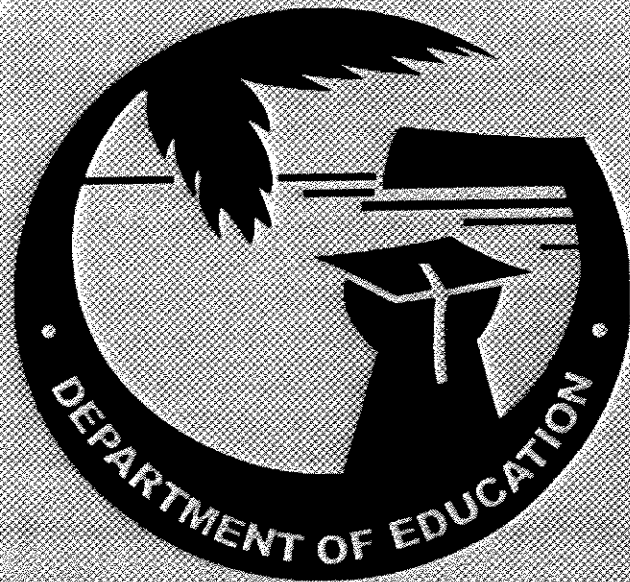


OPA Case No.
OPA-PA-11-002

Appeal Response

Document Management Services
GDOE IFB 022-2010

February 11, 2011



G



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

*Manuel F.L. Guerrero / Administration Building
2nd. Floor, Suite B-202
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

February 11, 2011

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

Subject: Response to Appeal Regarding Bid No. IFB 022-2010 Document Management Services
Master File No.: **OPA-PA-11-002**

Madam Public Auditor:

G. The Statement of Response of the Department of Education (DOE) regarding the allegations of the Appeal of Island Business Systems and Supplies (IBSS) that arise from DOE's denial of the IBSS protest filed on December 16, 2011 is herewith.

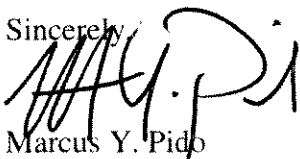
1. Appellant received Notice of Intent to Award and Notice of Bid Status from DOE on October 29, 2010. Appellant knew or should have known the allegations it sets forth in its December 16, 2010 protest within fourteen (14) working days from October 29, 2010. DOE's January 26, 2011 letter denies the protest on the grounds it was not timely. The protest documents also included Xerox Corporation's December 30, 2010 Comments on the December 16, 2010 protest and IBSS's Response to Xerox's Comments.
2. The protest documents in addition to the threshold issue of whether the fourteen (14) working days time period from when IBSS knew or should have known of the facts giving rise to its protest also raise a number of issues. DOE responded to the protest on the timeliness issue, but for the purposes of this statement included the following additions facts and issues in the procurement process involved in IFB 022-2010.
 - a) An error did occur in the Purchase Order Quantities per Line Item from the original bid amounts. On December 17, 2010 DOE issued a Stop Work Order as to all activities on IFB 022-2010 except as to the original bid Line Item Quantities. Stop Work Orders have continued to be issued and DOE has not accepted any Line Item Quantities not part of the original bid.
 - b) An error did occur on the face of the Purchase Order as to mention of a Xerox Service Agreement which is not part of the terms and conditions of the bid.
 - c) This procurement is post award and Xerox Corporation, upon issuance of the November 16, 2010 Purchase Order, ordered new machines in the quantities listed and had them delivered to Guam. A 60 Month Lease, with the Initial 10 Months set forth on the November 16, 2010 Purchase Order included a forty-five (45)-day period for shipping and delivery of machines.

d) Xerox Corporation December 20, 2010 correspondence sets forth the difference in the quantities ordered in the November 16, 2010 and being delivered to DOE per the subsequent Stop Work Order.

e) A series of separate irregularities occurred in the procurement. Prior to publication of the bid, the Line Items and Quantities of Each were not inputted into the computer system on A Request for Procurement. It is part of the Standard Operating Process that this is done. It prevents errors in the bid quantities from arising later in the procurement. Language was included in the bid, as to incremental increases or decreases in the Line Item Quantity at DOE's discretion for thirty (30) days or three (3) years in different parts of the bid, and in the Amendment process clarified to be three (3) years. The Bidder's written proposal sheets had break out lines for the pricing on an Item Basis in keeping with the incremental increase or decrease clauses. DOE accepted a Purchase Order Template from Xerox via email attachment that when printed did not indicate its origin. The template is utilized in its purchase order drafting as oppose to the IFB itself. Line Item Quantities were different than what was part of the original bid. The difference was not picked on in the input process due to the absence of the standard operating first step of inputting the Request for Procurement Line Items and Quantities. On December 17, 2010 after receipt and review of the December 16, 2010 letter from IBSS, DOE reviewed the issues and took action in the form of a Stop Work Order, except as to the activities of the original bid amount. Only Line Item quantities as set for in the original bid have been accepted.

