



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 5/19/2021

TIME: 4:04 AM PM BY: JMP

FILE NO OPA-PA: 21-001

**Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL**

PART I- To be completed by OPA

In the Appeal of)
) **NOTICE OF APPEAL**
)
Pacific Data Systems, Inc (PDS))
(Name of Company), APPELLANT) Docket No. OPA-PA _____
)
)
)

.....
PART II- Appellant Information

Name: Pacific Data Systems, Inc (PDS)
Mailing Address: 185 Ilipog Drive, Suite 204A
Tamuning, GU 96913
Business Address: same as above
Email Address: John@pdsguam.com
Daytime Contact No: 671-300-0202
Fax No.: 671-300-0265

.....
PART III- Appeal Information

- A) Purchasing Agency: Guam Housing and Urban Renewal Authority (GHURA)
- B) Identification/Number of Procurement, Solicitation, or Contract: **IFB#GHURA-COCC-21-003**
- C) Decision being appealed was made on **5/5/2021** (date) by:
GSA Chief Procurement Officer Director of Public Works **X** **Head of Purchasing Agency**

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

- D) Appeal is made from:
(Please select one and attach a copy of the Decision to this form)
 Decision on Protest of Method, Solicitation or Award
 Decision on Debarment or Suspension
 Decision on Contract or Breach of Contract Controversy
(Excluding claims of money owed to or by the government)
 Determination on Award not Stayed Pending Protest or Appeal
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

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

- **Docomo Pacific, Inc.**
- **PTI Pacifica (DBA – IT&E)**

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

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PART IV- FORM AND FILING In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;

PDS seeks a *de novo* review of this procurement and the award decision made by GHURA in this matter. PDS believes, as defined in its original protest (copy attached as Exhibit 1) that the IT&E bid should have been rejected by GHURA due to material deficiencies and a failure to meet documentation requirements and service specifications. GHURA in its Protest Decision (copy attached as Exhibit 2) admits that it allowed IT&E to make late submissions correcting deficiencies in bid submissions and making modifications to the services to be provided GHURA. PDS believes these late submissions are not allowed under procurement law and regulations and this award by GHURA violates applicable law and regulations while also jeopardizing the integrity of the procurement process.

PDS also believes that GHURA has misconstrued the applicable timelines allowed for PDS to make a procurement protest and requests that the OPA provide a ruling clarifying this matter and dismissing the basis which GHURA has used to deny the PDS protest due to timeliness.

2. A statement specifying the ruling requested;

PDS requests that the OPA order GHURA to:

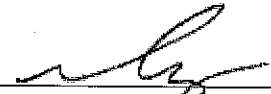
- rescind the planned award of this bid to IT&E,
 - reject the IT&E bid for the reasons stated in the PDS protest and this appeal,
 - perform a new evaluation of the remaining bids and to select the lowest responsive and responsible bidder based on the procurement specifications/requirements and applicable Guam procurement law and regulations.
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.
 - See the attached EXHIBIT 1, copy of the PDS Protest and supporting documents filed with GHURA on March 26, 2021.
 - See the attached EXHIBIT 2, copy of the Protest Decision made by GHURA on May 5, 2021.
 - PDS expects to file additional supporting documents once the full Procurement Record is made available as part of the Appeal process.

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PROCUREMENT APPEAL

.PART V – DECLARATION REGARDING COURT ACTION

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

Submitted this 19th day of May, 2021.

By: 
APPELLANT – Pacific Data Systems
by John Day, its President

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

EXHIBIT 1

Copy of the PDS Protest and supporting documents filed with GHURA on March 26, 2021.



March 26, 2021

by hand delivery with email copy

Mr. Raymond Topasna
Executive Director
Guam Housing and Urban Renewal Authority (GHURA)
117 Bien Venida Avenue
Sinajana, GU 96910

Subject: PROTEST of IFB GHURA-COCC-21-003 Notice of Non-Award

Dear Mr. Topasna:

Pacific Data Systems (PDS) now files this PROCUREMENT PROTEST reference Guam Code Annotated (GCA) §5425(a) regarding the above referenced procurement.

I. Background:

The Guam Housing and Urban Renewal Authority (GHURA) issued the above Invitation to Bid procurement on January 5, 2021.

On February 12, 2021, 3 bidders: Pacific Data Systems (PDS), Docomo Pacific, Inc (DPAC), and PTI Pacifica (IT&E), submitted bids in response to the GHURA IFB procurement.

On March 12, 2021 GHURA sent to PDS via email a Notice of Non-Award. See Exhibit A.

PDS now files this PROCUREMENT PROTEST which identifies procurement issues with the above referenced GHURA procurement.


II. Timeliness of Protest:

GCA 5 §5425(a) requires that Protests must be made within 14 days of the issues leading to the protest being known by the Protester (PDS in this case). The issues documented by PDS in this protest became known to PDS on March 12, 2021 at 3:48pm when a notice was sent by Greta Balmeo to PDS. See Exhibit B. Therefore, this PROCUREMENT PROTEST meets the timeliness required by applicable law and regulation.

III. Basis for Protest:

PDS now makes this Protest of the Non-AWARD decision made by GHURA in this procurement. The IT&E Bid selected by GHURA was clearly non-responsive to the Bid Specifications and Requirements and should have been rejected by GHURA. Specifically, the IT&E bid has the following deficiencies.

1. The required Bid Bond submitted by IT&E is invalid since the form is not complete with essential parts of the required Bid Bond Form left blank. See Exhibit C. The IT&E bid should have been rejected by GHURA as non-responsive due to this issue.

GUAM COUNTY
OFFICE OF THE
COMPTROLLER


121 Robat Street, Suite 101, Maite, GU 96910
Main: (671) 300-0200 | Fax: (671) 300-0265 | www.pdsguam.com



2. The IT&E HUD form submitted by IT&E is invalid since the form is not complete with essential parts of the required form left blank. See Exhibit D. The IT&E bid should have been rejected as non-responsive due to this issue.
3. The IT&E HUD Conflict of Interest form is invalid since the notarized date of the form is invalid. See Exhibit E. The IT&E bid should have been rejected as non-responsive due to this issue.
4. The Proposed IT&E Services are based on a Wireless Point to Multi-point service design that GHURA stated in Pre-Bid Meeting Minutes and Amendment #3 at question #5 response that this service configuration was an UNACCEPTABLE service design. See Exhibit F. The IT&E bid should be rejected as non-responsive due to this issue.

GHURA has violated Guam Law and Procurement Regulations with the proposed award to IT&E in this procurement and must immediately remedy this matter by issuing a STAY in the procurement and resolving the issues being protested via negotiations or by issuing an appropriate Protest decision.

IV. Summary:

In not rejecting the IT&E Bid submission as non-responsive due to numerous deficiencies as noted above in the Bid submission, GHURA has failed to properly evaluate the IT&E Bid Submission in accordance with GHURA Bid Requirements and Specifications in accordance with Guam Law (5 GCA §5211(e)).

PDS seeks resolution of this matter through GHURA abiding by applicable Procurement Laws and Regulations in the fair and proper evaluation and award of bid submissions. GHURA's failure to take appropriate action to rectify this situation and make an proper award in this procurement will only lead to any Award that GHURA attempts to implement being declared VOID in a future administrative appeal or other legal proceedings.

V. Negotiations to Resolve Protest:

Reference 5 GCA §5425(b), PDS is available to meet with the authorized GHURA representative(s) to discuss this protest and engage in good faith negotiations to resolve this protest.

VI. Procurement is Stayed:

GHURA is reminded that PDS has filed a timely protest of this procurement and no further action can be taken regarding this procurement until this protest has been duly reviewed and an appropriate determination made (5 GCA §5425(g)).

Sincerely,

A handwritten signature in black ink, appearing to read 'John Day', is written over a light blue horizontal line.

John Day
President



Copy to: Ms. Greta Balmeo/GHURA via email at gbalmeo@ghura.org

Attachments:

- Exhibit A - Notice of Non-Award issued on 03-12-2021 at 3:46pm
- Exhibit B - GHURA Email Notification of Non-Award
- Exhibit C - Copy of IT&E Bid Bond Form
- Exhibit D - Copy of IT&E HUD Form
- Exhibit E - Copy of IT&E HUD Conflict of Interest Form
- Exhibit F - Copy of IT&E Wireless Service Design for various GHURA

Franklin Artero

From: Greta Balmeo <gbalmeo@ghura.org> on behalf of Greta Balmeo
Sent: Wednesday, May 5, 2021 4:39 PM
To: John Day; Franklin Artero
Cc: Ray Topasna; Elizabeth Napoli; acp; Julie G. Lujan; Bill Eriksen; Joyce S. Aguon
Subject: Re: Pacific Data Systems' Protest of IFB GHURA COCC-021-003
Attachments: GHURA's Response to PDS Protest.pdf

Good afternoon Mr. Day,

Attached in this email is GHURA's response to PDS's protest that was submitted on March 26, 2021. Please confirm receipt of this email.

Thank you,
Greta Balmeo
671-475-1356

On Mon, Apr 12, 2021 at 12:37 PM John Day <john@pdsgham.com> wrote:

Hello Greta,

We appreciate the opportunity to meet and negotiate with GHURA staff regarding the pending PDS Protest in this procurement. Though I think we did have a good exchange of the PDS and GHURA positions in this matter, we did not come to any resolution of the Protest and as such GHURA will need to issue a decision regarding the PDS Protest in accordance with 5 GCA §5425(c).

