard to procurement of contracts and capital improvement projects, and take special note of the criminal penalties in connection with said violations.

Accordingly, the bidder represents, as a condition of the submission of his bid, that he has not violated, is not violating, and promises that he will not violate the prohibition against gratuities and kickbacks set forth in 5 GCA, Chapter 5, Article 11 Ethics in Public Contracting and Chapter 11 of the Department of Education Procurement Regulations.

**41. TERMINATION OF WORK FOR FAILURE TO PAY AGREED WAGES.**

In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor has been or is being paid a rate of wage less than the rate of wages required to be paid, GDOE may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages, and to prosecute the work to completion by contract or otherwise; and the Contractor and his sureties shall be liable to the GDOE for any excess costs occasioned GDOE thereby.

**GOVERNMENT OF GUAM  
DEPARTMENT OF EDUCATION (GDOE)  
REQUEST FOR PROPOSAL  
GDOE RFP 011-2011  
INFRASTRUCTURE – WIRELESS CONSULTANT**

**SECTION 2. GENERAL INSTRUCTIONS**

**1. PROPOSALS:**

The Offeror is required to read this RFP, and by the act of submitting a Proposal, shall be deemed to have accepted all conditions contained herein. Proposals shall be filled out in ink or typewritten and signed in ink. Erasures or other changes in a Proposal must be explained or noted over the signature of the Offeror. Proposals containing any condition, omission, unexplained erasures, alteration, item not called for in the Proposal or any other irregularity may be rejected by the GDOE as being incomplete or non-compliant with the requirements of this RFP.

**2. GENERAL INTENT:**

GDOE is soliciting proposals from qualified entities or individual(s) interested in providing professional Consulting Services to manage the installation of wireless LANs at all GDOE schools. The Consultant will act as the project manager, WLAN designer, and quality assurance for GDOE.

**3. COMMUNICATIONS WITH GDOE:**

All communications regarding this RFP must be submitted in writing to:

**Mr. Marcus Y. Pido**  
Supply Management Administrator  
Guam Department of Education  
Phone No.: (671) 300-1581-3  
Fax No.: (671) 472-5001

Physical Address:  
Supply Management Division  
Guam Department of Education  
Manuel F.L. Guerrero, Administration Building  
2<sup>nd</sup> Floor, 312 Aspinall Avenue  
Hagatna, Guam 96910

All communications shall reference Request for Proposal number: **GDOE RFP 011-2011**. Communications directed elsewhere may result in the disqualification of the respondent. Offerors should rely only on written communications from the GDOE Supply Management Administrator or such other person as he might designate in writing.

**4. MODIFICATION/ALTERATION:**

Pursuant to 3.14.9.3 (GDOEPR), Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision to Proposals, and such revisions shall be permitted after Proposal submission and prior to award for the purpose of obtaining a best and final offer. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing Offerors.

**5. PAYMENT:**

Payment shall be made using a method mutually agreed upon by the GDOE and the successful Offeror.

**6. LATE PROPOSALS:**

Late proposals will not be accepted.

**7. AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 – REPORTING REQUIREMENTS.**

Funding for this project comes from the American Recovery and Reinvestment Act of 2009 (ARRA). With the funding comes an increased level of data reporting by the Territory of Guam to the United States Department of Education (USDOE) with the stated goal of improving accountability at all levels of government. This begins with the work that is being funded. The "Jobs Accountability Act" requires any entity that receives recovery funds, in this case the Territory of Guam, to provide regular reports. These require input from the successful supplier in the form of a Monthly Employment Report from the successful offeror. The report is a contractual requirement and is due on the 10<sup>th</sup> of each month. The instructions and format for the report are included in SCR 103.06 ARRA Reporting Requirements, which is included with this RFP.

**8. AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 – SECTION 902 U.S. COMPTROLLER GENERAL AUTHORITIES.**

Section 902 of the American Recovery and Reinvestment Act (ARRA) of 2009 requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

“(1) to examine any records of the Contractor or any of its subcontractors , or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) to interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.”

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this contract, which is funded with funds made available under the ARRA. Section 901 further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller

General.

**9. AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 – SECTION 1515a  
NOTIFICATION OF THE AUTHORITY OF THE INSPECTOR GENERAL.**

Section 1515(a) of the ARRA provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this contract. The Contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

**10. GENERAL COMPLIANCE WITH LAWS:**

The Offeror shall be required to comply with all Federal and local laws, ordinances, terms and conditions, assurances and certifications applicable to the work and receipt of federal funding.

**APPLICABLE TERMS AND CONDITIONS:**

Other Terms and Conditions that may apply to any contract executed pursuant to this RFP, subject to final negotiation of such contract, are listed below. For the purposes of this section, "Contractor" shall mean the successful Offeror under this RFP with whom DOE may enter into a contract for the services contemplated by this RFP.

**1. CHANGES:**

**A. CHANGE ORDER: reference: GAR§ 6101 (3) (a); GDOEPR §6.1.3.1.**

By a written order, at any time, and without notice to surety, the Administrator of Supply Management may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- A. Drawing, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the territory in accordance therewith;
- B. method of shipment or packing; or
- C. place of delivery.