Should you have any concerns regarding this matter, please do not hesitate to call our office at 300-1581

Sincerely,



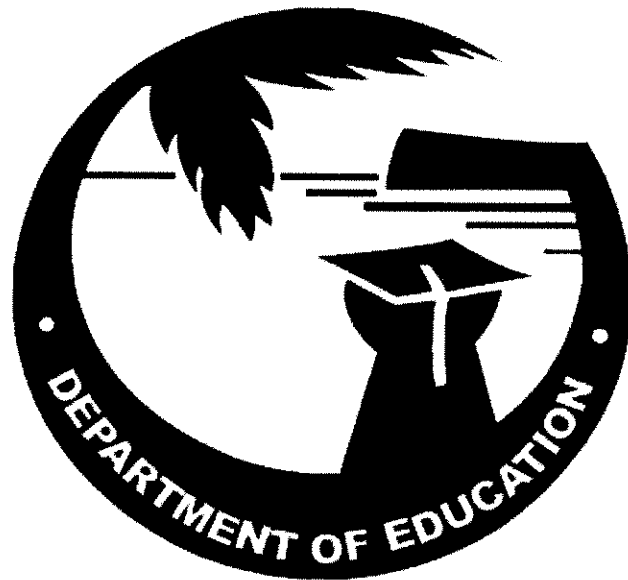
Marcus Y. Pido
Supply Management Administrator

cc: Procurement File:GDOE IFB 022-2010
DOE Legal Counsel
Ms Elyze McDonald, ESQ
Mr. John Thos. Brown, ESQ

OPA Case No.
OPA-PA-11-002

Statement

Document Management Services
GDOE IFB 022-
2010



February 11, 2011

I



GUAM DEPARTMENT OF EDUCATION

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Subject: Response to Appeal Regarding Bid No. IFB 022-2010 Document Management Services
Master File No.: **OPA-PA-11-002**

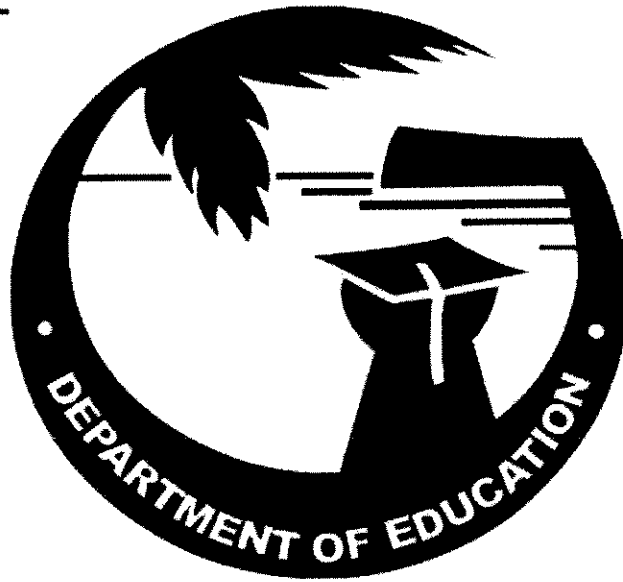
I. This matter is the subject matter of Superior Court Case No. CV 1536-10, Town House Department Stores, Inc. dba Island Business Systems and Supplies vs. Department of Education, Government of Guam; General Services Agency, Department of Administration, Government of Guam; Nerrisa Bretania Underwood; Claudia Acfalle & DOES I-X.