Sincerely,

John Day

Pacific Data Systems

From: Greta Balmeo [<mailto:gbalmeo@ghura.org>]
Sent: Thursday, April 8, 2021 1:23 PM
To: John Day
Cc: acp; Franklin Artero; Ray Topasna; Julie G. Lujan; Bill Eriksen; Joyce S. Aguon
Subject: Re: Pacific Data Systems' Protest of IFB GHURA COCC-021-003

Good afternoon All,

GHURA



Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org



Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. Tenorio
Lt. Governor of Guam

Sabino P. Flores
Chairman

Monica O. Guzman
Vice Chairwoman

Anisia S. Delia
Commissioner

Frank T. Ishizaki
Commissioner

George F. Pereda
Commissioner

Joseph M. Leon Guerrero
Resident Commissioner

Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

March 5, 2021

John Day
Chief Executive Officer
Pacific Data Systems
121 Robot Street, Suuite 101
Maite, Guam 96910

Subject: Notice of Non-Award
IFB#GHURA-COCC-021-003 Metrolan –
Connectivity/Internet/Telecom Bundled Services

Dear Mr. Day,

On March 4, 2021, the Guam Housing and Urban Renewal Authority's Board of Commissioners approved an award for the above subject mentioned project to PTI Pacifica Inc. dba IT&E as the most responsible, responsive, lowest priced bidder in the total amount of Thirty One Thousand Nine Hundred Eighty Dollars Only (\$31,980.00). GHURA appreciates your participation in this project and hopes that you continue to participate in future projects.

Please acknowledge receipt of this document by signing, dating, and returning a copy of this Notice of Award letter by email to Ms. Greta Balmeo at gbalmeo@ghura.org or by fax at 300-7565.

Sincerely,


Ray S. Topasna
Executive Director

Acknowledged By: _____
Signature

Print name: _____

Date: _____

EXHIBIT B

From: [Greta Balmeo](#)
To: [John Day](#); [Franklin Artero](#)
Cc: [Julie G. Lujan](#)
Subject: Notice of Non-Award IFB#GHURA-COCC-021-003 Metrolan
Date: Friday, March 12, 2021 3:48:07 PM
Attachments: [Notice of Non-Award - PDS.pdf](#)

Good afternoon,

Please see attached Notice of Non-Award letter for IFB#GHURA-COCC-021-003 Metrolan. Kindly acknowledge by signing, dating, and returning a copy via email or fax at 300-7565.

Thank you,
Greta Balmeo
671-475-1356

EXHIBIT C

Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, GU 96910

Bond No.: CIC-SUBID21-1006

BID BOND NO.: IFB-GHURA-COCC-021-003

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned _____

PTI Pacifica, Inc. dba IT&E

(Name of Principal)

as PRINCIPAL, and

Century Insurance Company (Guam), Ltd.

SURETY

are held and firmly bound unto Guam Housing and Urban Renewal Authority, hereinafter called "GHURA", in the penal sum of _____

15% of Bid Amount

Dollars, (15% of Bid Amount), lawful money of the United States, for the payment of which sum will and truly be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the Principal has submitted the accompanying bid, dated the , 20 , for the

NOW THEREFORE, if the principal shall not withdraw said bond within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after the said opening, and shall within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with Guam Housing and Urban Renewal Authority in accordance with the bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid within the period specified, or time specified, if the principal shall pay Guam Housing and Urban Renewal Authority, the difference between the amount specified in said bid and the amount for which Guam Housing and Urban Renewal Authority may procure the required work or supplies, or both, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this day of 20 , the name and corporate seal of each corporate party being hereto affixed and

these presents duly signed by its undersigned representatives, pursuant to authority of its governing body.

ATTEST:

Sole Proprietorship

(Individual Principal Signature)

(Business Address)

(Name of Individual Principal Above)

(Seal)

ATTESTED:

Corporation

PTI Pacifica, Inc. dba IT&E

STZ

(Corporate Principal Signature)

121 W Hanover Portland Park Rd

(Business Address)

Taney 60 969B

STEVEN CARROLL

(Name of Corporate Principal Above)

General Counsel

(Title)

Affix Corporate Seal



ATTEST:

Surety Company

(Corporate Surety Signature)

Corporate Surety Signature)

219 S. Marine Corps. Drive, Suite 102 Tamuning, GU
96913

(Business Address)

Cornelio L. Matanguihan

Kevin K. Ward

Name of Corporate Surety)

General Manager

Vice President and Director

(Title)

Affix Corporate Seal

(Power of Attorney for person signing for Surety Company must be attached to the Bond)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____

Secretary of the Corporation names as Principal in the within the bond; that
_____ " who signed the said bond on behalf of the

Principal was then _____ of said corporation; that I know his

signature, and his signature thereto is genuine; and that said bond was duly signed,

sealed, and attested to, for and *in* behalf of said corporation by authority of its governing

body.

(Corporate Seal)

Certifications and Representations of Offerors Non-Construction Contract

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No: 2577-0180 (exp. 7/30/96)

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offers to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Contingent Fee Representation and Agreement

(a) The bidder/offeror represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offeror, the bidder/offeror:

(1) has, has not employed or retained any person or company to solicit or obtain this contract; and

(2) has, has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) If the answer to either (a)(1) or (a) (2) above is affirmative, the bidder/offeror shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offeror shall give the HA the right to (1) terminate the resultant contract; (2) at its discretion, to deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

2. Small, Minority, Women-Owned Business Concern Representation

The bidder/offeror represents and certifies as part of its bid/offer that it:

(a) is, is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) is, is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) is, is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- | | |
|---|---|
| <input type="checkbox"/> Black Americans | <input type="checkbox"/> Asian Pacific Americans |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans |
| <input type="checkbox"/> Native Americans | <input type="checkbox"/> Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

(1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

(b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:

(1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

4. Organizational Conflicts of Interest Certification

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

(d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

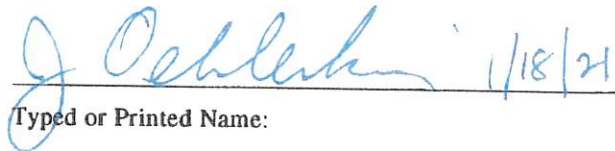
6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

7. Offeror's Signature

The offeror hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

Signature & Date:

 1/18/21

Typed or Printed Name:

JAMES I. OEHLERKING

Title:

CHIEF EXECUTIVE OFFICER

EXHIBIT E

DISCLOSURE OF ORGANIZATIONAL CONFLICT OF INTEREST AFFIDAVIT

Type of Service Being Offered:

Name of Offeror Firm or Individual:

PTI PACIFICA, INC. d/b/a IT&E

TERRITORY OF GUAM)

)

SS.

HAGATNA GUAM)

SUSANA LIGERALDE

being first duly sworn, deposes and says:

- (a) That the Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and prospective contractor's organizational, financial, contractual or other interest are such that:
 - (i) Award of the contract may result in an unfair competition advantage
 - (ii) The Contractor's objectivity in performing the contract work may be impaired; or
 - (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this contract.
- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the HA, the HA will terminate the Contract for default and Contractor must pay the HA all expenses paid out by the HA to the Contractor.
- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.
- (e) Are any of the Contractor's immediate family member (Parents, Sisters, Sister-in-laws, Brothers, Brothers-in- Laws, Parents-in-Law, residing or is/are landlord in the Housing Authority's Housing Choice Program (S8) or residing in the HA's Public Housing. () Yes (/) No. If your answer is Yes, please indicate the type of Program and name of the immediate family member _____.
- (f) Offeror's Signature _____

The Offeror hereby certifies that the information contained in this certification and representation is accurate, complete and current.

[Handwritten Signature]

Signature of individual if proposer is a sole Proprietorship; Partner, if the proposer is a Partnership; Officer, if the proposer is a Corporation.

SUBSCRIBED AND SWORN to before me this 12 day of Feb, 2022.

[Handwritten Signature]

