

JUL 28 2011

4-DRPH AC  
FILE NO. OPA-PA 11-015

Jacqueline Taitano Terlaje, Esq.  
Rachel Taimanao-Ayuyu, Esq.  
**LAW OFFICE OF JACQUELINE TAITANO TERLAJE, P.C.**  
888 North Marine Corps Drive, Suite 215  
Tamuning, Guam 96913  
Telephone 671.648.9001  
Facsimile 671.648.9002  
Email: [info@terlajelaw.com](mailto:info@terlajelaw.com)

Attorneys for *Data Management Resources, LLC*

**THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM**

**HAGATNA, GUAM**

In the Appeal of ) NOTICE OF APPEAL FROM DECISION ON  
DATA MANAGEMENT RESOURCES, ) PROTEST  
LLC, Appellant )  
\_\_\_\_\_) DOCKET NUMBER. OPA-PA \_\_\_\_\_

**PART II Appellant Information**

Name: Data Management Resources, LLC (“DMR”)  
Mailing Address: 284 W. Chalan Santo Papa, Hagatna, Guam 96910  
Business Address: 284 W. Chalan Santo Papa, Hagatna, Guam 96910  
Daytime Contact: Richard C. Taitano, Chief Executive Officer 671.647.3675

**PART III Appeal Information**

- A) Purchasing Agency: Guam Community College (“GCC”)
- B) Number/Description of Procurement:

**GCC-FB-11-007: INFORMATION TECHNOLOGY EQUIPMENT**

Decision appealed is dated July 19, 2011 by legal counsel for GCC denying DMR’s Protest dated May 19, 2011 related to Items No. 1, 3 and 4. GCC’s Response to Protest was untimely

**COPY**

1 pursuant to 2 G.A.R. ("Guam Administrative Rules and Regulations") § 9103(d)(3), which  
2 requires a written decision or final decision rendered within 60 days after written request. The  
3 60<sup>th</sup> day from DMR's Protest was July 18, 2011. Notwithstanding GCC's failure to timely  
4 respond, DMR appeals the grounds cited in the above Decision.

5 C) Appeal is made from:

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

7  Decision on Protest of Method, Solicitation or Award

8  Decision on Debarment or Suspension

9  Decision on Contract or Breach of Contract Controversy

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

11  Determination on Award not Stayed Pending Protest or Appeal

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

14  
15 D) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

16 (i) Upon information and belief, two other bidders responded to the Invitation to  
17 Bid as follows:

18 Sanford Technology Group  
19 ComPacific

20 **PART IV Form and Filing**

21 **A. Grounds for Appeal**

22 (1) On April 1, 2011, GCC issued GCC-FB-11-007 for Information Technology  
23 Equipment.

24 (2) DMR timely submitted its bid for GCC-FB-11-007.

25 (3) Upon information and belief, ComPacific and Sanford Technology Group  
26 (hereinafter "Sanford") also submitted bids to GCC-FB-11-007.  
27

- 1 (4) On or about May 5, 2011, DMR received GCC's Notification of Bid Award for  
2 Items No. 1, 2 and 4, and No Award of Item No. 3.<sup>1</sup> A true and correct copy is  
3 attached hereto as Exhibit 1.
- 4 (5) On or about May 6, 2011, DMR served its request for information relating to  
5 GCC-FB-11-007 pursuant to 5 Guam Code Annotated (GCA) § 10106, as  
6 amended (the "Sunshine Reform Act of 1999"), on GCC.
- 7 (6) On or about May 19, 2011, DMR lodged its Protest (hereinafter "Protest"). A  
8 true and correct copy is attached hereto as Exhibit 2.
- 9 (7) Pursuant to 2 GAR §9103(d)(3), GCC was required to respond to the Protest no  
10 later than July 18, 2011, the sixtieth day from the Protest. GCC failed to timely  
11 respond to the DMR Protest.
- 12 (8) On or about July 19, 2011, without any authorization of law for its untimely  
13 response, GCC, through its counsel, issued its "Decision on Protest" denying the  
14 grounds asserted by DMR.

15  
16  
17 ITEMS NO. 1 AND 4

- 18 (9) DMR appeals the Decision on Protest of the Method, Solicitation and Award of  
19 GCC-FB-11-007 to Sanford for Item Nos. 1 and 4 of GCC-FB-11-007 based on  
20 the following:
- 21 (i) GCC failed to ensure that bidder Sanford has met all required  
22 specifications of GCC-FB-11-007, specifically the Assurance of  
23 Compliance with the Buy American Act. See excerpt of GCC-FB-11-  
24 007 attached hereto as Exhibit 3.

25  
26  
27 <sup>1</sup> While the Notification of Bid was dated May 4, 2011, DMR received the correspondence only after having  
inquired about the status of Award on May 5, 2011.

- 1 (ii) GCC-FB-11-007 expressly stated that “all the following requirements  
2 checked below are submitted in the bid envelope, in duplicate, at the date  
3 and time for bid opening.”
- 4 (iii) Upon information and belief, on April 14, 2011, GCC issued Sanford,  
5 through its representative Robert Cruz, a “Special Reminder to  
6 Prospective Bidders.” Sanford acknowledged by its representative that  
7 the Compliance Certification was a Specification required to be  
8 submitted with its Bid. Sanford acknowledged that “**Failure to comply**  
9 **with the above requirements will mean a disqualification and**  
10 **rejection of the bid.**” See excerpt of Special Reminder attached hereto  
11 as Exhibit 4.
- 12 (iv) All bids were opened on April 15, 2011.
- 13 (v) On April 27, 2011, Sanford by its agent Don Castro retrieved an  
14 unsigned Compliance Certification from GCC.
- 15 (vi) On May 3, 2011, GCC erroneously allowed Sanford to correct its bid by  
16 permitting the late submission of the Compliance Certification by  
17 Sanford on May 3, 2011.
- 18 (10) A "responsive bidder" as used in Guam's Procurement Law means a person who  
19 has submitted a bid which conforms in all material respects to the Invitation for  
20 Bids. 5 G.C.A. § 5201(g) and 2 G.A.R. Div. 4. Chap. 1, 1106(28).
- 21 (11) GCC-FB-11-007 involves the use of federal funds, and therefore, a bidder's  
22 assurance of compliance of those applicable federal requirements is a condition  
23 of bidding. 5 G.C.A. § 5501.
- 24 (12) GCC-FB-11-007 expressly and specifically required that compliance  
25 certification be included with submitted bids and failure to do so would result in  
26 disqualification and rejection of those bids.