Should you have any concerns regarding this matter, please do not hesitate to call our office at 300-1581

Sincerely,

Marcus Y. Pido
Supply Management Administrator

cc: Procurement File: GDOE IFB 022-2010
DOE Legal Counsel
Ms Elyze McDonald, ESQ
Mr. John Thos. Brown, ESQ



Department of Education
Agency Report
OPA Case No.
OPA-PA-11-002

Document Management Services
GDOE IFB 022-2010

February 11, 2011

Book 1

OPA Case No.
OPA-PA-11-002

Copy of Protest

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PROCUREMENT APPEALS

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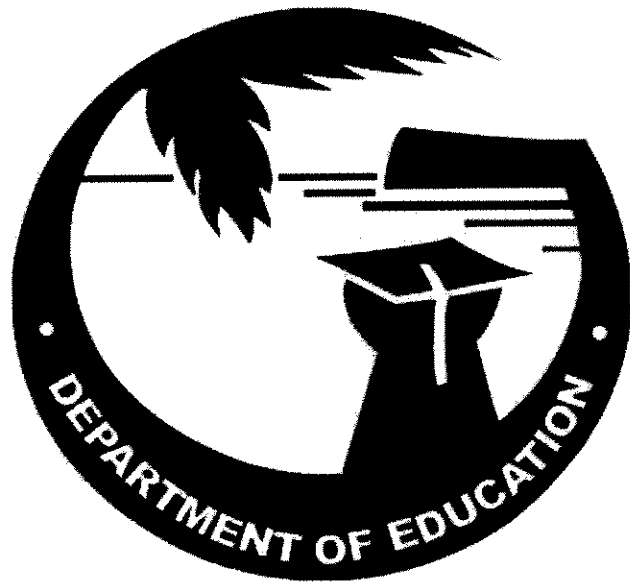
Document Management Services

BY: MMU

GDOE IFB 022-2010

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A

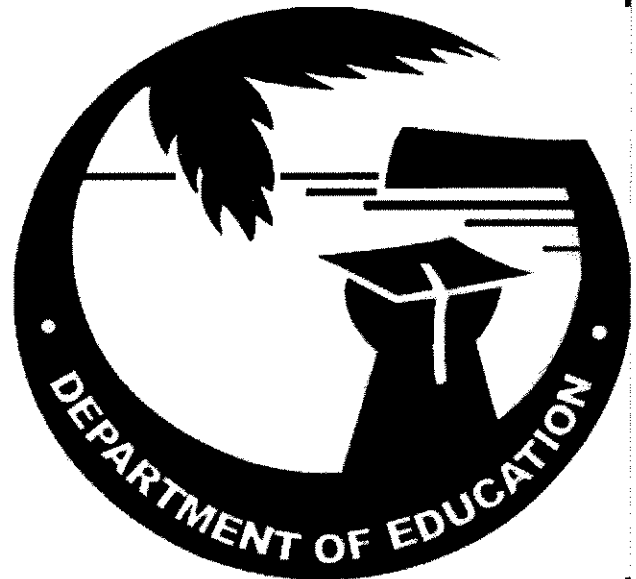
OPA Case No.
OPA-PA-11-002

Copy of Bid or Offer

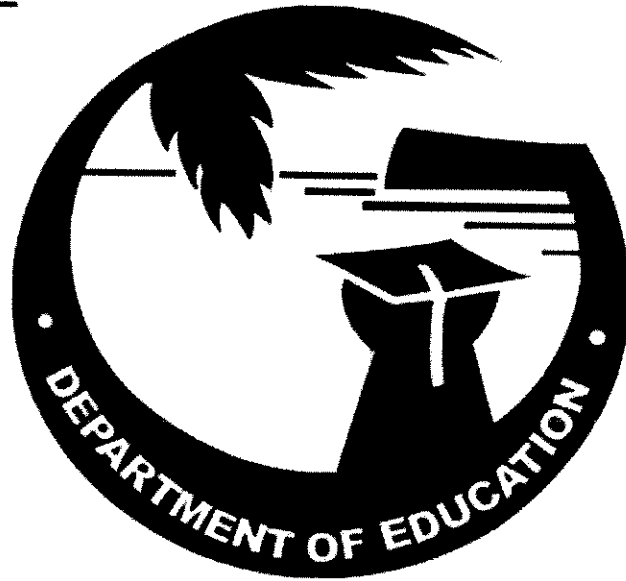
IBSS

Document Management Services
GDOE IFB 022-2010

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B1



Department of Education
Agency Report
OPA Case No.
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Document Management Services
GDOE IFB 022-2010