Notary Public

In and for the Territory of Guam

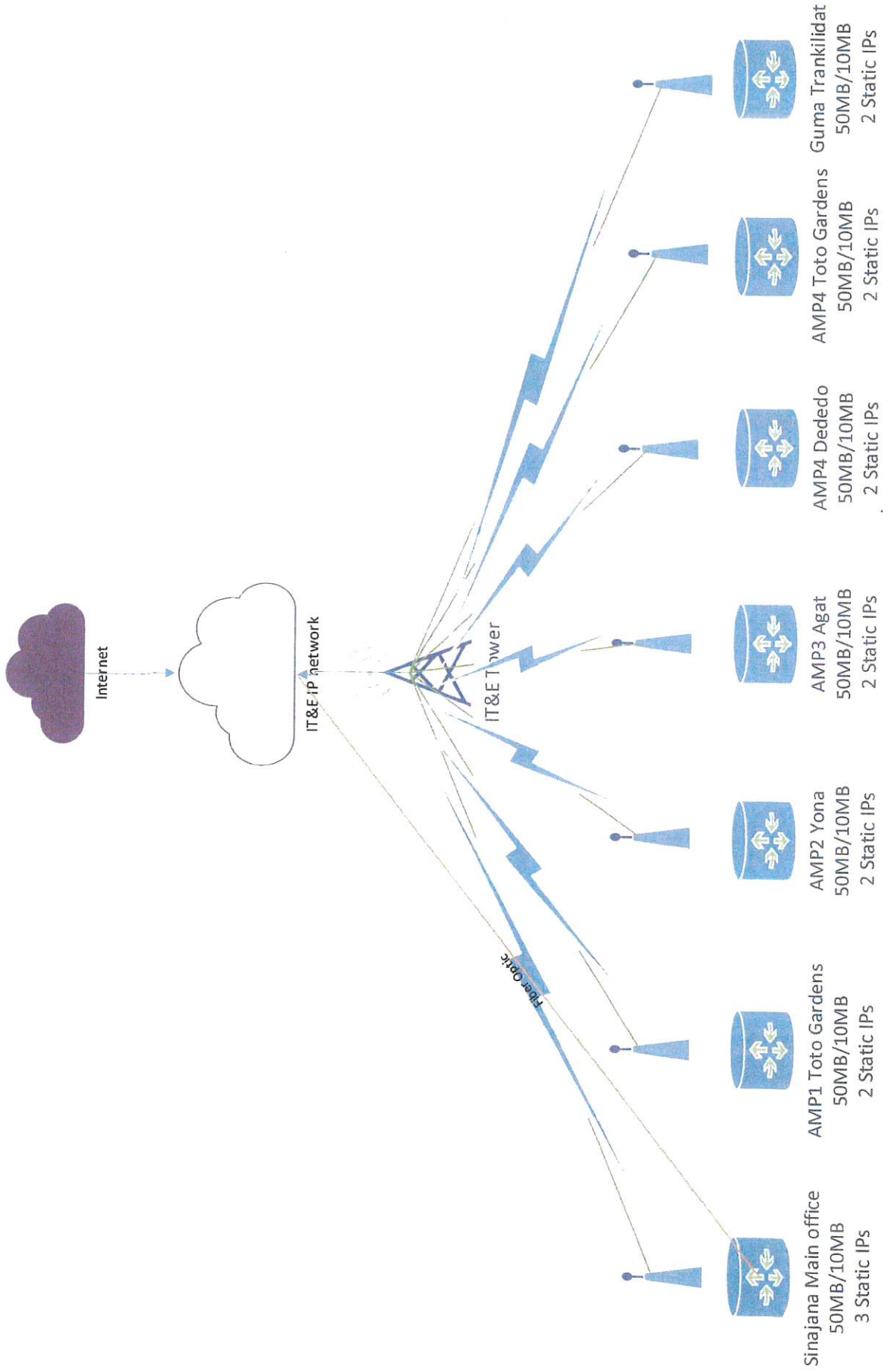
My Commission Expires: 9/30/24

STEVEN CARRARA
NOTARY PUBLIC
 In and for Guam, U.S.A.
 My Commission Expires: SEP. 30, 2024
 298 Fairway Drive, Yona, GU 96915

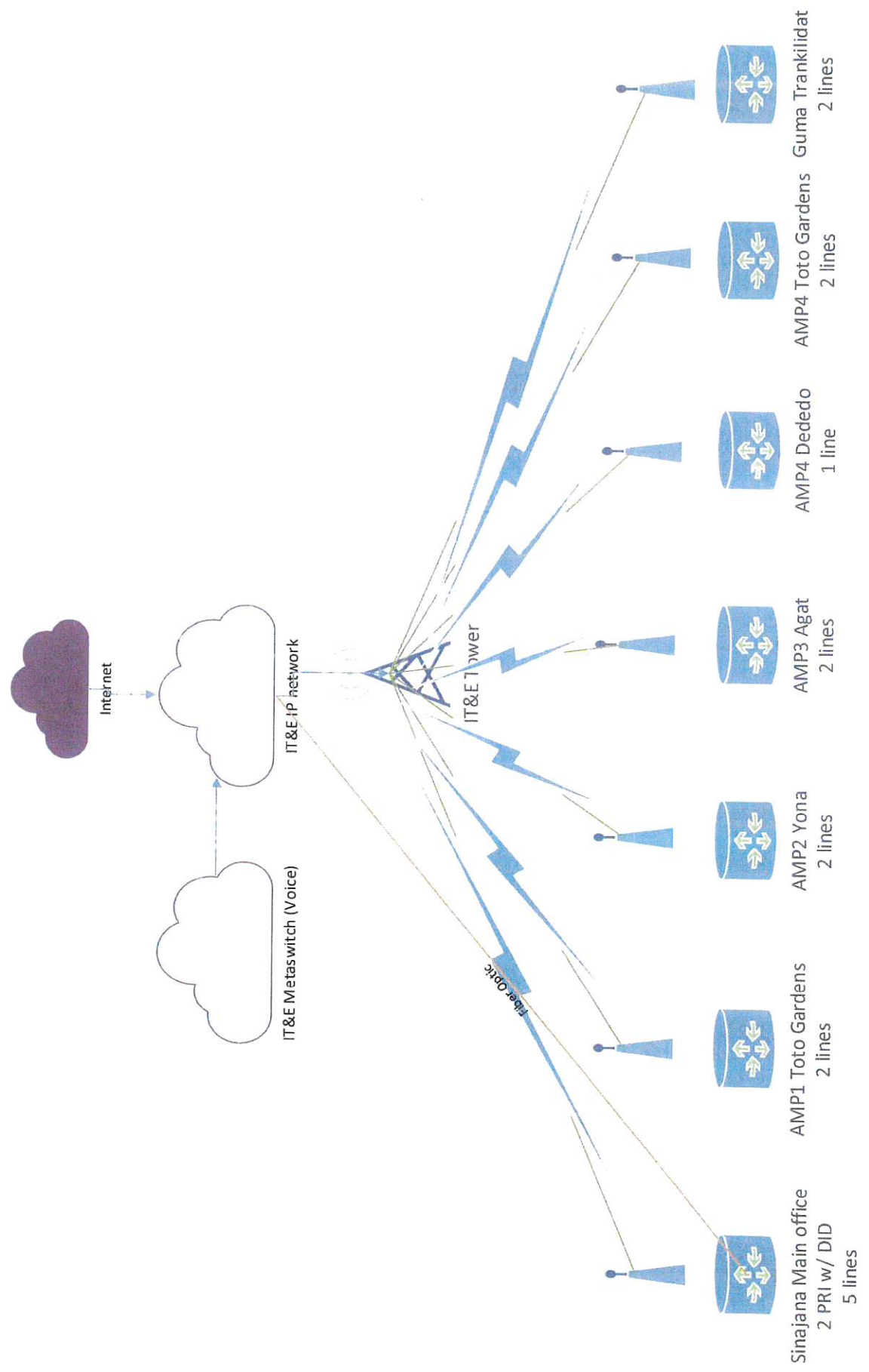
THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE RFQ/BID/PROPOSAL.

EXHIBIT F

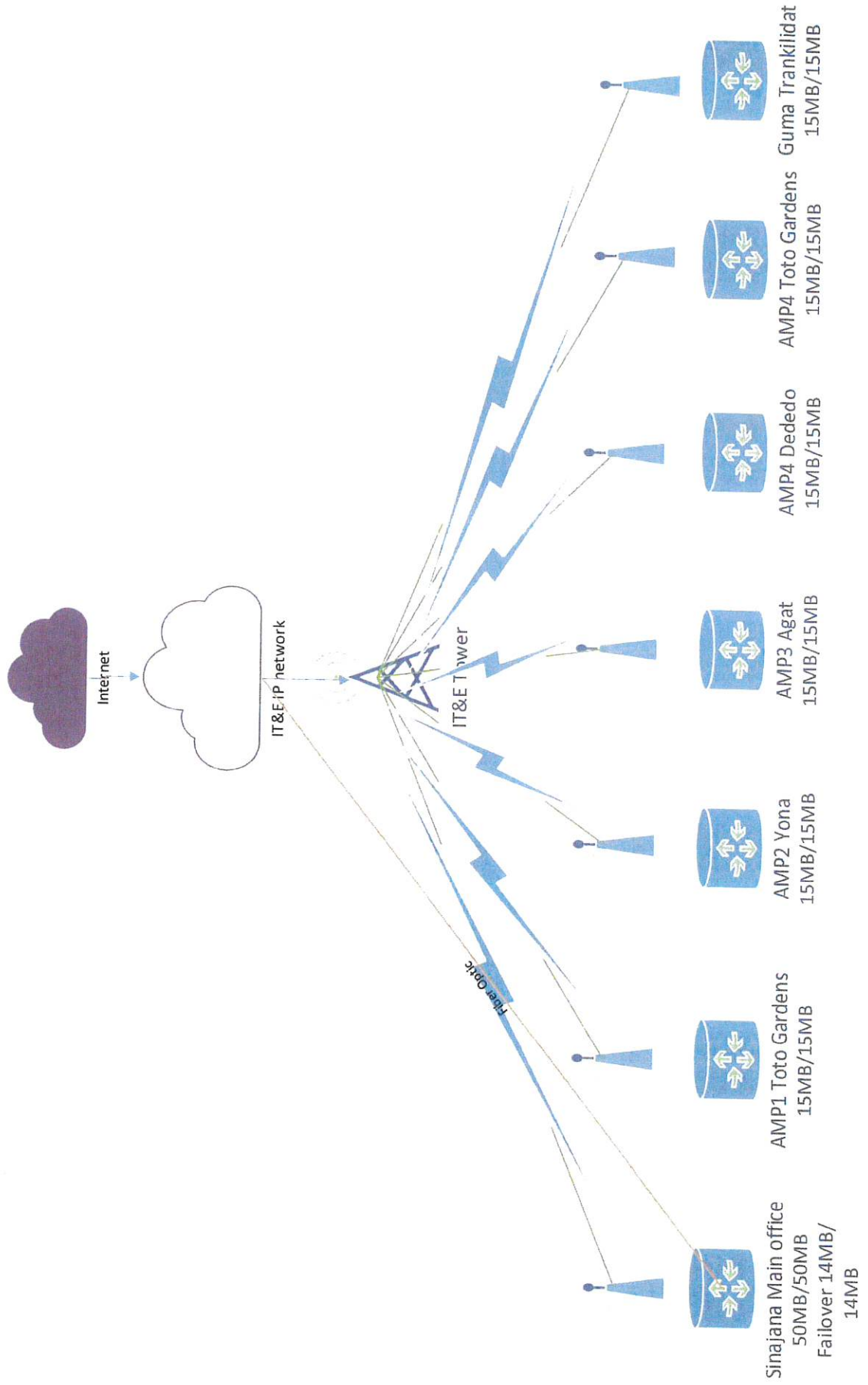
GHURA INTERNET SERVICES



GHURA VOICE SERVICES



GHURA MetroLAN





**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

COSTUMER NAME:

**GHURA HOUSING
SINAJANA**

February 10, 2021



122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

OBJECTIVE

- To install, test and commission Point to Multi-Point(PTMP) microwave radio(MWR) at GHURA Housing

PRE-ACTIVITY CHECKLIST PROCEDURE:

- Check all proposed location based on approved survey report.
- Make sure all proposals are still available or if not request assistance and approval from the customer.
- Check all materials and tools to be used for the activity.
- Proceed with caution.
- Safety compliance at all times

ACTIVITIES TO BE DONE:

OUTDOOR

- Install antenna mounts and antenna
- Laying of aluminum pipes for the outdoor unit
- Antenna alignment according to the link budget

INDOOR

- Use vacuum while drilling holes or cutting to avoid dispersion of ashes/debris.
- Laying of Power and data cables.
- Harness all cables properly, separate data cables from power cables.
- Tapping of power cables, make sure all tools to be used are properly insulated.
- Measure the actual voltage before turning on the radio
- NE Commissioning.
- Testing of new NE.
- Clean the area before leaving.
- Link testing and speed test to ensure the costumers demand as per signed contract.

TOOLS & MATERIALS TO BE USED

1. NANO STATION AC Gen2 Radio (1set)
2. Outdoor unit mounting bracket (1set)
3. CAT5e cable (50ft)
4. RJ45 (4pcs)
5. Surge protector (1pc)
6. PoE (1pc)
7. AC cable for PoE (1pc)
8. Aluminum mounting pipe (1 1/4" diameter x 6' long)
9. I-Frame (2set)
10. Cable tie (1pack)
11. Cable Tacks (screw type for metal) (50pcs)
12. Full thread metal screws
13. Drill bit for metal
14. U-bolt for 1inch pipe (2pcs)
15. Cordless Drill
16. Impact drill with impact driver kit set for hex and other screw sizes needed
17. RJ45 Crimping tool
18. Ratchet set
19. Cutting tools
20. Ladder (extension and A-type)
21. Sealant (To seal the cable hole from the outdoor installation)
22. Utility Box cover with screw set for concrete (optional)
23. Configuration tool (Laptop)
24. VOM (Volt ohm meter) or multi tester
25. Network cable tester

** Additional materials and tools - as need arises for the completion of the project**



Explore Your World

122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION**
PLAN, PATH PROFILE ANALYSIS

**METHOD OF PROCEDURE -
Installation of PTP MWR**

10

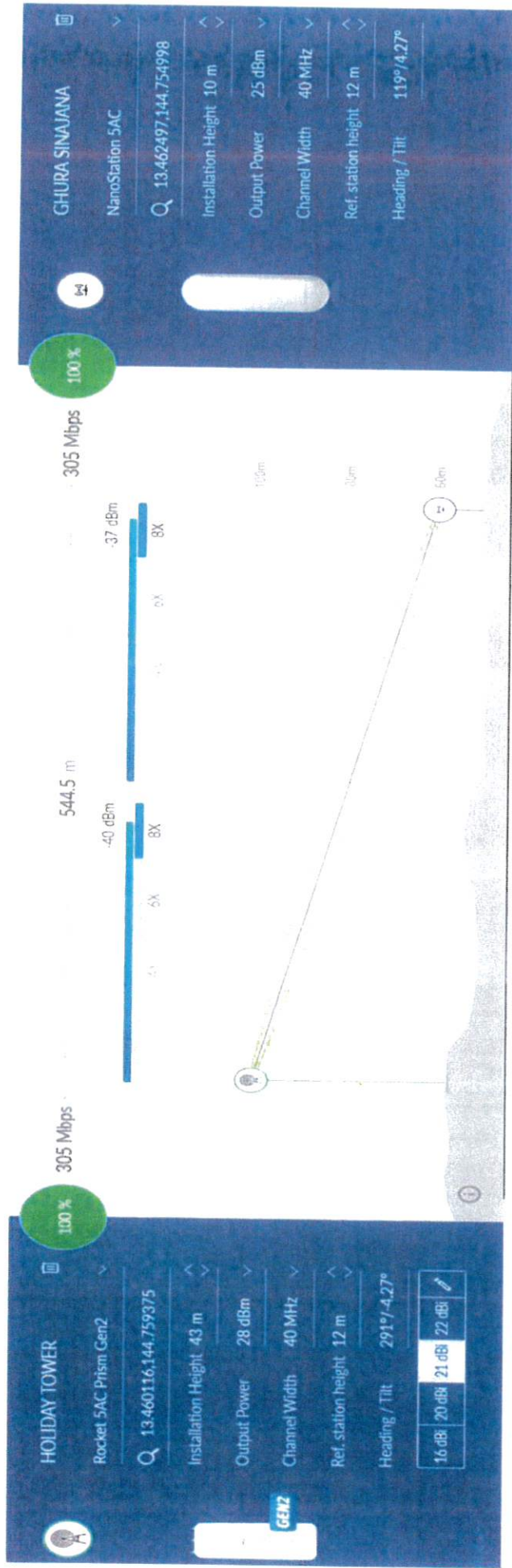
4



**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

IT&E Explore Your World
 122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE: MAP LOCATION

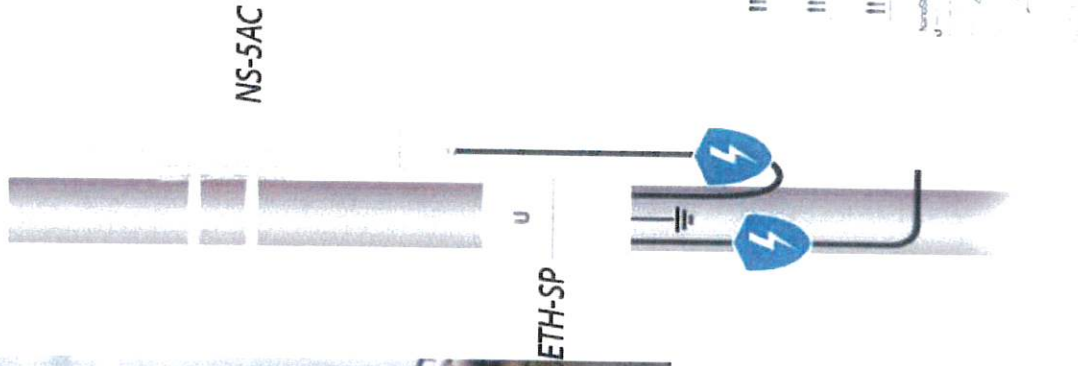
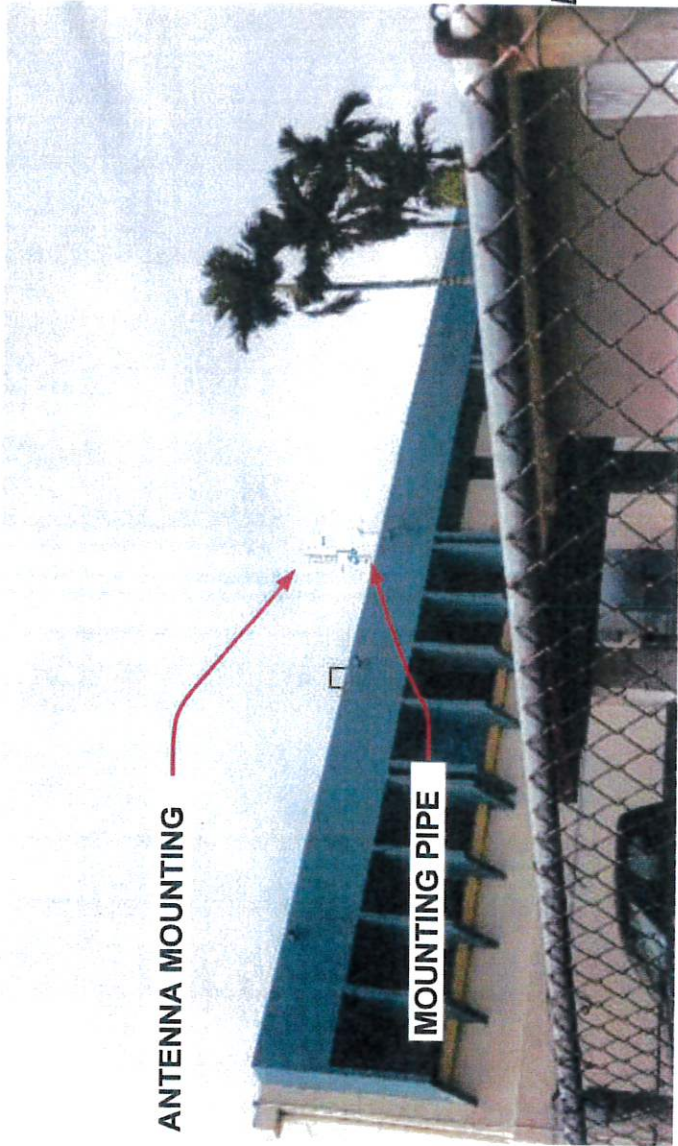


TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

PATH PROFILE ANALYSIS

ANTENNA MOUNTING



NOTE:

1. Utilizing existing hole for the cable entry going to the communication room.
2. Drilling will be conducted during the installation process to mount the antenna mounting pipe.
3. Aluminum pipe will be use for conduit of the CAT5E cable run. Rooftop drilling will be conducted to mount the Unistrut that holds the pipe.
4. Drop in anchor or any concrete screw will be used to attached the mounting pipe of the ODU/Antenna.
5. Drilling port hole penetrating the wall will be conducted, if no available hole.