1 (13) The Public Auditor has determined that whether a bidder has complied with  
2 statutory mandates and an IFB's express and specific requirements is an issue of  
3 bidder responsiveness, not responsibility. In the Appeal of Pacific Systems, Inc.,  
4 OPA-PA-10-005 (filed Jan. 12, 2011).

5 (14) GCC's waiver of the specification of the Assurance of Compliance for the Buy  
6 American Act, and acceptance of said Compliance Certification on May 3, 2011  
7 for Sanford failed to comply with GCC Board of Trustees Resolution 9-2010 and  
8 § 5211(e) and (f) of Title 5 Guam Code Annotated, which provides:

9  
10 (e) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted  
11 without alteration or correction, except as authorized in this Chapter. Bids shall  
12 be evaluated based on the requirements set forth in the Invitation for Bids . . .

13 (f) . . . Except as otherwise provided by regulation . . . all decisions to permit the  
14 correction . . . of bids . . . shall be supported by a written determination by the  
15 Chief Procurement Officer . . .

16 (15) GCC's Decision that the Buy American Compliance Certification was a matter  
17 of bidder responsibility, not responsiveness was erroneous. Further, GCC's use  
18 of the responsibility inquiry to allow Sanford to modify or correct its bid  
19 violates the provisions of Guam's Procurement Laws and Regulations  
20 prohibiting such late modifications or corrections bids.

21 (16) DMR was the only responsive and responsible bid as to Item 1.

22 (17) Upon information and belief, ComPacific's bid was not responsive to Item 1  
23 because it is not a Manufacturer-Authorized reseller of the computer equipment  
24 and does not possess current ISO Certification as specified in GCC-FB-11-007.  
25 See excerpt of GCC Bid Evaluation attached hereto as Exhibit 5.

ITEM NO. 3

(16) DMR appeals the Decision on Protest of No Award for Item No. 3 of GCC-FB-11-007 based on the following:

(i) GCC indicated in its Memo to File that “no awards will be made for Item No. 3 since specifications were not made by all bidders.” See GCC Memo to File attached hereto as Exhibit 6.

(ii) GCC evaluated DMR’s bid as nonresponsive for battery and weight specifications.

(iii) GCC-FB-11-007 required that Item No. 3 include a “High Capacity 6 Cell Up to 14 Hours of Battery Life” and weigh “4 pounds or less with battery.”

(iv) DMR’s bid included a “6-cell Primary Battery” specification. See excerpt of DMR bid attached hereto as Exhibit 7.

(v) DMR’s bid included a weight specification starting at 2.90 lb. with 3-Cell Battery. See excerpt of DMR bid attached hereto as Exhibit 8.

(17) DMR’s submission of its bid acknowledges and confirms that DMR meets the minimum specifications. Where DMR does not meet the minimum specification, significantly exceeds the minimum requirement, or provides some other form of variation from the minimum specification requested, a “Note” is included in the bid form provided by GCC for each specific item number. The only variation noted for Item No. 3 by DMR was a “Memory Upgrade,” otherwise in all other respects, DMR has acknowledged and confirmed that it meets the minimum specifications.

(18) Based on DMR’s confirmation of minimum specifications met, its bid was responsive to Item No. 3. 5 G.C.A. § 5201 (g).

1 (19) GCC arbitrarily disregarded DMR's certification of meeting the minimum  
2 requirements, arbitrarily disregarded that the weight and time limitations stated  
3 in the literature provided, and failed to conduct a responsibility inquiry as to  
4 whether DMR in fact submitted a bid in compliance with the specifications for  
5 Item No. 3. As a result, DMR was unfairly precluded from an opportunity to  
6 specify the exact weight with 6-cell battery as authorized by 5 GCA § 5230.  
7

8 **B. Prayer For Relief**

- 9 (1) Appellant seeks ratification and affirmation in this Appeal of its Protest to GCC-  
10 FB-11-007;
- 11 (2) Appellant requests that the Office of the Public Auditor make a finding that the  
12 GCC's Award of Items 1 & 4 to Sanford is void for non-responsiveness of  
13 bidder;
- 14 (3) Appellant requests that the Office of the Public Auditor make a finding that the  
15 GCC's Award of Items 1 & 4 to Sanford is void for violating the provisions of  
16 Guam's Procurement Laws and Regulations prohibiting late modifications or  
17 corrections to bids;
- 18 (4) Appellant requests that the Office of the Public Auditor make a finding that Item  
19 1 be awarded to DMR as the only responsive and responsible bidder;
- 20 (5) Appellant requests that the Office of the Public Auditor make a finding that  
21 GCC is required to conduct a responsibility inquiry prior to rejection of a bid  
22 which certifies meeting the minimum requirements;
- 23 (6) DMR's bid as to Item 3 was responsive;
- 24 (7) Appellant seeks any other relief that the Office of the Public Auditor deems just  
25 and appropriate under the circumstances.  
26  
27  
28

1 **C. Supporting Exhibits, Evidence or Documents**

2	Exhibit 1	May 5, 2011	Notification of Bid Award
3	Exhibit 2	May 19, 2011	DMR Protest to GCC-FB-11-007
4	Exhibit 3	April 14, 2011	Excerpt - Assurance of Compliance, Buy American Act
5	Exhibit 4	April 14, 2011	Excerpt – Special Reminder to Prospective Bidders
6	Exhibit 5	Unknown	GCC Evaluation Form
7	Exhibit 6	May 4, 2011	GCC Memo to File
8	Exhibit 7	April 15, 2011	Excerpt – Page 4 of DMR’s Bid, Quote including 6 Cell Primary Battery
9	Exhibit 8	April 15, 2011	Excerpt – DMR’s Bid, Dell Latitude 2120 Brochure

10  
11  
12  
13  
14 **D. Declaration Re Court Action**

15 Pursuant to 5 Guam Code Annotated Chapter 5, unless the court requests, expects, or  
16 otherwise expresses interest in a decision by the Public Auditor, the Office of the Public  
17 Auditor will not take action on any appeal where action concerning the protest or appeal has  
18 commenced in any court.