**B. ADJUSTMENTS OF PRICE OR TIME FOR PERFORMANCE:**

If any such change order increases or decreases Contractor's cost of, or the time required for performance of any part of the work under this contract, whether or not changed by the order, any adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

Failure of the parties to agree to an adjustment shall not excuse Contractor from proceeding with the contract as changed, provided that the territory promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the



work, Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

**C. TIME PERIOD FOR CLAIM:**

Within 30 days after receipt of a written change order under Paragraph (1) (Change Order) of this clause, unless such period is extended by the Administrator of Supply Management in writing, Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar Contractor's claim unless the territory is prejudiced by the delay in notification.

**D. Claims Barred After Final Payment:**

No claim by Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

**E. Other Claims Not Barred.**

In the absence of such a change order, nothing in this clause shall be deemed to restrict Contractor's right to pursue a claim arising under the contract if pursued in accordance with the clause entitled, "Claims Based on a Procurement Officer's Actions or Omissions, Notice of Claim Clause", or for breach of contract.

**2. STOP WORK ORDER:                   reference:   GAR§ 6101(4)(c), GDOEPR § 6.1.4.1.**

**A. Order to Stop Work.**

The Administrator of Supply Management may, by written order to Contractor, at any time, and without notice to any time, and without notice to any surety, require the contractor to stop all or any part of the work called for by this contract. This order shall be for specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work expires, or within any further period to which the parties shall have agreed, the Administrator of Supply Management shall either:

- i.           Cancel the stop work order; or
- ii.          Terminate the work covered by such order as provided in the "Termination for Default Clause" or the "Termination for Convenience Clause" of this contract.

**B. Cancellation or Expiration of the Order.**

If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or contract price shall be modified in writing accordingly, if:

- i. the stop work order results in an increase in the time required for, or in the contractor's cost properly allocable to, the performance of any part of this contract; and
- ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Administrator of Supply Management decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

**C. Termination of Stopped Work.**

If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

**D. Adjustment of Price.**

Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

**1. PRICE ADJUSTMENTS:    *reference: GAR § 6101(6) and GDOEPR § 6.1.6.***

**a. Price Adjustment Methods.**

Any adjustment in contract price pursuant to a clause in this contract shall be made in one or more of the following ways:

- (i) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (ii) by unit prices specified in the contract or subsequently agreed upon;
- (iii) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;
- (iv) in such other manner as the parties may mutually agree; or
- (v) in the absence of agreement between the parties, by a unilateral determination by the Administrator of Supply Management of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Administrator of Supply Management in accordance with generally accepted accounting principles and

applicable sections of the regulations promulgated under Chapter 7 (Cost Principles) of the GAR and GDOEPR, subject to the provisions of Chapter 9 (Legal and Contractual Remedies) of the GAR and GDOEPR.

b. Submission of the Cost or Pricing Data.

Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of §3118 (Costs or Pricing Data) of the GAR and §3.18.2.1 of the GDOEPR.

**3. CLAIMS BASED ON DOE's SUPERINTENDENT'S ACTIONS OR OMISSIONS:** *reference: GAR § 5106(8) & GDOEPR § 6.1.7 and § 5.4.8.*

1. Notice of Claim.

If any action or omission on the part of GDOE's Superintendent/ Chief Procurement Officer, or designee of such officer, requiring performance changes within the scope of the contract constitutes the basis for a claim by Contractor for additional compensation, damages, or an extension of time for completion, Contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(a) Contractor shall have given written notice to the Procurement Officer, or designee of such officer:

- i. prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
- ii. within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or
- iii. within such further time as may be allowed by the Department of Education's Superintendent in writing.

This notice shall state that Contractor regards the act or omission as a reason which may entitle Contractor to additional compensation, damages, or an extension of time. The Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Procurement Officer or designee of such officer.

(b) the notice required by Subparagraph (a) of this Paragraph describes as clearly as practicable at the time the reasons why Contractor believes that additional compensation, damages, or an

extension of time may be remedies to which Contractor is entitled; and

(c) Contractor maintains and, upon request, makes available to the Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

## 2. Limitations of Clause.

Nothing herein contained, however, shall excuse the contractor from compliance with any rules of law precluding any territorial officers and any contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.”

## 3. Adjustment of Price.

Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

## 4. **TERMINATION FOR DEFAULT:** *reference GAR §6101(8) and GDOEPR § 5.4.9*

### A Default.

If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract the Administrator of Supply Management may notify Contractor in writing of the delay or non-performance and if not cured in ten days or any longer time specified in writing by the Administrator of Supply Management, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part the Administrator of Supply Management may procure similar supplies or services in a manner and upon terms deemed appropriate by the Administrator of Supply Management. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

### B Contractor's Duties.

Notwithstanding termination of the contract and subject to any directions from the Administrator of Supply Management, the contractor shall take timely, reasonable, and necessary action to protect and preserve property in possession of Contractor in which the territory has an interest.

### C. Compensation.

Payment for completed supplies delivered and accepted by the territory shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the contract and the Administrator of Supply Management; if the parties fail to agree,

the Administrator of Supply Management shall set an amount subject Contractor's rights under Chapter 9 (Legal and Contractual Remedies) of the GAR and GDOEPR. The territory may withhold from amount due Contractor such sums as the Administrator of Supply Management deems to be necessary to protect the territory against loss because of outstanding liens or claims of former lien holders and to reimburse the territory for the excess costs incurred in procuring similar goods and services.