Explore Your World


122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

**Proposed outdoor unit, antenna
installation and cable run**

A
04

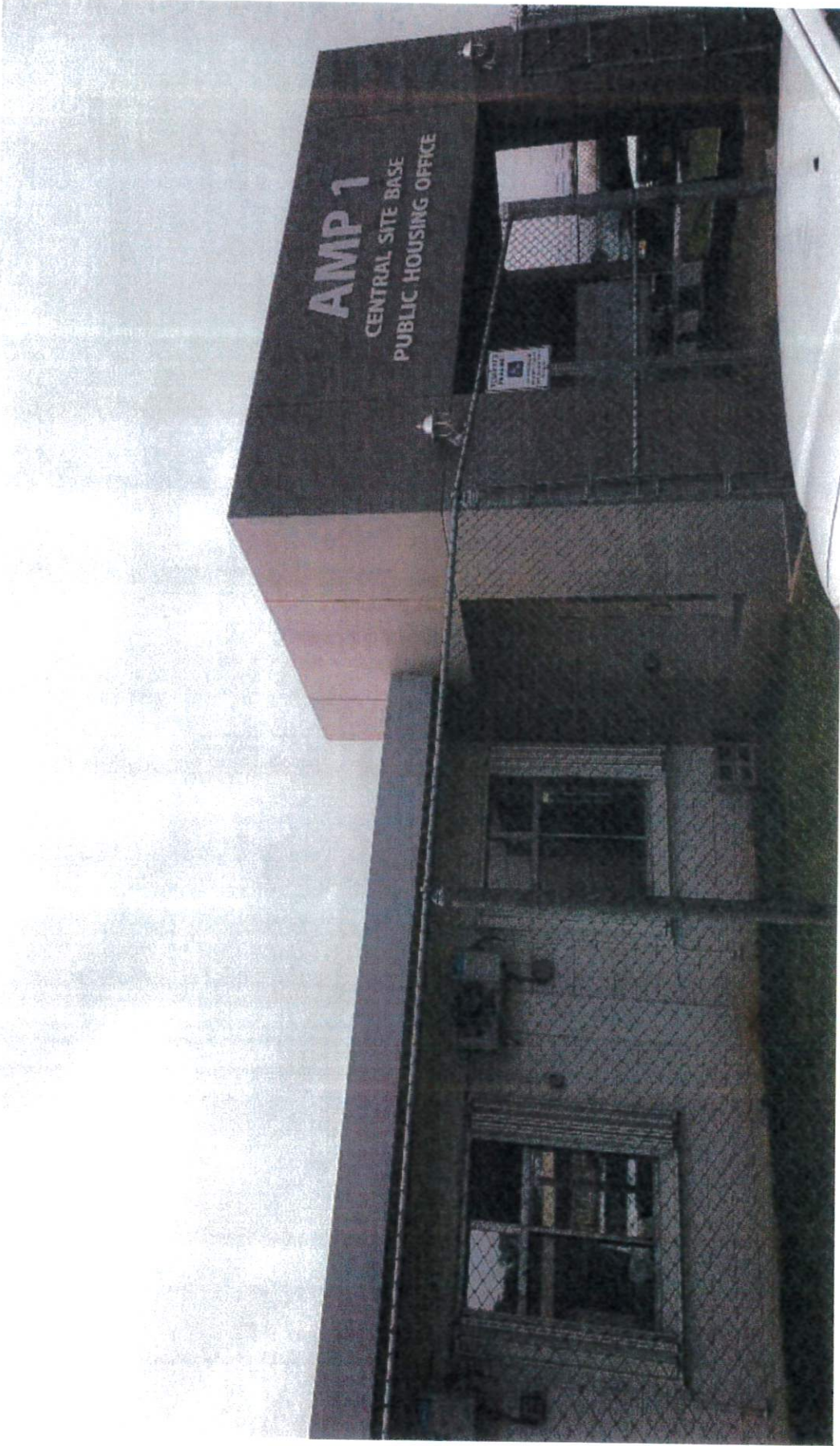


Explore Your World
122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION**
PLAN, PATH PROFILE ANALYSIS

SURVEY CONDUCTED BY:
ALEXANDER BULURAN
ELMER MEJICA



**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

COSTUMER NAME:
**GHURA HOUSING
TOTO 1**

February 10, 2021

OBJECTIVE

- To install, test and commission Point to Multi-Point(PTMP) microwave radio(MWR) at GHURA Housing

PRE-ACTIVITY CHECKLIST PROCEDURE:

- Check all proposed location based on approved survey report.
- Make sure all proposals are still available or if not request assistance and approval from the customer.
- Check all materials and tools to be used for the activity.
- Proceed with caution.
- Safety compliance at all times

ACTIVITIES TO BE DONE:

OUTDOOR

- Install antenna mounts and antenna
- Laying of aluminum pipes for the outdoor unit
- Antenna alignment according to the link budget

INDOOR

- Use vacuum while drilling holes or cutting to avoid dispersion of ashes/debris.
- Laying of Power and data cables.
- Harness all cables properly, separate data cables from power cables.
- Tapping of power cables, make sure all tools to be used are properly insulated.
- Measure the actual voltage before turning on the radio
- NE Commissioning.
- Testing of new NE.
- Clean the area before leaving.
- Link testing and speed test to ensure the customers demand as per signed contract.

TOOLS & MATERIALS TO BE USED

1. NANO STATION AC Gen2 Radio (1set)
2. Outdoor unit mounting bracket (1set)
3. CAT5e cable (50ft)
4. RJ45 (4pcs)
5. Surge protector (1pc)
6. PoE (1pc)
7. AC cable for PoE (1pc)
8. Aluminum mounting pipe (1 1/4" diameter x 6' long)
9. I-Frame (2set)
10. Cable tie (1pack)
11. Cable Tacks (screw type for metal) (50pcs)
12. Full thread metal screws
13. Drill bit for metal
14. U-bolt for 1inch pipe (2pcs)
15. Cordless Drill
16. Impact drill with impact driver kit set for hex and other screw sizes needed
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* * Additional materials and tools - as need arises for the completion of the project* *



Explore Your World

122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION**
PLAN, PATH PROFILE ANALYSIS

**METHOD OF PROCEDURE -
Installation of PTP MWR**

01

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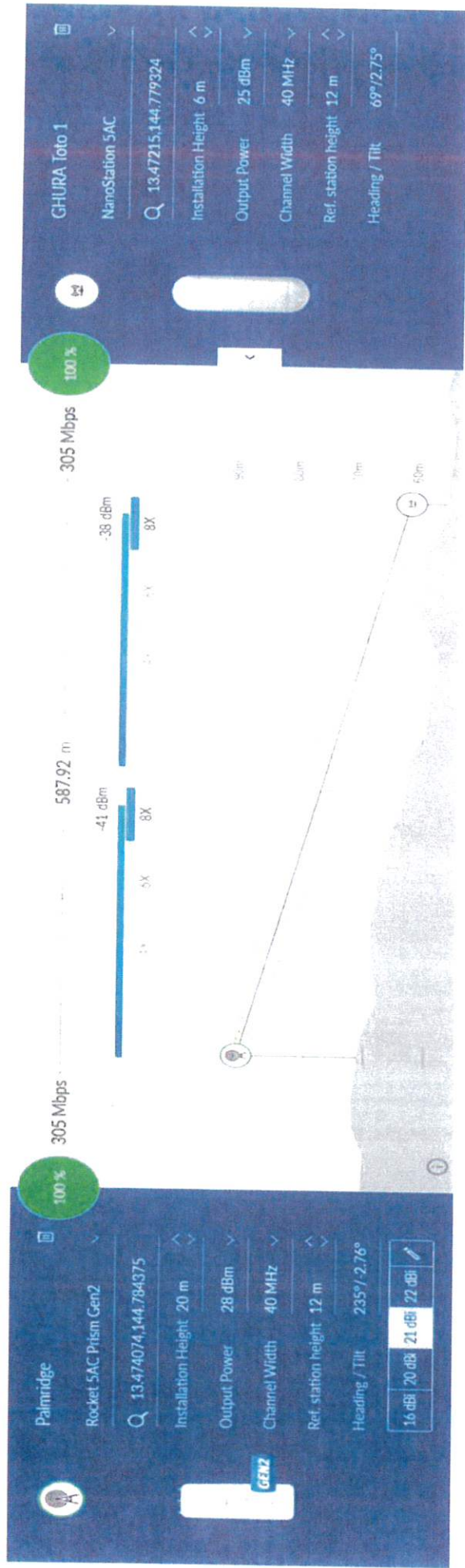
MAP LOCATION

**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

TITLE:

IT&E Explore Your World

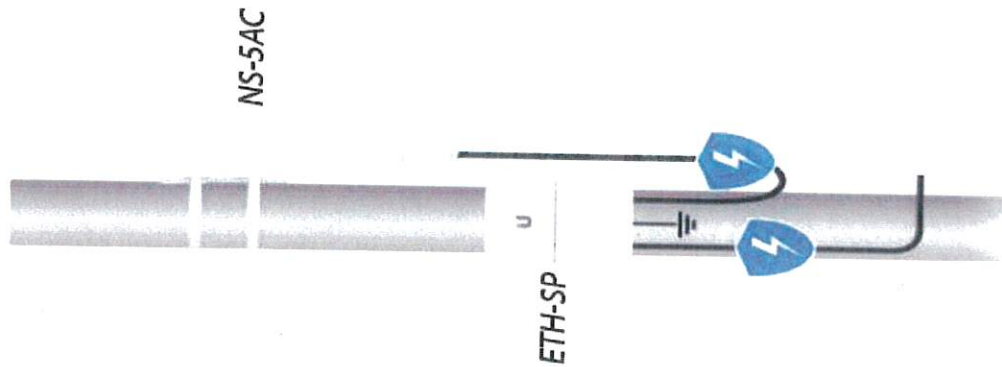
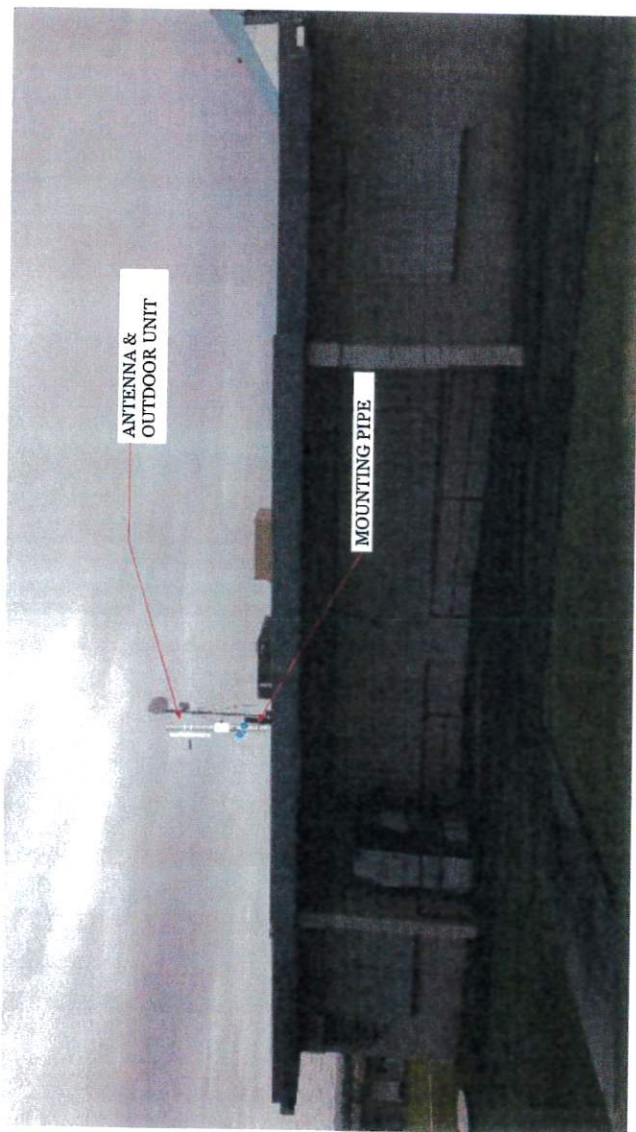
122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam



TITLE:

**PTMP MICROWAVE RADIO
 INSTALLATION
 PLAN, PATH PROFILE ANALYSIS**

PATH PROFILE ANALYSIS



NOTE:

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Explore Your World

122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

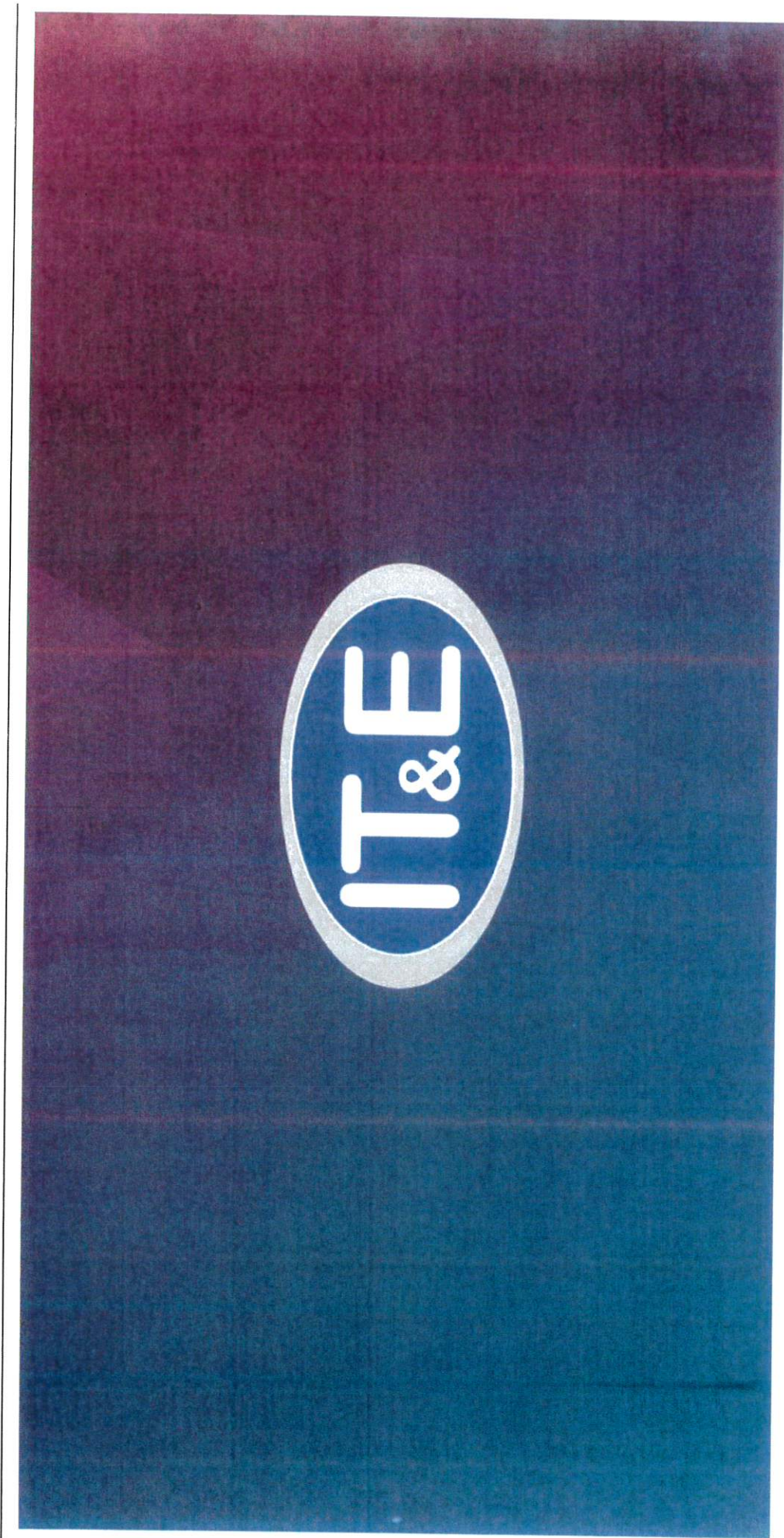
TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

**Proposed outdoor unit, antenna
installation and cable run**

04

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 **Explore Your World**
122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE: **PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

SURVEY CONDUCTED BY:
ALEXANDER BULURAN
ELMER MEJICA



**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

COSTUMER NAME:
**GHURA HOUSING
TOTO 2**

February 10, 2021

IT&E Explore Your World
122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

OBJECTIVE

- To install, test and commission Point to Multi-Point(PTMP) microwave radio(MWR) at GHURA Housing

PRE-ACTIVITY CHECKLIST PROCEDURE:

- Check all proposed location based on approved survey report.
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** Additional materials and tools - as need arises for the completion of the project**



Explore Your World

122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION**
PLAN, PATH PROFILE ANALYSIS

**METHOD OF PROCEDURE -
Installation of PTP MWR**

01

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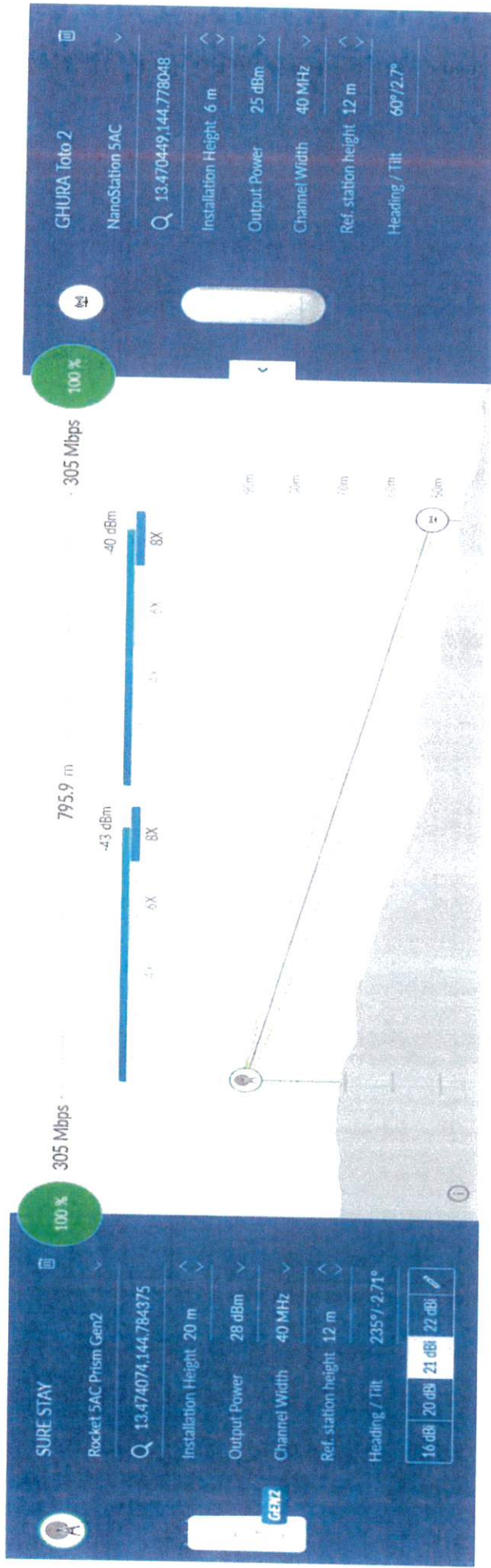
**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