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

24 //  
25 //  
26 //

27  
28 **COPY**



1 RESPECTFULLY SUBMITTED on this 28<sup>th</sup> day of July, 2011

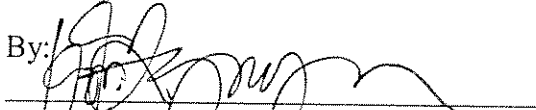
2  
3 By:



4 **TRICIA T. CRUZ**  
5 Appellant's Duly Authorized Representative  
6 284 W. Chalan Santo Papa, Hagåtña, Guam 96910  
7 671.647.3674

8 **LAW OFFICE OF**  
9 **JACQUELINE TAITANO TERLAJE, P.C.**

10  
11 By:



12 **JACQUELINE TAITANO TERLAJE**  
13 Attorneys for Appellant  
14 *Data Management Resources, LLC*



EXHIBIT 1 to DMR'S APPEAL  
FROM DECISION ON PROTEST

Acknowledgement Copy

Date: May 4, 2011

To: ComPacific  
Sanford Technology Group  
Data Management Resources

Via: Carmen K. Santos *CMS*  
Vice President, Finance & Administration

Mary A. Y. Okada, Ed.D. *MAO*  
President

From: Joleen M. Evangelista *JME*  
Procurement & Inventory Administrator

Subject: **Notification of Bid Award**  
PC Desktops, Laptops, Netbooks, & Surge Protectors  
Bid No: GCC-FB-11-007

*Received: 5/5/11*  
*[Signature]*

This is to advise that the following items on the above bid have been evaluated and awarded to:

<b>ComPacific</b>	<b>No Awards</b>
<b>Sanford Technology Group</b>	<b>Item No: 1, 4</b>
<b>Data Management Resources</b>	<b>Item No: 2</b>

No awards will be made for Item No: 3 (Netbook)

Please confirm and acknowledge receipt of this bid award by email: [materialsmanagement@guamcc.edu](mailto:materialsmanagement@guamcc.edu) or fax to 734-5238. Please include the following information in your acknowledgement: Vendor name, vendor address, Representative name and date of acknowledgement.

We appreciate your participation in the bid process and encourage your participation in the future.

EXHIBIT 2 to DMR's APPEAL FROM  
DECISION ON PROTEST  
Page 1

May 19, 2011

**VIA FACSIMILE NO. 671.734-5238**  
**and email to [materialsmanagement@guamcc.edu](mailto:materialsmanagement@guamcc.edu)**

**JOLEEN EVANGELISTA**  
Procurement & Inventory Administrator  
GUAM COMMUNITY COLLEGE  
P.O. Box 23069  
Hagatna, Guam 96932

**RE: PROTEST In Re GCC-FB-11-007**

Dear Ms. Evangelista,

Hafa Adai! On behalf of Data Management Resources, LLC (DMR), I hereby submit this formal protest of the Intent to Award Items No. 1 and 4, and notice of "No awards" of Item No. 3 relative to the foregoing Invitation to Bid, received via facsimile on May 5, 2011. DMR protests on the following grounds:

1. **Sanford Technology Group's bid was non-responsive for failure to comply with the Assurance of Compliance for the Buy American Act on bid opening on April 15, 2011.**

On April 15, 2011, on bid submission, Sanford Technology Group (hereinafter "Sanford") failed to submit and/or omitted the Assurance of Compliance for the Buy American Act (hereinafter "Compliance Certification") from its bid.

On April 27, 2011, Sanford by its agent Don Castro retrieved an unsigned Compliance Certification from GCC.

On May 3, 2011, Guam Community College (hereinafter "GCC") erroneously allowed Sanford to correct its bid by permitting the late submission of the Compliance Certification by Sanford on May 3, 2011.

GCC's waiver of the specification of the Assurance of Compliance for the Buy American Act, and acceptance of said Compliance Certification on May 3, 2011 for Sanford failed to comply with GCC Board of Trustees Resolution 9-2010 and §5211(e) and (f) of Title 5 Guam Code Annotated, which provides:

- (e) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Chapter. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids . . .
- (f) . . . Except as otherwise provided by regulation . . . all decisions to permit the correction . . . of bids . . . shall be supported by a written determination by the Chief Procurement Officer . . .

Notwithstanding that GCC may have erred in failing to provide the Compliance Certification upon Sanford's retrieval of the Invitation for Bid, on April 14, 2011, Sanford acknowledged by its representative, Robert Cruz, that the Compliance Certification was a Specification required to be submitted with its Bid. Sanford acknowledged that "**Failure to comply with the above requirements will mean a disqualification and rejection of the bid.**"

Thus, GCC's acceptance of the Compliance Certification on May 3, 2011 to correct the deficiency of Sanford's bid was erroneous in light of Sanford's acknowledgement, Guam Procurement law, and the GCC Board of Trustees Resolution adopting procurement policy governing this Invitation for Bid. Additionally, no written determination of the waiver of the specification and allowing the correction of the bid by the Chief Procurement Officer was completed, thus providing additional grounds for protest.

DMR kindly requests that GCC revoke, and/or declare null and void the award dated May 4, 2011 awarding Items No. 1 and 4 to Sanford because Sanford's bid was non-responsive in the absence of the specification requiring Compliance Certification on April 15, 2011, and in the absence of a written determination as set forth by Guam Procurement Law.

2. **DMR protests GCC's "No awards" of the lowest bidder – DMR, for Item No. 3.**

On May 5, 2011, GCC notified DMR that it did not intend to award Item No. 3. No reason was provided in the notification provided to DMR. Upon disclosure of public records pursuant to the Sunshine Reform Act of 1999, as Amended, GCC disclosed its "PC Computer Bid GCC-FB-11-007 Evaluation Form" wherein it indicates that DMR's bid was "unsubstantiated, unavailable product, vendor, or manufacturer information" for the following categories related to Item No. 3:

Battery:	High Capacity 6 Cell Up to 14 Hours of Battery Life
Weight:	4 pounds or less with battery

GCC further disclosed its Memo to File on the evaluation of the above Invitation for Bid dated May 4, 2011; the evaluation further disclosed the basis for determining "No awards" for Item No. 3 was "since specifications were not met by all bidders."

The Memo to File included an attachment from Francisco C. Camacho dated April 25, 2011, recommending the following: "Not one vendor met the specifications for the NB, Item# 3, therefore no award and a cancellation of Bid Item # 3 is recommended."

DMR's Bid provided the following information related to Item No. 3:

Battery: 6 Cell Primary Battery

Technical Specification for Battery Options: 6-cell (54Wh)

Technical Specification for Dimensions and Weight:  
Preliminary Starting Weight 2.90lbs (with 3-cell battery)

DMR's submission of its bid acknowledges and confirms that DMR meets the minimum specifications. Where DMR does not meet the minimum specification, significantly exceeds the minimum requirement, or provides some other form of variation from the minimum specification requested, a "Note" is included in the bid form provided by GCC for each specific item number. The only variation noted for Item No. 3 by DMR was a "Memory Upgrade," otherwise in all other respects, DMR has acknowledged and confirmed that it meets the minimum specifications.