#### **D. Excuse for Nonperformance or Delayed Performance.**

Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the contractor to make progress in the prosecution of the work here under which endangers such performance) if Contractor has notified the Administrator of Supply Management within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; act of the public enemy; acts of the territory and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the supplies or services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the contractor to meet the contract requirements. Upon request of Contractor, the Administrator of Supply Management shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the territory under the clause entitled (in fixed-price contracts, "Termination" for Convenience in cost-reimbursement contract) "Termination". (As used in this Paragraph of this clause the term "subcontractor" means subcontractor at any tier.)

#### **E. Erroneous Termination for Default.**

If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the territory, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the territory, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under Chapter 9 (Legal and Contractual Remedies) of the GAR and GDOEPR.

#### **F. Additional Rights and Remedies.**

The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**G. Liquidated Damages:** *reference: GAR § 6101 (9)(a) and GDOEPR§ 6.1.9.*

When Contractor is given notice of delay or nonperformance as specified in Paragraph (1) (Default) of the Termination for Default Clause of this contract and fails to cure in the time specified, Contractor shall be liable for damages for delay in the amount of one-fourth of one-percent (1%) of outstanding order per calendar day from date set for cure until either the territory reasonably obtains similar supplies or services if Contractor is terminated for default, or until Contractor provides the supplies or services if Contractor is not terminated for default. To the extent that the contract's delay or nonperformance is excused under Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of the Termination for Default Clause of this contract, liquidated damages shall not be due the territory. Contractor remains liable for damages caused other than by delay."

**5. TERMINATION FOR CONVENIENCE:** *reference: GAR § 6101(10) and GDOEPR§ 6.1.10.*

**A. Termination.**

The Administrator of Supply Management may, when the interest of the territory so require, terminate this contract in whole or in part, for the convenience of the territory. The Administrator of Supply Management shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.

**B. Contractor's Obligations.**

Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified.

Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Administrator of Supply Management may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the territory. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

**C. Right to Supplies.**

The Administrator of Supply Management may require Contractor to transfer title and deliver to the territory in the manner and to the extent directed by the Administrator of Supply Management :

(1) any completed supplies; and

(2) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically

produced or specially acquired for the performance of the terminated part of this contract.

The contract shall, upon direction of the Administrator of Supply Management, protect and preserve property in the possession of Contractor in which the territory has an interest. If the Administrator of Supply Management does not exercise this right, Contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code of Guam, §2706 (U.S.C.G. §2706 is quoted at the end of this §6101(10)(d)). Utilization of this Section in no way implies that the territory has breached the contract by exercise of the Termination for Convenience Clause.

#### **D. Compensation.**

(1) Contractor shall submit a termination claims specifying the amounts due because of the termination for convenience together with cost or pricing data to the extent required by §3118 (Cost or Pricing Data) of the Guam Procurement Regulations bearing on such claim. If Contractor fails to file a termination claim within one year from the effective date of termination, the Administrator of Supply Management may pay Contractor, if at all, an amount set in accordance with paragraph 15.3 C of this Section.

(2) The Administrator of Supply Management and Contractor may agree to a settlement provided Contractor has filed a termination claim supported by cost or pricing data to the extent by §3118 (Costs or Pricing Data) to the Guam Procurement Regulations and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the territory, the proceeds of any sales of supplies and manufacturing materials under paragraph 15.3 C of this clause, and the contract price of the work not terminated.

(3) Absent complete agreement under paragraph 15.3 B of this section, the Administrator of Supply Management shall pay Contractor the following amounts, provided payments agreed to under 15.3 B shall not duplicate payments under this paragraph:

- a. contract prices for supplies or services accepted under the contract;
- b. costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the contractor would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the

amount of compensation shall be reduced to reflect the anticipated rate of loss;

- c. costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to the second paragraph 15.3 B. Contractor's Obligation) of this clause. These costs must not include costs paid in accordance with subparagraph 15.3 D (3) (ii) of this section;
- d. the reasonable settlement costs of Contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of subcontracts there under, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this contract. The total sum to be paid Contractor under this subparagraph shall not exceed the total contract price plus the reasonable settlement costs of Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph 15.3 C Rights to Supplies of clause and the contract price of work not terminated.

(4) Cost claimed, agreed to, or established under subparagraph 15.3D (2) and 15.3 D (3) of this Section shall be in accordance with Chapter 7 (Cost Principles) of the Guam Procurement Regulations.

**13 GCA §2706 (UCC) states:**

**“§2706. Seller's Resale Including Contract for Resale.**

- (1) Under the conditions stated in §2703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with an incidental damages allowed under the provisions of this division (§2710), but less expenses saved in consequence of the buyer's breach.
- (2) Except as otherwise provided in Subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms, but every aspect of the sale including the



method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any of all of them have been identified to the contract before the breach.

- (3) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.
- (4) Where the resale is at public sale:
  - a. Only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and
  - b. It must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and
  - c. If the goods are not to be within the view of those attending the sale, the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and
  - d. The seller may buy.
- (5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.
- (6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (§2707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (Subsection 3 of §2711).