MAP LOCATION

TITLE:

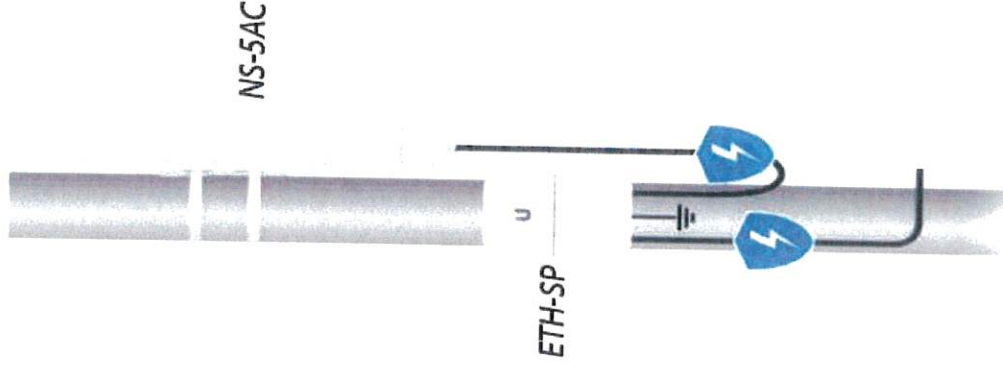
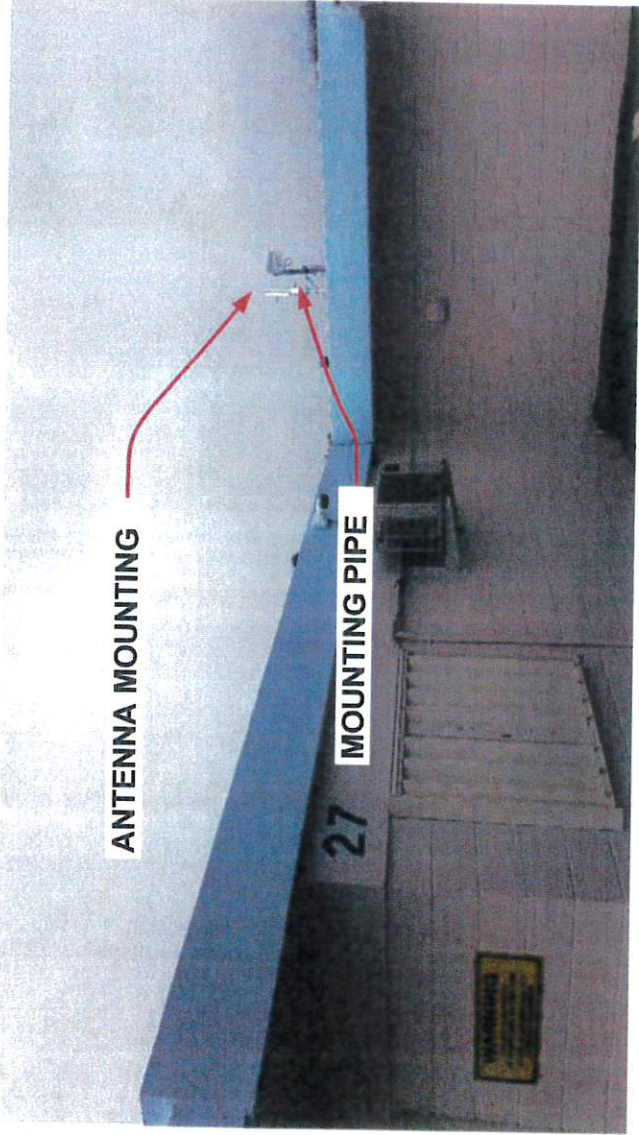
IT&E Explore Your World

122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam



TITLE:

**PTMP MICROWAVE RADIO
 INSTALLATION
 PLAN, PATH PROFILE ANALYSIS**



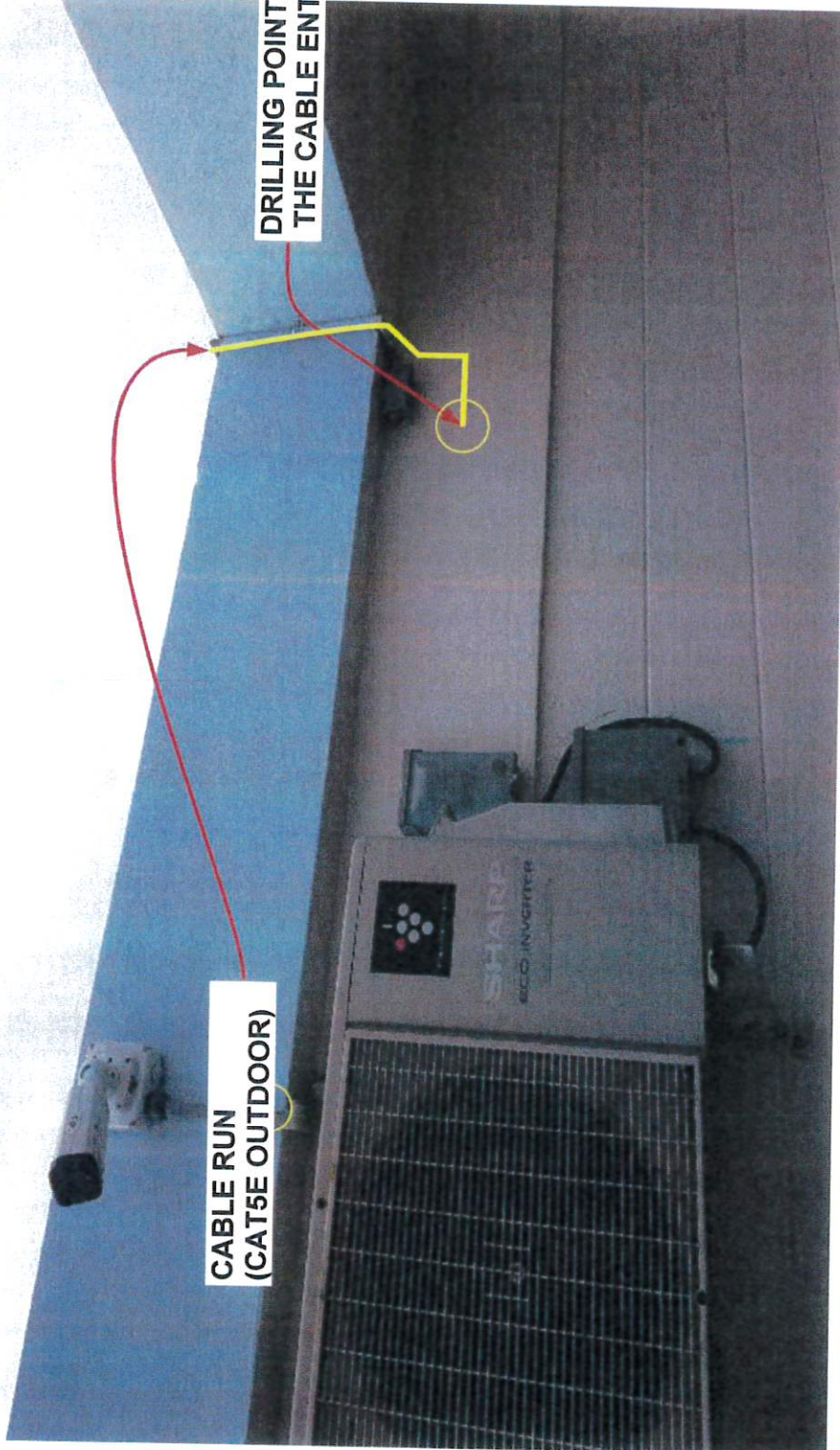
NOTE:

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TITLE:

**PTMP MICROWAVE RADIO
 INSTALLATION
 PLAN, PATH PROFILE ANALYSIS**

Proposed outdoor unit, antenna
 installation and cable run



**CABLE RUN
(CAT5E OUTDOOR)**

**DRILLING POINT FOR
THE CABLE ENTRY**

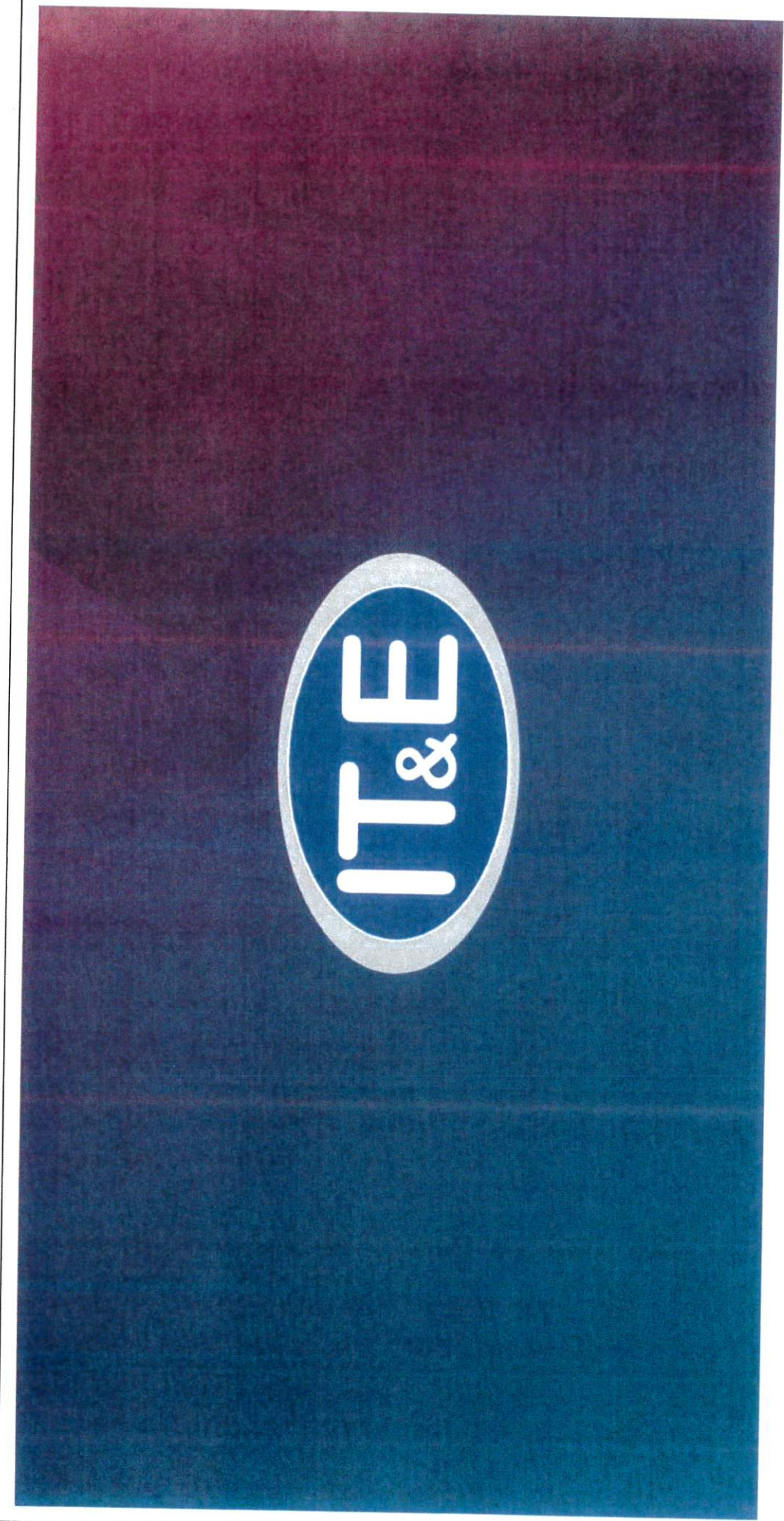
IF EXISTING HOLE IS AVAILABLE WE'LL BE UTILIZING IT GOING TO THE COMMUNICATION ROOM.

IT&E Explore Your World
 122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MWR INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

**Proposed outdoor unit, antenna
installation and cable run**



 **Explore Your World**
122 West Harmon Industrial Park Rd, Tamuning, 96913, Guam

TITLE:

**PTMP MICROWAVE RADIO
INSTALLATION
PLAN, PATH PROFILE ANALYSIS**

SURVEY CONDUCTED BY:
ALEXANDER BULURAN
ELMER MEJICA

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

EXHIBIT 2

Copy of the Protest Decision made by GHURA on May 5, 2021.



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org



Date: May 5, 2021

Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. Tenorio
Lt. Governor of Guam

Sabino P. Flores
Chairman

Monica O. Guzman
Vice Chairwoman

Anisia S. Delia
Commissioner

Frank T. Ishizaki
Commissioner

George F. Pereda
Commissioner

Joseph M. Leon Guerrero
Resident Commissioner

Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

To: Mr. John Day
President
Pacific Data Systems
121 Robot Street, Suite 101
Maite, Guam 96910

From: Ray Topasna
Executive Director
Guam Housing and Urban Renewal Authority
117 Bien Venida Avenue
Sinajana, Guam 96910

**Subject: RESPONSE TO LETTER OF PROTEST OF
IFB#GHURA-COCC-021-003 NOTICE OF NON-AWARD**

Dear Mr. Day:

The Guam Housing and Urban Renewal Authority ("GHURA") is in receipt of your Letter of Protest dated March 26, 2021 regarding the award of IFB#GHURA-COCC-021-003 for the procurement of Metrolan Services for GHURA. Three bidders submitted bids for the IFB, and IT&E was deemed the successful, lowest, responsive, responsible bidder. After review of your protest, and careful consideration by GHURA, your protest is hereby denied.

First, Pacific Data System's has alleged that IT&E's bid is non-responsive and deficient due to the incomplete submission of the following forms:

1. GHURA Form 016 (IT&E Bid Bond Form)
2. HUD 5369-C (Certifications and Representations of Offerors)
3. Disclosure of Organizational Conflict of Interest Affidavit

Per 2 GAR § 3109(m)(4)(b), insignificant mistakes and minor informalities can be waived or corrected without prejudice to other bidders and without any effect on price, quantity, quality, delivery, or contractual condition. The minor informalities are matters of form, rather than substance, evident from the bid document. As such, the existence of a minor informality does not make the IT&E bid non-responsive or deficient. Furthermore, the insignificant mistakes noted by PDS has no bearing as to price, quantity, quality, delivery, or contractual condition. IT&E was permitted to correct the insignificant mistakes noted in accordance with Guam law. GHURA is authorized to waive such informalities or allow the bidder to correct them when it is in the best interest of the territory of Guam. Your first allegation is without merit and denied.



Second, PDS claims that IT&E's bid is non-responsive due to the design being a multi-point service design. This claim is inaccurate. GHURA met with IT&E to clarify the topology and IT&E confirmed that it is a point-to-point service. IT&E had erroneously indicated the design to be "PTMP" when the topology clearly shows a PTP system. Your second allegation is without merit and denied..

Third, GHURA finds that PDS's protest is untimely and thus denies the protest. An actual bidder who may be aggrieved in connection with the method of source selection, solicitation or award of a contract has fourteen (14) days after such aggrieved person knows or should know of the facts giving rise thereto per 5 GCA § 5425 (a). Here, the letter of protest dated March 26, 2021 is untimely as it was transmitted more than fourteen days after PDS knew or should know of facts concerning the grounds of protest. On February 12, 2021, GHURA held a bid opening and PDS representatives were present for said bid opening. The bid opening exhibited that IT&E submitted the lowest bid while PDS submitted the highest bid. At this juncture, PDS was aware that it was not going to be awarded the bid. The next day, PDS submitted a FOIA to GHURA seeking the bid documents of IT&E and Docomo, which were provided on or about February 18, 2021.

On February 22, 2021, PDS submitted a letter to GHURA stating that PDS has completed a review of the IT&E bid and has identified significant deficiencies in the bid. The deficiencies outlined are the same deficiencies contained within the PDS letter of protest of March 26, 2021, namely: deficiencies in the bid bond, HUD form, and HUD Conflict of Interest Form, and the non-responsiveness of the IT&E bid because it is based on a multi-point service design. Thus, by February 22, 2021, PDS knew that IT&E had submitted the lowest bid, and that PDS found such bid deficient and non-responsive. It is key that the basis of the protest is identical to the basis of the complaints made in the February 22, 2021 PDS letter. Pursuant to 5 GCA § 5425, PDS had fourteen days from February 22, 2021 when it knew of the facts giving rise to the protest to submit a protest. PDS waited until March 26, 2021, to submit a protest, a date beyond the fourteen day time-frame to protest. This Protest is untimely and thus denied.

On March 4, 2021, GHURA conducted a meeting of its Board of Commissioners. The meeting was properly noticed, the award of the IFB at issue herein was on the agenda, and the meeting was open to the public. At that meeting, the GHURA Board of Commissioners awarded the IFB to IT&E. At this juncture, PDS knew that GHURA had not agreed to the PDS request in its February 22, 2021 letter wherein PDS requested that GHURA disqualify the IT&E as non-responsive, and should have known that IT&E was awarded the bid in a public, noticed board meeting. Actual knowledge is not required for a Protest, but the determination is whether PDS should have known that IT&E was awarded the bid, and PDS wasn't. The award of the bid was done publicly, and knowledge of the award of the bid should be attributed to PDS by March 4, 2021. PDS thus had fourteen days from March 4, 2021, to file a timely protest, but failed.

Instead, PDS claims that the first time it realized that IT&E was not going to be disqualified and was awarded the bid was March 12, 2021, when PDS received a Notice of Non-Award. PDS relies upon deliberate ignorance of the facts giving rise to its protest, when it knew as early as February 22, 2021 of purported deficiencies in the IT&E bid, and had constructive knowledge on March 4, 2021 that IT&E was awarded the Bid.



PDS was not awarded the bid, because PDS's bid was unreasonably high, and the award of such bid to PDS would not be in the best interests of GHURA or the people of Guam. This Protest is denied as untimely and meritless.

Pursuant to 5 GCA § 5425(c), (e), PDS is advised that it has a right to administrative and judicial review of the denial of this Protest

Respectfully,

Ray S. Topasna, Executive Director