Notably, GCC requested for clarification from DMR on Item No. 2. However, no request for clarification on Item No. 3 was requested by GCC, upon GCC's concerns about the minimum specifications.

In fact, DMR can confirm that the 6 Cell Primary Battery has a life of up to 60 hours, and a weight of 3.26 pounds with a 6-cell battery. Therefore, the rejection of DMR's bid for Item No. 3 was not warranted.

DMR respectfully requests that GCC reconsider its determination of "No Awards" for Item No. 3, and award Item No. 3 to the lowest bidder - DMR.

On behalf of DMR, I respectfully submit this BID PROTEST, and request that you keep me informed of the status. I look forward to your response.

Best regards,



**JACQUELINE TAITANO TERLAJE**

cc: Richard Taitano, Data Management Resources, LLC  
Claudia Acfalle, Guam General Services Agency

### Assurance of Compliance

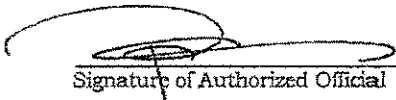
#### Buy American Act

The Contractor hereby assures that any goods purchased by Contractor or Contractor's Subcontractors with monies made available by the federal American Recovery and Reinvestment Act of 2009 (ARRA) must comply with "Buy American Requirements". The Contractor hereby represents and warrants to and for the benefit of the Guam Community College that (a) all Contractors have reviewed and understand the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) all Contractors will provide any further verified information, certification of assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the College.

The Contractor provides this assurance in consideration of and for the purpose of obtaining grants, loans, contracts, property, discounts and other financial assistance.

The person whose signature appears below is authorized to sign this assurance and commit the Contractor to the above provisions.

Data Management Resources, LLC.  
Name of Contractor  
284 W. Chalan Santo Papa  
Street Address  
Hagatna, Guam 96910  
City, State, Zip Code

  
Signature of Authorized Official  
Richard C. Taitano  
Name and Title of Authorized Official  
(Please type or print)  
14<sup>th</sup> June 2011  
Date

The undersigned Contractor certifies that the information and the acquisition of the materials and supplies covered by this certification have been completed in accordance with all applicable standards, provisions, and stipulations of The American Recovery and Reinvestment Act of 2009 (Pub.L. 111-5), The Buyer American Act (41 U.S.C. 10a - 10d), E.O. 10582 (December 17, 1954)

and other pertinent Federal and/or local laws, rules, and regulations relative to the performance of this contract and the furnishing of goods.

Contractor:

By: \_\_\_\_\_

Date: 14<sup>th</sup> June 2011

State of: Hagatna, Guam

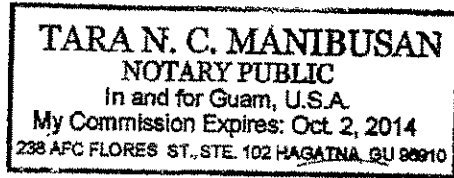
Country of: U.S.

Subscribe and sworn to before me this 14<sup>th</sup> day of April 2011

Notary Public:

*Tara N. C. Manibusan*

My commission expires:



GCC Guam Community College

P.O. BOX 23069

GMF, BARRIGADA, GUAM 96921

**GUAM COMMUNITY COLLEGE**

Association of Community Colleges  
 Accredited by the  
 Western Association of  
 Schools and Colleges

Accountability • Impartiality • Competence • Openness • Value

INVITATION FOR BID (IFB) NO.: GCC-FB-11-007

DESCRIPTION: Information Technology Equipment: PC Desktop, PC Laptop, PC Netbook, Surge Protector

**SPECIAL REMINDER TO PROSPECTIVE BIDDERS**

Bidders are reminded to read the Sealed Bid Solicitation and Instructions, and General Terms and Conditions attached to the IFB to ascertain that all of the following requirements checked below are submitted in the bid envelope, in duplicate, at the date and time for bid opening.

- BID GUARANTEE (10% OF BID AMOUNT) - May be in the form of;**
  - a. Cashier's Check or Certified Check
  - b. Letter of Credit (must not expire no earlier than ninety (90) days from the date of submittal)
  - c. Surety Bond - Valid only if accompanied by:
    - 1. Current Certificate of Authority issued by the Insurance Commissioner;
    - 2. Power of Attorney issued by the Surety to the Resident General Agent;
    - 3. Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.
- STATEMENT OF QUALIFICATIONS;**
- SAMPLES;**
- BROCHURES/DESCRIPTIVE LITERATURE; PLEASE TAB ALL DESCRIPTIVE LITERATURE AND NOTATE ITEM NUMBERS FOR EASE OF REFERENCE DURING EVALUATION**
- AFFIDAVIT OF DISCLOSURE OF MAJOR SHAREHOLDERS - Must comply with the following requirements:**
  - a. The affidavit must be notarized and dated on the same month as the bid opening;
  - b. date of signature of the person authorized to sign the bid and the notary date must be the same.
- LOCAL PROCUREMENT PREFERENCE APPLICATION (See attached) (Non-completion of this application form is not a basis for rejection.)**
- NON-COLLUSION AFFIDAVIT**
- OTHER REQUIREMENTS: CURRENT BUSINESS LICENSE; Buy American Requirement**

This reminder must be signed and returned in the bid envelope together with the bid. Failure to comply with the above requirements will mean a disqualification and rejection of the bid. On this 14 day of APRIL, 2011, SANFORD TERRY/GRAND ROBERT A. GUTZ acknowledge receipt of this special reminder to prospective bidders with the above referenced IFB.

[Signature]  
 Bidder Representative's Signature



PC Computer Bid GCC-FB-11-007 Evaluation Form

DMR	STG	CP	
✓	✓	✓	PC Desktop:
✓	✓	✓	Intel Core i5 processor, 3GHz, 8MB SmartCache [Amendment #1: Changed from 8MB SmartCache to 4MB SmartCache]
✓	✓	✓	4GB RAM
✓	✓	✓	250GB hard drive
✓	✓	✓	DVD+-R/RW dual layer drive
✓	✓	✓	10/100/1000Mbps Ethernet Connection
✓	✓	✓	Mouse
✓	✓	✓	Keyboard
✓	✓	✓	Windows 7 Professional with latest service pack installed
✓, V	✓*	✓, U	Novell YES Tested & Approved [Amendment #1: GCC will accept the manufacturer series as being Novell YES Tested & approved.]
✓	✓	✓	Monitor 19" LCD
✓	✓	✓, U	Must be Energy Star and EPEAT (Electronic Product Environmental Assessment Tool) Registered
✓	✓	✓	Warranty - 3 - Year parts and labor Three years begins on date of delivery and vendor agrees to resolve problems under six (6) business days, starting from time of GCC service request and must provide equal or better replacement or equal or better loaner system if unable to meet six day response and resolution timeframe.
✓	✓	✓	UPS: 600VA [Amendment #4: 3-Year parts and labor warranty applies to the UPS, too]
✓	✓	✓	Microsoft Office 2010 (Academic License Only)
✓	✓	U	Vendor is a Manufacturer-Authorized reseller of the computer equipment.
✓	✓	U	Computer Equipment Manufacturer possesses current ISO Certification (Attach certification statement or provide website links to the computer equipment manufacturer's website that indicates this certification on the item.)
✓	✓	✓	Vendor is partnered with or currently staffed with, A+ Certified technicians, or computer equipment manufacturer-certified technicians. Vendor also agrees to pay or cover for all shipping and handling fees or costs related to servicing computers still under warranty.