## **SECTION 3 - SCOPE OF WORK**

### **PART 1 GENERAL INFORMATION**

#### **1.1 INTENTION**

The Consultant will design and implement the wireless LANS at all schools to ensure the project is on-time, within budget, and has the ability to provide redundant paths within each school site as applicable.

#### **1.2 GENERAL SCOPE OF SERVICES:**

**A. Objective**

Wireless LANs are configured, installed and operating properly to provide reliable wireless service throughout GDOE schools, that the classrooms have a reliable wireless connections and all wireless LANs are secured.

**B. Project Management Services**

Consultant will be the main contact for working with selected vendors to ensure the project is completed on time and within budget.

**C. Wireless LAN Design**

- \* Consultant will provide the design of the overall wireless LAN configuration.
- \* Design will be documented and will be the property of GDOE.

**D. Engineering, Surveying and Layout**

Consultant will be responsible for all engineering, surveying, layout, grades, etc. to complete their scope of work. It is the responsibility of the consultant to verify proper layout by other trades prior to the commencement of work. Any discrepancies shall be brought to the attention of the Contracting Officer at once. Failure to verify the accuracy of other trades may result in modifications of this scope of work at no additional cost to the Government.

**E. Specification Development and Technical Assistance**

Consultant will assist to develop the specifications for the IFB for the project which outlines the activities, timelines, resources needed, responsible persons for implementing the project, and indicators of completion.

Consultant will assure that the material and equipment specifications meet the acquisition requirements of "Required Use of American Iron, Steel, and Manufactured Goods" of Section 1605 of the American Recovery and Reinvestment Act of 2009.

Consultant will assure all specifications are in Compliance with Applicable Codes and Manufactures Recommendations. Consultant will assure specifications meet all materials and workmanship in compliance with all applicable local, state and national codes, specifications, ordinances, utility company regulations and specified industry standards. Comply with manufacturer's published directions in the delivery, storage, protection, and installation of all equipment and material.

**F. Testing**

Consultant will test wireless LANs and assure testing results are conclusive with the objectives and scope.

All tests will be documented and be the property of GDOE.

**G. Reporting**

Consultant will provide data and prepare a monthly, quarterly and annual performance reports complying with U.S. Department of Educations ARRA reporting requirements.

**H. Schedule of Values**

Consultant will be required to submit a detailed schedule of values by area and project and the Schedule of values must be provided prior to first payment installment.

**I. Project Requirements**

**A. Personnel Requirements**

Consultant will provide the project manager's name and all employees to work on the project along with their credentials.

Certification Requirements (any combination, preferably all)

- RCDD<sup>WD</sup> (Registered Communication Distribution Designer) or equivalent staff should be working on the project.
- Project manager must have PMP certification or demonstrate 6 years of work experience with WLAN/LAN installation projects.
- C-68 Classified Specialist: (Communications/Telecommunications)  
A Communications/Telecommunications Contractor installs, services, repairs and maintains all types of communication. These systems include, but are not limited to telephone systems, sound systems, cable television

systems, closed circuit video systems, satellite dish antennas, computer repair, computer networking and data systems including the associated cabling, wiring, fiber optics, or wireless.

**B. Previous Work Experience**

Consultant must provide 5 previous completed work/projects and references with previous or current customers. Contact information (email and phone) will be required.

**C. Testing Plan/Testing Requirements**

- a. Provide method of testing to validate
- b. Testing Plan

**J. Criteria's**

1. Ability to perform the services as reflected by technical training and education, general experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services.
  - a. Company Background – Degree of confidence can GDOE have in the Bidder's technical and financial ability to actually deliver the proposed services.
  - b. Certification requirements – Does the company possess the skill-set necessary to complete the objectives of the project in the given timeframe.
2. The personnel, equipment, and facilities to perform the services currently available to demonstrated to be made available at the time of contracting.
3. Record of Past performance of similar work/client references – Extent do client references corroborate the Bidder's claims of satisfactorily meeting the needs of entities similarly situated to GDOE.

***Scope of Work Specifications were prepared by:***

Vincent T. Dela Cruz, FSAIS Data Processing Manager, Guam Department of Education

## **PART 2 DETAILED SUBMITTAL REQUIREMENTS**

### **2.1 GENERAL REQUIREMENTS**

In order to facilitate the analysis of responses to this RFP, prospective Offerors are required to prepare their proposals in accordance with the instructions outlined in this part. Proposals should be prepared as simply as possible and provide a straightforward, concise description of the Offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, figures, and tables should be numbered and clearly labeled.

Please use the following checklist to ensure that you are submitting a complete proposal. Additionally, please ensure that all electronic files are clearly identified with your business name and address.

- ✓ One (1) original and five (5) bound copies of the proposal, presented in a professional manner, are to be submitted.
- ✓ Two (2) copies of the proposal need to be submitted electronically (on CD-ROM only).
- ✓ Letter of Transmittal signed by an officer or duly authorized representative.
- ✓ Required affidavits of compliance.
- ✓ The full name and title of the point of contact, telephone, and fax numbers.
- ✓ References on forms supplied in this RFP.
- ✓ A page is considered to be letter size, printed on one side, single spaced, with characters no smaller than twelve (12) points.
- ✓ Microsoft Excel (readable) workbook or spreadsheet containing cost estimates.
- ✓ Key Name List: by name and qualifications of individual(s) to perform the Scope of Services.