February 11, 2011

Book 2

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PROCUREMENT APPEALS

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BY: MKD

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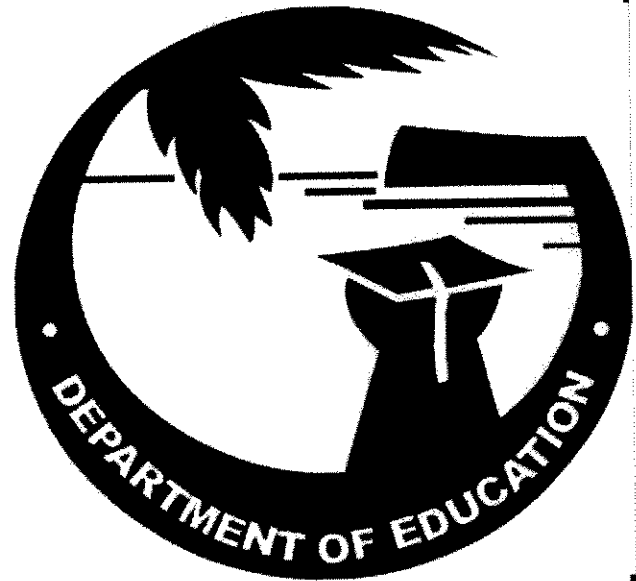
- B2. Bid Submitted by Xerox
- B2a. Proprietary or Confidential Documents from Xerox.
- C. Copy of the Solicitation plus Specifications.
- D. Copy of the Abstract of Bids.
- E. Please see Next Page for Descriptions of Additional Documents.
- F. The Decision from Which the Appeal was taken.
- G. Statement Answering the Allegation of the Appeal.
- H. Determination Required under 2 GAR 9191(e).
- I. Statement Regarding Whether the Matter is the Subject of a Court Proceeding.

OPA Case No.
OPA-PA-11-002

Copy of Bid or Offer
Xerox

Document Management Services
GDOE IFB 022-2010

February 11, 2011

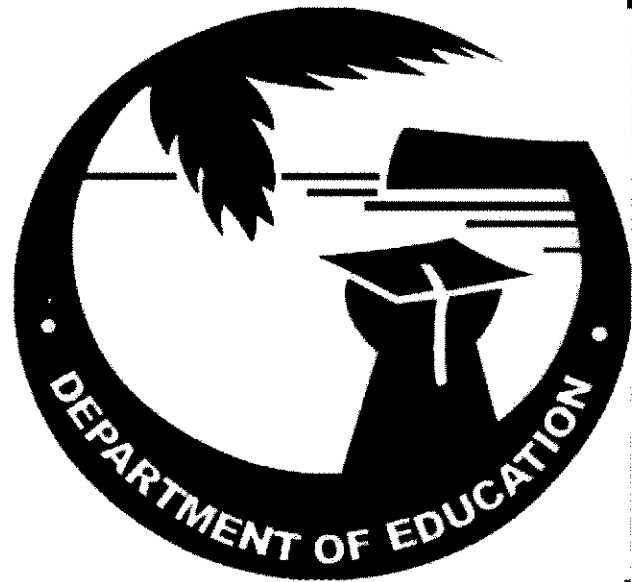


B2

OPA Case No.
OPA-PA-11-002
Copy of Bid or Offer
Proprietary or
Confidential Documents
Xerox

Document Management Services
GDOE IFB 022-2010

February 11, 2011



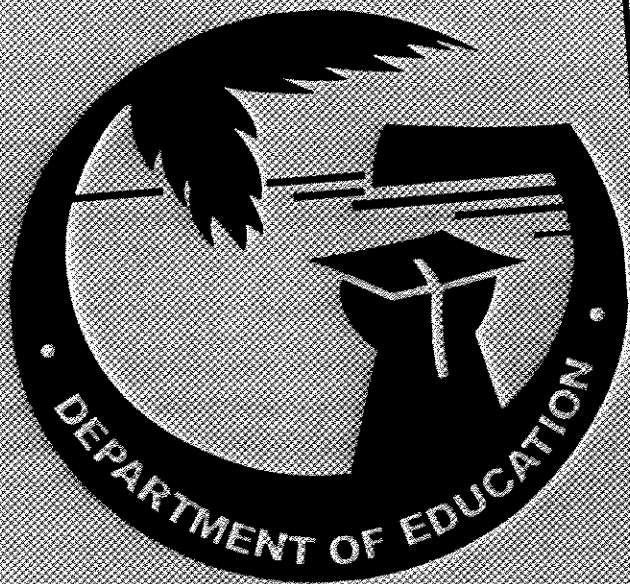
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OPA Case No.
OPA-PA-11-002