*Shannon C. Condit*

DMR	STG	CP	
✓	✓	✓	PC Laptop:
✓	✓	✓	Intel Core i5 processor, 2.66GHz + 2.93GHz with Turbo Boost, 3MB Cache
✓	✓	✓	4GB RAM
✓	✓	✓	250GB hard drive
✓	✓	✓	DVD+-R/RW dual layer drive
✓	✓	✓	10/100/1000Mbps Ethernet Connection
✓	✓	✓	Windows 7 Professional with latest service pack installed
✓	✓	✓	Carrying case
✓	✓	✓	Docking Station
✓	✓	✓	Extra Laptop Battery [Amendment #2: 9-Cell Lithium Ion Battery or Equivalent of Installed Battery in Laptop with 1 Year Warranty.]
✓	✓	✓	Novell YES Tested & Approved [Applicable to Amendment #1: GCC will accept the manufacturer series as being Novell YES Tested & approved.]
✓	✓	✓	Monitor 19" LCD [Amendment #2/#3: Changed from 19" to 17" (Amendment #2) to 15" (Amendment #3) Wide SXGA Display or Equivalent with Screen Resolution Capability up to 1280 X 1024, and Highest Color Quality at 32bit.]
✓	✓	✓, U	Must be Energy Star and EPEAT (Electronic Product Environmental Assessment Tool) Registered
✓	✓	✓	Warranty - 3 - year parts, labor and battery replacement Three years begins on date of delivery and vendor agrees to resolve problems under six (6) business days, starting from time of GCC service request and must provide equal or better replacement or equal or better loaner system if unable to meet six day response and resolution timeframe.
✓	✓	✓	Microsoft Office 2010 (Academic License Only)
✓	✓	U	Vendor is a Manufacturer-Authorized reseller of the computer equipment.
✓	✓	U	Computer Equipment Manufacturer possesses current ISO Certification (Attach certification statement or provide website links to the computer equipment manufacturer's website that indicates this certification on the item.)
✓	✓	✓	Vendor is partnered with or currently staffed with, A+ Certified technicians, or computer equipment manufacturer-certified technicians. Vendor also agrees to pay or cover for all shipping and handling fees or costs related to servicing computers still under warranty.

*Shawna D. Bennett*

DMR	STG	CP	
✓	No Bid	✓	PC Notebook:
✓		✓	CPU: 1.66GHz Intel Processor or Equivalent
✓		✓	Memory: 2GB DDR2 RAM, 1 SODIMM Slot
✓		✓	Storage: 250GB SATA Hard Drive (5400RPM)
✓		✓	Integrated Keyboard and Touchpad
✓		✓	Audio: Stereo Speakers, High-Definition Audio CODEC
✓		✓	Display Screen: 7 to 10.1-Inch Color 1024X600 WSVGA LCD Display
✓		✓	Networking: 802.11 b/g/n High speed Wi-Fi, 10/100Mbps Ethernet Connection Bluetooth Enabled
✓		✓	Operating System: Microsoft Windows 7
✓		✓	Battery: High Capacity 6 Cell Up to 14 Hours of Battery Life Weight: 4 pounds or less with battery
✓		✓	Built-in System reinstallation and recovery or via supplied external USB Flash Drive
✓		✓	Plug-and-Play Flash card slot (MMC/SD/SDHC)
✓		✓	Input / Output: 1 x VGA connector, 3 x USB 2.0 ports, 1 x LAN RJ-45 10/100 Mbps Ethernet, 2 x audio jacks: Headphone & Mic-in
✓		✓	Warranty: 1 year system parts and labor warranty inclusive of battery replacement One year begins on date of delivery and vendor agrees to resolve problems under six (6) business days, starting from time of GCC service request and must provide equal or better replacement, or equal or better loaner system, if unable to meet six day response and resolution timeframe.
✓		✓	Software: Academic License Only Microsoft Office 2010
✓		✓	User Manual
✓		✓	Carrying bag or case

*Stewart C. Bonach*

DMR	STG	CP	
No Bid	✓	✓	SmartStrip or Equal Surge Protector:

DMR = Data Management Resources	STG=Sanford Technology Group	CP=Compacific
---------------------------------	------------------------------	---------------

- /\* At least one model in the same, similar, or closest series was found.
- U Unsubstantiated / Unavailable product, Vendor, or Manufacturer information
- V Verified as requested by GCC and as submitted by Vendor

*Shannon C. Conard*

EXHIBIT 6 to DMR'S APPEAL  
FROM DECISION ON PROTEST

Date: May 4, 2011  
To: MEMO TO FILE  
From: Procurement & Inventory Administrator  
Subject: Evaluation of PC Desktops, Laptops, Netbooks & Surge Protectors  
Bid No: GCC-FB-11-007

The bid was issued on Friday, April 1, 2011 and the Bid Opening was held on Friday, April 15, 2011.

There were three (3) bid submissions and they were: ComPacific, Sanford Technology Group, and Data Management Resources. All the submission requirements set forth in the bid were completed by ComPacific and Data Management Resources (a clarification was made for Novell Netware Tested and Approved for Bid Item No.2)

\*GCC Materials Management Office requested that Sanford Technology Group submit the Assurance of Compliance for the Buy American Act because the forms were not included in their bid packet at the time of the bid opening. The reason is Sanford was the first vendor to pick up the packet on Monday, April 4, 2011 and the Materials Management Office did not have a complete set of bid documents. Sanford Technology was contacted to pick up 3 documents that MMO realized were missing: Special Reminder to Prospective Bidders (1 page), Terms and Conditions (Section 43- Section 47 -2 pages) which were submitted in the submission.