The original submission shall be clearly marked "original". Proposals must be received no later than **3:00 p.m.** (Chamorro Standard Time), on **TUESDAY, MARCH 1, 2011**. The Offeror's name and address must be marked clearly on the Proposal Envelope. Late proposals will not be considered and will be returned to the prospective Offeror unopened. The official receipt of the proposal is based upon the date and time stamp issued by the GDOE Supply Management Division, P.O. Box DE, Hagatna, Guam 96932.

Proposals received prior to the deadline submittal date and time will be securely kept, unopened. No responsibility will be attached to the GDOE for the premature opening of a proposal not properly addressed and identified. The GDOE cautions prospective Offerors to ensure actual delivery of mailed or hand-delivered proposals directly to the GDOE Procurement Office prior to the established deadline.

**Responses to this RFP should be broken down into a Technical Submittal and Cost Submittal, both of which will be considered for evaluation purposes.**

### **2.2 TECHNICAL SUBMITTALS**

As part of its Proposal, the Offeror must provide a detailed Technical Submittal that outlines the Offeror's plan for performing the tasks and providing the services described throughout this

RFP. The Offeror's Technical Submittal should outline the amount of time and personnel necessary to complete each task. The Offeror's Technical Submittal should clearly demonstrate Offeror's understanding of the situation and its ability to successfully complete the identified tasks.

### **2.3 COST SUBMITTAL**

As part of its Proposal, the Offeror must provide a detailed Cost Submittal outlining, at a minimum, pricing and staffing estimates required to implement the Proposal including but not limited to staffing levels, rates and estimated hours by tasks. Direct expense should also be submitted to include mobilization costs, equipment, supplies, and other costs associated with the work contemplated. Cost submittals should include pricing for both the initial and subsequent contract terms.

The Offerors' cost proposals must provide detailed cost information. As an example, hardware costs should indicate the type of equipment to be purchased, the number of each type of equipment to be purchased, the unit cost for each piece of equipment, and the total cost for the type of equipment. Similarly, for the application software, the cost proposal should indicate whether the software is purchased using a site license, a per user cost, per concurrent user cost, or another costing model. Costs should be provided for each module separately (if possible) and should indicate both initial costs and on-going support costs. Services costs should include a work breakdown schedule presenting the number of staff days proposed for each task, the pay rate for the staff performing each task, travel costs, per diem rates, etc. Any costs and expenses, including travel related costs, of Contractor and its agents or personnel incurred under this Agreement are included in, and not in addition to, the amount specified in the cost proposal. All costs and expenses submitted by Contractor must be in keeping with US DOE EDGAR 34. CFR § 80.22 (a) and (b), the applicable Federal Principles which set forth the applicable principles by type of organization. All costs must be allowable costs, in keeping with those principles and must be reasonable and permissible; as well as documented and in as set forth in this Agreement.

### **2.4 DETAILED TIMELINE**

**Offerors' proposals should include a detailed timeline of key milestones regarding Infrastructure –Wireless Consultant. At a minimum, this timeline shall include the following (or similar) milestones:**

The scope of this project is for federally funded wireless LAN installations at the schools. The scope includes, but is not limited to, design of the wireless network, project management, testing, equipment, and acceptance of work.

GDOE Expectation:

- All wireless projects will include a project plan with acceptable timelines
- All wireless upgrades will be tested. All tests will be documented
- A new network map will be provided in electronic format and hardcopy to GDOE that identifies the wireless logical and physical configurations

- **Warranty of work for all projects will be provided by the installers. Any wireless outages due to poor or improper installation will be fixed at no additional cost to the Government.**

## **2.5 EXCEPTIONS TO THE RFP**

**All information supplied by the Offeror must be submitted with the proposal. Offerors may take exception to certain requirements in this RFP. All exceptions shall be clearly identified in this section and the written explanation shall include the scope of the exceptions, the ramifications of the exceptions for GDOE, and the description of the advantages or disadvantages to GDOE as a result of such exceptions. GDOE, at its sole discretion, may reject any exceptions or specifications within the proposal.**

## **SECTION 4 EVALUATION OF PROPOSALS**

### **4.1 SELECTED OFFERORS**

The Evaluation Committee will evaluate and select qualified Offerors. The Evaluation Committee is responsible for the evaluation and rating of the proposals and for conducting discussions with qualified Offerors. The Evaluation Committee is responsible for evaluating an Offeror's experience, references, scope of work, technical responses, costs, and other selection criteria.

### **4.2 EVALUATION PROCESS**

#### **EVALUATION CRITERIA**

The evaluation committee will review and evaluate the offers according to the following criteria based on a maximum possible value of 100 points. The evaluation criteria will be used to evaluate proposals for the purpose of ranking them based on how fully each proposal meets the requirements of the RFP:

A total of **(25 points)** on The Plan for performing the required services:

- a. **(5 points)** Executive summary – To what extent does this section communicate the essence of the proposal in clear, non-technical terms?
- b. **(10 points)** Scope of Services – How well does the proposal: (a) reflect an accurate understanding of GDOE's needs; (b) identify a reasonable and practical timetable for accomplishing the statement of work; (c) outline an approach that meets the requirements of GDOE
- c. **(10 points)** Statement of Work – How effectively do the proposed responses address the requirement of GDOE to provide wireless connectivity at the schools.