Copy of Solicitation

Document Management Services
GDOE IFB 022-2010

February 11, 2011



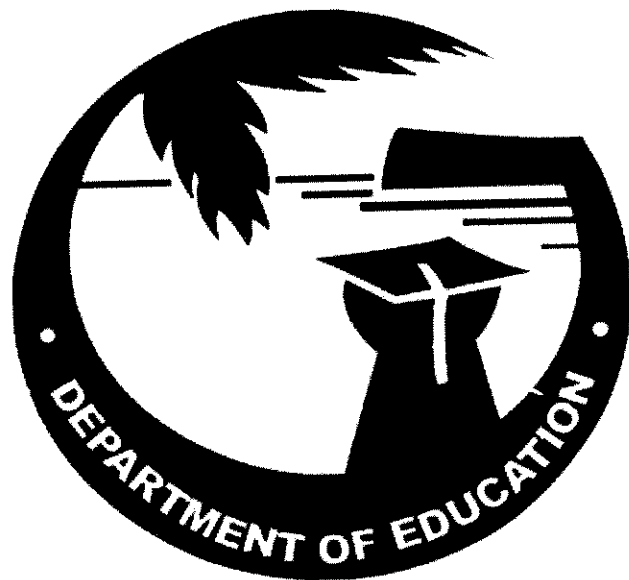
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OPA Case No.
OPA-PA-11-002

Copy of the
Abstract of Bids

Document Management Services
GDOE IFB 022-2010

February 11, 2011

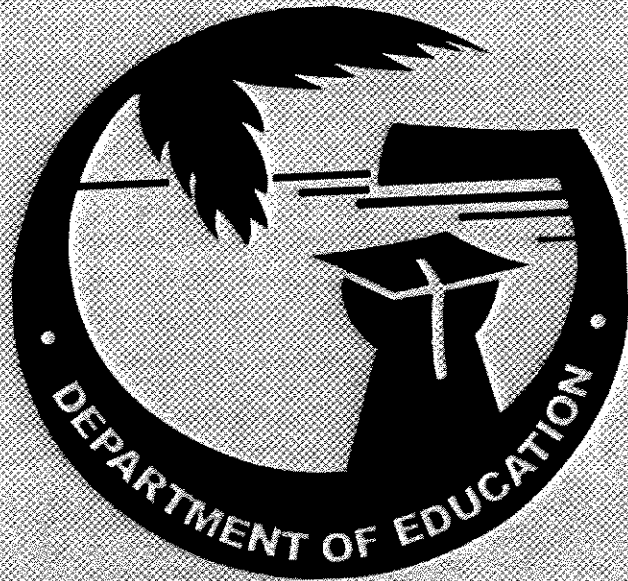


D

OPA Case No.
OPA-PA-11-002
Other Protest
Related Documents

Document Management Services
GDOE IFB 022-2010

February 11, 2011



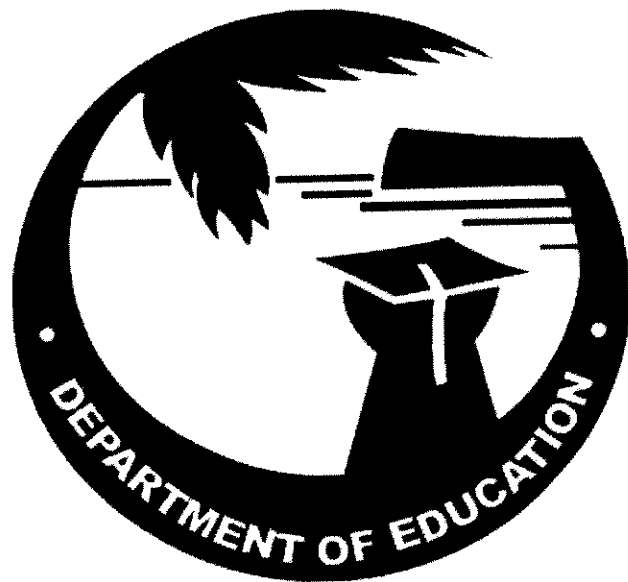
E

OPA Case No.
OPA-PA-11-002

The Decision From Which
the Appeal is Taken

Document Management Services
GDOE IFB 022-2010

February 11, 2011



F