Therefore, Sanford was contacted to pick up the Assurance of Compliance form so that is notarized. Sanford Technology submitted the document on Tuesday, May 3, 2011.

Notification of Awards will be made as follows:

ComPacific – no awards  
Sanford Technology Group – Item No: 1, 4  
Data Management Resources – Item No: 2

No awards will be made for the Netbook (Item No: 3) since specifications were not met by all bidders.

It is in the best interest of the college to proceed with the award of Item No: 1 (Desktop), 2 (Laptop), and 4 (Surge Protector).

*J. M. ...*  
5/4/11

EXHIBIT 7 to DMR'S APPEAL ON DECISION ON PROTEST



data management resources, llc.



284 W. Chalan Santo Papa, Hagatna, Guam 96910  
 ph. +1.671.647.3674 | fx. +1.671.477.3677  
 dmr@dmrguam.com

Innovation, meet Vision

quote

SUBMITTED TO:

Guam Community College  
 PO Box 23609  
 Barrigada, GU 96921

Date 4/15/2011 Quote No. Q11-00253

Bid Reference GCC-FB-11-007

ATTN: Materials Management  
 Phone: 671-735-5540-2 Fax: 671-734-5328  
 E-mail: materialsmanagement@guamcc.edu

Description	Qty	U/M	Unit Price	Terms		Valid Until		Rep			
				As Per IFB	6/14/2011	MLG	MLG	MLG			
-QTY(1): Kit - 6-cell (60Whr) Battery -QTY(1): Kit-Targus Synergy 2.0 Top Loader 15.6" -QTY(1): MS Office Professional 2010 (Academic)  GCC-FB-11-007 Bid Item No. 3: PC Netbook -QTY(1): Dell Latitude 2120 (ODM CTO) -Intel(R) Atom(TM) N455 (1.66GHz, 512K cache) -No Energy Star Info Mod -10.1" WSVGA (1024x600) AntiGlare LED Display -Microphone Only Info Mod -No Camera, No Touch Screen -LCD Back Cover - Chalkboard Black, WWAN ready -Directship Info Mod -System Driver, Latitude 2120 -Dell Client System Update -Intel(R) Atom(TM) CPU Label -No Application Camera Software -No Diagnostic/Recovery CD media -No Quick-Reference Guideline -Shipment Box without Carrying Case -System Shipment, Latitude 2120 -End User License Agreement (English) -Power Cord for 3-pin Adapter (US) -2GB (1x2GB) 1333MHz DDR3 SDRAM -250GB 5400rpm Hard Drive -Windows Live Essentials -6 Cell Primary Battery -Chalkboard Black, Latitude 2120 -65W AC Adapter - 3-pin -Dell Wireless 1501 (802.11 b/g/n) - Does not support 5GHz band -Bluetooth Cable -Dell Wireless 375 Bluetooth Module -Internal English keyboard with Anti-microbial Protection	10	Lot	858.00						8,580.00		
NOTICE OF CONFIDENTIALITY: The information in this quotation is intended for the use of the addressee only. It may contain information that is privileged, confidential, and exempt from disclosure. If the reader of this quotation is not the intended recipient, or an employee or agent responsible for delivering the quotation to the intended recipient, you are hereby notified that a dissemination, distribution or copying of this quotation is strictly prohibited. If you have received this quotation in error, please notify us immediately by telephone and return the original quotation to us by mail. All warranties stated refer to Dell equipment only. DMR is not responsible for any lost or corrupted data. Thank you.				<b>Total</b>						Quantity specified in this quotation is the minimum quantity required for the given pricing. DMR reserves the right to reject Purchase Orders that do not meet minimum quantity requirement.	
To accept this quotation and provide authorization to order, please remit Purchase Order to address above.				Data Management Resources is a Dell Certified Partner and maintains A+, DCSE, and VMware certified in-house technicians. ISO certification furnished upon request. For hardware technical support, please call (671) 647-3674.							



ITEM NO. 3



EXHIBIT 8 to DMR'S APPEAL  
FROM DECISION ON PROTEST  
Page 1

The power to do more

## Latitude 2120

A compact computing solution or an affordable secondary PC for staying in touch on the road, Dell™ Latitude™ 2120 has the features and flexibility to help you achieve more every day, from virtually anywhere with its mobile broadband options and collaboration features such as webcam, microphone or natural gestures enabled high-definition multi-touch screen.

### Discover Smart Functionality

Business doesn't stop moving just because you're on the road and many desktop users could benefit from an affordable mobile device for collaboration. With the flexible, feature-rich Dell™ Latitude™ 2120 in their travel case, users can stay in touch and stay productive wherever work takes them. Netbooks are ideal as secondary device for desktop users enabling them with mobile collaboration at an affordable price point; they can also be used as smart computing solutions for seminar or events. Built-in wireless, Ethernet and optional embedded mobile broadband\* help users stay connected to the Internet, your valued data and even your Flexible Computing virtualized environment. A built-in digital microphone, along with optional multi-touch screen and webcam, can help make experiences such as digital collaboration a natural and productive experience. Form meets function in Latitude 2120 vibrant, rubberized outer casing, which gives adds protection against carry-on bags and other road hazards.

### Discover True Flexibility

The Dell Latitude 2120 lightweight design is perfect for occasional mobility needs, secondary system or shared device. Choose the needed features to work smarter every day and add touches that tell the world the Latitude 2120 is truly yours. Depending on usage needs the netbook flexible and eye-catching displays can be purchased with three optional anti-glare LED displays, including a high-definition resolution with multi-touch natural gestures and image rotation option. An innovative 3 year long-life battery option (coming soon) that comes with a three year warranty, providing a simple solution to enable the netbooks mobility during his whole lifecycle, is just one of the battery options available to help keep users productive. The Dell Latitude 2120 now feature an Intel® Atom™ N550 dual core processor option to support more computing intensive applications as well as multi-tasking productivity and supports multiple operating system options such as Genuine Windows Vista®, Windows® 7 or Ubuntu Linux: get the operating system that fits the your business requirements, right out of the box. Latitude 2120 also supports Citrix™ and VMWare™ remote connections for deployment in flexible computing environments.

### Discover Core Fundamentals

No matter what size your organization is Latitude 2120 gives you an affordable mobile computing solution that includes all the core fundamentals of the business-proven Dell Latitude family. Using Latitude 2120's optional full systems-management support (e.g., wake-on LAN, ASF, SMS), your IT staff can enable users occasional mobility needs such as secondary controlled systems for desktop users or meeting collaboration solutions. Take advantage of the Latitude commitment to image stability and image management through Dell's Custom Factory Integration program, and get the support you need now and later with optional Dell ProSupport services<sup>2</sup>. Push updates overnight via the Dell Mobile Computing Station (sold separately) and remote system management solutions such as Dell KACE.