A total of **(30 points)** on the Ability to perform the services as reflected by technical training and education, general experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services:

- a. **(15 points)** Company Background – Degree of confidence can GDOE have in the Offer's Technical and financial ability to actually deliver the proposed services.
- b. **(15 points)** Certification requirements – Does the company possess the skill-set necessary to complete the objectives of the project in the given timeframe.

A total of **(20 points)** on the personnel, equipment, and facilities to perform the services currently available to demonstrated to be made available at the time of contracting.

A total of **(10 points)** on the Record of Past Performance of Similar Work/Client References – Extent to client references corroborate the Offeror's claims of satisfactorily meeting the needs of entities similarly situated to GDOE.



A total of **15 points** on the Cost Proposal – The Offeror's cost proposal compared to the other submitted proposal.



**OFFICE OF SUPPLY MANAGEMENT  
GUAM DEPARTMENT OF EDUCATION**

*Manuel F.L. Guerrero / Administration Building  
2nd. Floor, Suite B-220  
Hagåtña, Guam 96932  
Telephone: (671) 300-1581  
Fax: (671) 472-5001*



**MARCUS V. PIDO**  
Supply Management Administrator

**NERISSA BRETANIA UNDERWOOD, PH.D.**  
Superintendent of Education

May 23, 2011

To: E.R. Ilaos & Associates, Inc.  
P.O. Box 8769  
Tamuning, Guam 96931  
Tel: (671) 649-5686  
Fax: (671) 649-5685

Attn: Mr. Ed Ilaos, P.E., C.E.M.  
President

Reference: **INFRASTRUCTURE – WIRELESS CONSULTANT**  
Request for Proposal: **GDOE RFP 011-2011**

**Buenas yan Hafa Adai and Congratulations!** As result of the Request for Proposal No.: **GDOE RFP 011-2011, INFRASTRUCTURE – WIRELESS CONSULTANT**, your proposal was ranked as the Best Qualified Offeror.

Please be advised that this letter shall serve as notice that it incorporates all General Intent, General Scope of Work, Special General Provisions, and the General Terms and Conditions.

Thank you for your participation and we look forward to your continued interest in the solicitations issued by the Guam Department of Education.

Senseramente,

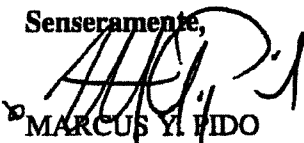
  
MARCUS V. PIDO  
Supply Management Administrator

Exhibit B



**GUAM DEPARTMENT OF EDUCATION  
OFFICE OF SUPPLY MANAGEMENT**

*Manuel F.L. Guerrero / Administration Building  
2nd Floor, Suite B-220  
Hagåtña, Guam 96932  
Telephone: (671) 300-1581  
Fax: (671) 472-5001*



**NERISSA BRETANIA-UNDERWOOD, Ph.D.**  
Superintendent of Education

**MARCUS Y. PIDO**  
Supply Management Administrator

**LETTER OF INTENT**

May 23, 2011

To: E.R. Ilaos & Associates, Inc.  
P.O. Box 8769  
Tamuning, Guam 96931  
Tel: (671) 649-5686  
Fax: (671) 649-5685

Attn: Mr. Ed Ilaos, P.E., C.E.M.  
President

Reference: INFRASTRUCTURE - WIRELESS CONSULTANT  
Request for Proposal: GDOE RFP 011-2011

Dear Mr. Ilaos,

As a result of the evaluation of the above reference proposal, your company has been determined to be the Lowest Most Responsive and Responsible Offeror. Therefore, the Department intends to award the Proposal to your Company.

You are hereby advised that this letter is only a notice of possible intent to award and should not be construed as an award by the Guam Department of Education, Office of Supply Management.

If you have any questions regarding this matter, kindly contact our office at 300-1581.

Please acknowledge receipt and return via facsimile to (671) 472-5001.