Dell Mobile Computing Station (sold separately, only available in select countries)

EXHIBIT 8 to DMR'S APPEAL FROM DECISION ON PROTEST Page 2

Feature	Technical Specification
Model Number	Latitude 2120
Processor Options	Intel® Atom® Processor N455, N550 Dual Core
Operating System Options	Genuine Windows® 7 Starter, 32-bit Genuine Windows® 7 Home Basic 32-Bit Genuine Windows® 7 Home Premium 32-Bit Genuine Windows Vista® Business 32-bit Genuine Windows Vista® Home Basic 32-Bit N-series Ubuntu N-series Free DOS
Memory <sup>1</sup>	DDR3 SDRAM (667MHz) 1GB 1DIMM or 2GB 1DIMM
Chipset	Intel NM10
Graphics <sup>2</sup>	Intel® Graphics Media Accelerator 3150 Intel® GMA w/ Broadcom Crystal HD Media Accelerator
Display Options	10.1" WSVGA (1024x600) Anti-glare LED-backlit 10.1" HD (1366x768) Anti-glare LED-backlit 10.1" HD (1366x768) Anti-glare LED-backlit with Multi-Touch
Storage Options	5400rpm SATA up to 250GB <sup>2</sup> 7200rpm SATA up to 320GB <sup>2</sup> Mobility Solid State up to 128GB <sup>2</sup>
Optical Drives	External USB DVD+/-RW
Multimedia	Headphone/Microphone jack
Battery Options	3-cell (28Wh) Lithium ion battery with ExpressCharge™ 6-cell (56Wh) Lithium ion battery with ExpressCharge™ 6-cell (54 Wh) 3 Year Warranty Lithium ion battery. This battery will be available in April 2011
Power Options	65 Watt AC Adapter 90W Auto/Air DC adapter (optional)
Connectivity Options <sup>3</sup>	10/100/1000 Gigabit Ethernet  <b>Wireless LAN and WiMax Options:</b> Broadcom BGN (802.11 b/g/n 1x1) Broadcom AGN (802.11 a/g/n 2x2) Intel® Centrino® Advanced -N + WiMAX 6250  <b>Optional Mobile Broadband<sup>4</sup> &amp; GPS:</b> Dell Wireless™ s 5630 Multi-mode HSPA-EVDO Mini Card (Gobi™ 3000) with A-GPS. This option will be available in March 2011 Dell Wireless™ s 5550 Single-mode HSPA Mini Card with A-GPS. This option will be available in March 2011, US & China only All Latitude 2120 have built-in mobile broadband antennas for future upgrade <b>Bluetooth:</b> Dell Wireless 375 Bluetooth® 3.0
Ports, Slots & Chassis	Network connector (RJ-45) USB 2.0 (3) Stereo headphone/Microphone combo jack 3-in-1 card reader VGA 1 Full and 1 Half Mini Card Slots Dual Kensington slots
Dimensions & Weight <sup>5</sup>	Width: 10.43" / 265.0mm Height: (front/back) 0.89-1.57" / 22.5-39.9mm Depth: 7.36" / 187mm Preliminary Starting weight: 2.90lbs / 1.31kg (with 3-cell battery)
Regulatory and Environmental Compliance	Regulatory Model: P02T Regulatory Type: P02T002 Energy Star 5.0 EPEAT Silver; US Consumer Product Safety Certificate
Input Options	Standard Keyboard; Optional tamper-resistant keyboard design with anti-microbial protection <sup>6</sup> Multi-Touch Screen (HD panel only)

1. GB means 1 billion bytes and TB equals 1 trillion bytes; significant system memory may be used to support graphics, depending on system memory size and other factors
2. GB means 1 billion bytes and TB equals 1 trillion bytes; actual capacity varies with preloaded material and operating environment and will be less
3. Where wireless access is available, additional access charges apply in some local areas
4. Mobile Broadband. Subject to wireless provider's broadband subscription and coverage area, additional charges apply.
5. Weights vary depending on configuration and manufacturing variability.
6. Keyboard surface treated with Agion® antimicrobial product protection. Fully registered by US EPA. Antimicrobial product protection is limited to the treated article. Such protection does not extend to the user.
7. Availability and terms of Dell Services vary by region. For more information, visit [www.dell.com/services/descriptions](http://www.dell.com/services/descriptions)

Discover Latitude 2120 on  
[dell.com/latitude](http://dell.com/latitude)

Latitude 2120



The power to do more



JUL 29 2011  
2:40 PM AC  
FILE NO. OPA-PA-11-015

Jacqueline Taitano Terlaje, Esq.  
Rachel Taimanao-Ayuyu, Esq.  
**LAW OFFICE OF JACQUELINE TAITANO TERLAJE, P.C.**  
888 North Marine Corps Drive, Suite 215  
Tamuning, Guam 96913  
Telephone 671.648.9001  
Facsimile 671.648.9002  
Email: [info@terlajelaw.com](mailto:info@terlajelaw.com)

Attorneys for *Data Management Resources, LLC*

**THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM**  
**HAGATNA, GUAM**

In the Appeal of ) NOTICE OF APPEAL FROM DECISION ON  
) PROTEST  
DATA MANAGEMENT RESOURCES, )  
LLC, Appellant ) DOCKET NUMBER. OPA-PA-11-015  
)  
) **SUPPLEMENT TO NOTICE OF APPEAL**

Comes now Appellant Data Management Resources, LLC, through the undersigned, and submits a Supplement to its Notice of Appeal in the above matter.

Appellant references and appeals from a July 19, 2011 decision by the Guam Community College (hereinafter "GCC") by its legal counsel, denying Appellant's May 19, 2011 Protest. Although the July 19, 2011 decision is part of GCC's procurement record in GCC-FB-11-007, Appellant supplements its Notice with a true and correct copy of GCC's Decision on Protest attached hereto.

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

By:   
**JACQUELINE TAITANO TERLAJE**  
Attorneys for Appellant  
*Data Management Resources, LLC*

**COPY**

SUPPLEMENTAL ATTACHMENT TO DMR'S NOTICE OF APPEAL  
FROM DECISION ON PROTEST OPA-PA-11-015

Page 1

**CABOT  
MANTANONA LLP**

Attorneys at Law

Cesar C. Cabot, Esq.  
Rawlen M.T. Mantanona, Esq.  
David P. Ledger, Esq.  
Heikel S. Hemminger, Esq.  
Sarah A. Strock, Esq.  
David J. Guerleri, Jr., Esq.  
Caitrina M. Campana, Esq.