Sincerely,

  
MARCUS Y. PIDO  
Supply Management Administrator

**ACKNOWLEDGMENT RECEIPT**

ED ILAOS   
Signature

Date: 5/26/11 Time: 5 PM

Exhibit 

**ATTACHMENT A  
 Cost Proposal with Deliverables for Infrastructure Wireless Consultant**

Objective Scope of Work from RFP	Activities (What will be done to achieve objective)	Timeline	Cost/Description	Payable to Vendor (fees plus expenses)	Evaluation of Objective (How will objective be measured) Deliverables
B. Project Management Services	B.1 Startup	Week 1	Professional Fees plus Expenses	Included in Objective C below	<ul style="list-style-type: none"> <li>- Project members introduced and contact information distributed</li> <li>- School physical locations provided electronically to ERIA</li> <li>- Available technical and facility documentation provided in either print or electronic forms to ERIA</li> <li>- School access procedures finalized (including after-hours &amp; weekend access protocols and credentials for ERIA)</li> <li>- Project Plan documentation provided to GDOE staff</li> </ul>
	B.2 Closeout (see bottom of table)	Wks 26-28		See bottom of table	See bottom of table
	B.3 Ongoing Status and Reporting	Wks 2-28		Included in ongoing effort	<ul style="list-style-type: none"> <li>- Weekly status meeting minutes distributed</li> <li>- ARRA reporting accomplished</li> </ul>
C. Wireless LAN Design	C.1 Review Guam DOE Campus and Network documentation and vendor RF data C.2 Review coverage and bandwidth requirements with Technical Staff C.3 Review Security and Privacy Requirements with Technical Staff C.4 Develop Wireless Security & Authentication Plan C.5 Develop Required Coverage Diagrams for each campus C.6 Document Performance and Reliability Requirements	Wks 2-5	Professional Fees plus Expenses	\$69,300	<ul style="list-style-type: none"> <li>- Wireless LAN design documentation provided to GDOE staff</li> </ul>

**ATTACHMENT A  
 Cost Proposal with Deliverables for Infrastructure Wireless Consultant**

<p>D. Engineering, Surveying and Layout  <i>(Shall include a typical (or reference) for an Elementary School, Jr. High School and High School vs each of 41 locations)</i></p>	<p>D.1 Conduct interference and RF penetration surveys for facilities using sampling for similar facilities          D.2 Investigate cable routing and electrical sources for Access Points in each facility by reviewing documentation and sampling locations          D.2 Identify additional Ethernet switching requirements in each facility</p>	<p align="center">Wks 4-9</p>	<p align="center">Professional Fees plus Expenses</p>	<p align="center">\$46,260</p>	<ul style="list-style-type: none"> <li>- RF characteristics of typical facilities documented</li> <li>- Typical cabling requirements and conditions documented</li> <li>- Typical LAN equipment provisioning requirements documented</li> <li>- Documentation provided to GDOE staff</li> </ul>
<p>E. Specification Development and Technical Assistance  <i>(Shall include a reduced effort of developing the functional specifications for GDOE who will incorporate into IFB and issue to Vendors. ERIA shall be available to answer IFB questions.)</i></p>	<p>E.1 Document requirements and specifications for the Equipment Invitation for Bids (IFB), based on the Wireless LAN Design and the Engineering, surveying and layout documentation.          E.2 Answer vendor questions related to the specifications</p>	<p align="center">Wks 8-13</p>	<p align="center">Professional Fees plus Expenses</p>	<p align="center">\$37,070</p>	<ul style="list-style-type: none"> <li>- Functional specifications to include in IFB for wireless LAN systems completed and documented</li> </ul>
<p><b>End of Phase 1 - \$152,630</b></p>					
	<p>E.3 Review Vendor Implementation Plans          H. Schedule of Values for Vendor proposed systems          E.4 Manage vendor implementation of the wireless network systems</p>	<p align="center">Wks 14-24</p>	<p align="center">Professional Fees plus Expenses</p>	<p align="center">\$107,670</p>	<ul style="list-style-type: none"> <li>- Mobilize back to Guam upon written notice to deploy.</li> <li>- Oversee the installation of Wireless Access Points and include status of each location in Weekly Project Report</li> </ul>

**ATTACHMENT A  
 Cost Proposal with Deliverables for Infrastructure Wireless Consultant**

<b>F. Testing</b>	F.1 Review of Vendor test and functional validation data from the installation process F.2 Conduct coverage testing at each facility to validate vendor test data F.3 Conduct network bandwidth and data throughput tests at each location to validate vendor test data F.4 Validate and verify the Security and Privacy functions of the system F.5 Validate and verify the Systems Management, Performance Management and Failure Management capabilities of the system F.6 Systems acceptance and certification	Wks 19-26	Professional Fees plus Expenses	\$56,860	- Deliver a written report of findings based on a review of Vendor provided test results and a statistical sampling of typical locations.
<b>G. Reporting</b>	Included in Section B. Project Management Services	Ongoing		Included in B.	
<b>H. Schedule of Values</b>	Included in Section E at Vendor Selection	Wk. 13		Included in E.	
<b>B. Project Management Services (continued from above)</b>	B.2 Closeout	Wks 26-28	Professional Fees plus Expenses	\$41,070	- Systems acceptance reports delivered - ARRA reporting complete
<b>End of Phase 2 - \$205,600</b>					
<b>Project Total: \$358,230</b>					

For: Attorney In Fact *[Signature]*  
**ED ILAO, P.E., C.E.M.**  
 President  
 Date: 6/21/2011

*[Signature]*  
**VINCENT DELA CRUZ**  
 Project Director  
 Date: 6/16/2011

*[Signature]*  
**TALING TAITANO**  
 Program Manager  
 Date: 6/17/11



Taling M. Taitano  
Interim Superintendent of Education

**DEPARTMENT OF EDUCATION  
OFFICE OF SUPPLY MANAGEMENT**

[www.gdoe.net](http://www.gdoe.net)  
Manuel F.L. Guerrero/Administration Building  
2<sup>nd</sup> Floor, Suite B-220  
Hagatna, Guam 96932  
Telephone: (671) 300-1581 Fax: (671) 472-5001  
Email: [procurement@gdoe.net](mailto:procurement@gdoe.net)



Marcus Y. Pido  
Supply Management Administrator

February 1, 2012

E.R. Ilao & Associates, Inc.  
P.O. Box 8769  
Tamuning, Guam 96931  
Tel: 671-649-5686  
Fax: 671-649-5685

E-mail: [edilao@jmiguam.com](mailto:edilao@jmiguam.com)

**Sub: Cancellation of Solicitation: Rejection of all Proposals**

**Re: INFRASTRUCTURE – WIRELESS CONSULTANT  
Request for Proposal: GDOE RFP 011-2011**

Dear Mr. Ilao,

Pursuant to Guam Administrative Rules & Regulations, Title 2, Division 4, Section 3115 (d)(2)(A), the Guam Department of Education (GDOE) informs all offerors that all proposals for the formal solicitation **RFP 011-2011, Infrastructure – Wireless Consultant**, are rejected in whole as such action has been determined to be in the best interests of the territory.

At the time this RFP was issued, the deadline for expenditure of the funding source was December 31, 2011. Accordingly, the RFP included a term of work with the same expiration date. Proposals in response to this RFP were received and evaluated on May 23, 2011. Although highest ranked offeror was identified, at this time no final award has been executed. On January 5, 2012, GDOE received approval from the US Department of Education (USDOE) for the extension of the time period for which to obligate and expend the grant funds underlying this RFP.

All proposals are being rejected at this time for two reasons: First, it is impossible for any contractor to perform the services required by this RFP by December 2011.


Exhibit     E

Second, because of the approval by USDOE to extend the deadline by which the funds for this RFP may be expended, and because prices originally contemplated by offerors in March 18, 2011 may now be stale, it is in GDOE's best interest to again solicit the services originally sought in RFP 011-2011.

Your company will be given an opportunity to compete on any re-solicitation of the services originally sought in RFP 011 -2011.

Please acknowledge receipt of this notice and fax return to (671) 472-5001.

Sincerely,



Marcus Y. Pido

---

Print Name

---

Signature

Date

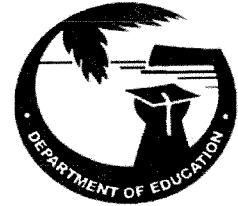




Taling M. Taitano  
Interim Superintendent of Education

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Marcus Y. Pido  
Supply Management Administrator

March 26, 2012

Eduardo R. Ilao, P.E., C.E.M.  
President  
E.R. ILAO & Associates, Inc.  
P.O. Box 8769  
Tamuning, Guam 96931  
Fax: 649-5685  
E-mail: [edilao@jmiguam.com](mailto:edilao@jmiguam.com)

**RE: Protest of Cancellation of GDOE RFP 011-2011, Wireless Consultant**

Dear Mr. Ilao,

This letter is written in response to your February 14, 2012 protest of the cancellation of Guam Department of Education's ("GDOE") Request for Proposal ("RFP") 011-2011, Wireless Consultant. GDOE has reviewed the allegations in your protest and hereby denies it in its entirety for the reasons below:

Your first allegation is that an award under the RFP had already been made to your company, E.R. Ilao & Associates ("ERI&A"), prior to the cancellation of the RFP. An award under an RFP is considered to be complete upon execution of a contract pursuant to that RFP. Although ERI&A was selected as the Highest Ranked Offeror on May 23, 2011, no contract had been entered into between ERI&A and GDOE when GDOE issued its Cancellation of Solicitation: Rejection of All Proposals on February 1, 2012. Therefore, no award had yet been made. GDOE was acting within its authority to cancel the RFP as such authority is discussed under Section I, Item 17 of the RFP; 5 GCA §5225; and Title 2, Div 4, Section 3115(d)(2) of the Guam Administrative Rules and Regulations. Therefore your allegation that an award had already been made and that GDOE did not have authority to cancel the solicitation or reject all proposals is without merit.

Your second allegation that GDOE "should not be permitted to utilize the statute as an attempt to gain better pricing or for another bidder to gain an advantage by knowing the bid amount or proposal of the other bidders" is also without merit. GDOE explained in the Cancellation/Rejection of All Proposals that the prices originally contemplated by offerors in March 2011 (when proposals were originally due) may now be stale. It is in GDOE's best interests to obtain the best available prices for services. Additionally, opening the competitive process to all potential bidders by cancelling/rejecting the RFP and re-soliciting the services sought therein does not prejudice ERI&A. Unlike the process for an Invitation to Bid wherein

Exhibit F

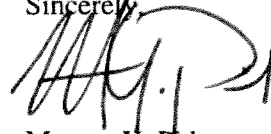
Response to E.R. Ilao & Assoc. Letter of Protest dated February 14, 2012  
RFP 011-2011  
March 26, 2012  
Page 2 of 2

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bid prices are generally opened publicly and available for public review, the proposals submitted in response to an RFP, and to this RFP in particular, were not made publicly available. Other potential bidders will not have an advantage by knowing the amount of ERI&A's proposal. For these reasons, these issues from your protest are also without merit.

GDOE rejects your protest in its entirety. Pursuant to 5 GCA §5425(e), you may appeal this decision to the Office of Public Accountability within fifteen days.

Sincerely,



Marcus Y. Pido  
Supply Management Administrator

cc: Procurement File RFP 011-2011