July 19, 2011

VIA FACSIMILE (671) 648-9002

Jacqueline Taitano Terlaje  
888 North Marine Corps Drive  
Star Building, Suite 215  
Tamuning, Guam 96913

**Re: Denial of Protest in RE GCC-FB-11-007**

Dear Ms. Terlaje:

This letter is a formal denial of your May 19, 2011 protest relating to the award of Items No. 1 and 4 and the protest of the "no award" for Item No. 3. You have the right to pursue all administrative and judicial remedies.

**1. Responsiveness of Sanford Technology Group:**

In your protest dated May 19, 2011, you claim that Sanford Technology Group's ("Sanford") bid was non-responsive for failure to comply with the Assurance of Compliance for the Buy American Act on bid opening on April 15, 2011.

As noted in your letter, the reason Sanford did not submit the Compliance Certification is because on April 4, 2011 Sanford was the first vendor to pick up the packet and the Materials Management Office did not have a complete set of bid documents prepared at that time.

After the Materials Management Office realized the documents were missing, Sanford was contacted to pick up those documents: Special Reminder to Prospective Bidders (1 page), Terms and Conditions (Section 43-47- 2 Pages) which were provided in the submission. The Assurance of Compliance for the Buy American Act forms were not included in the Sanford Technology Group's Bid packet at the time of the bid opening.

GCC took reasonable steps to remedy this omission and contacted Sanford to pick up the Assurance of Compliance form to be notarized. The Compliance Certification was retrieved from GCC on April 27, 2011. The notarized document was submitted by Sanford Technology on Tuesday, May 3, 2011.

DMR Response  
Page 2 of 3

SUPPLEMENTAL ATTACHMENT TO DMR'S NOTICE OF APPEAL  
FROM DECISION ON PROTEST OPA-PA-11-015

Page 2

The late retrieval of the Assurance of Compliance for the Buy American Act forms and submission of the form on May 3, 2011 is not a case of non responsiveness on the part of Sanford Technologies. Matters involving bidder qualification are a matter of responsibility, and do not prejudice other bidders because they do not involve issues of price, quantity, quality, delivery, or contractual conditions.

Because this is a matter of responsibility, the proper time frame for the GCC determination of responsibility of the Sanford bid was prior to award, not at the bid opening on April 15, 2011. Unlike responsiveness decisions, responsibility determinations are based on the information supplied or available up to the time of award. In the Appeal of Jones and Guerrero Co., Inc., dba J & G Construction, OPA-PA-07-005.

The acknowledgment by Sanford that the Compliance Certification was a specification required to be submitted with its bid does not change the issue of one of responsibility into one of responsiveness. As stated in the Appeal of Jones and Guerrero Co., case, "subject matter dealing with bidder responsibility cannot be metamorphosized into an issue of responsiveness simply by inserting a provision in the IFB requiring rejection of bids that do not apply." The General Services Administration Board of Contract Appeals held in Employers Sec. Co., GSBICA 6917, 85-1 BCA 17, 885, that the requirement that a bidder possess an operating license properly goes to an issue of responsibility, despite language in the solicitation stating that it affects responsiveness. Id.

The late acceptance of the Assurance of Compliance form by GCC does not merit a revocation of the award of Items No. 1 and 4 to Sanford. Because this was an issue of bidder qualification relating to the responsibility of the bidder it was within GCC's discretion to determine that Sanford was a responsible bidder and award Items 1 and 4. GCC rejects your protest of the award of Items No. 1 and 4.

**2. DMR was non-responsive to Item No. 3:**

On May 5, 2011 GCC notified DMR that it did not intend to award Item No. 3. GCC based this decision on the "unsubstantiated, unavailable product, vendor or manufacturer information for the following category: "High Capacity 6 Cell Up to 14 Hours of Battery Life Weight 4 lbs or less with battery".

DMR's submission of its bid did not meet the minimum specifications and DMR was non-responsive for failure to confirm that the weight of the Netbook with a 6 cell battery does not exceed the weight limit of 4 pounds.

The technical specifications for the Latitude 2120 provided by the DMR bid note that the Preliminary Starting Weight of the Latitude 2120 is 2.9 lbs (**with a 3 cell battery**).

DMR Response  
Page 3 of 3

SUPPLEMENTAL ATTACHMENT TO DMR'S NOTICE OF APPEAL  
FROM DECISION ON PROTEST OPA-PA-11-015  
Page 3

In your protest dated May 19, 2011, you state that the 6 Cell primary battery has a life of up to 60 hours, and a weight of 3.26 pounds with a 6-cell battery. However, the responsiveness of the bidder is determined only on the basis of information submitted with the bid and facts available at the time of bid opening and is determined at the bid opening date. 5 G.C.A. 5201 [g]; 2 G.A.R. DIV 4 Chap. 2 Section 3109 [n][1] provides, "The initiation for Bids shall set forth the requirements and criteria which will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirement or criterion that is not disclosed in the Invitation for Bids." In the Appeal of Jones and Guerrero Co., Inc., dba J & G Construction, OPA-PA-07-005.

GCC therefore rejects the protest of the DMR protest of the non-award of Item No. 3 on the grounds that the DMR bid was non-responsive.

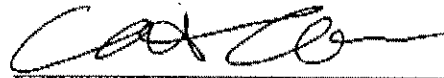
GCC has authority to reject DMR's bid under both Guam Procurement Law and the terms of the Bid Invitation. See General Terms and Conditions, Sealed Bid Solicitation and Award (24): Award, Cancellation, and Rejection: "The Chief Procurement Officer shall have the authority to award, cancel, or reject bids, in whole or in part for any one or more items if he determines it is in the public interest." See 5 GCA § 5225: "An Invitation for bids, a request for proposals, or any or all bids or proposals may be rejected in whole or part as may be specified in the solicitation, when it is in the best interests of the Territory in accordance with regulations promulgated by the Policy Office." 2 GAR § 3115(e)(2): "Each solicitation issued by the territory shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the Territory...." DMR's bid for Item no. 3 was non-responsive, therefore it is in the best interest of the territory to reject the bid.

Accordingly, DMR's May 19, 2011 protest is denied and you have the right to pursue all administrative and judicial remedies. Please let me know if you have any questions regarding this matter.

Regards,

**CABOT MANTANONA LLP**  
Attorney for Guam Community College

By:



**CATRINA M. CAMPANA**

SUPPLEMENTAL ATTACHMENT TO DMR'S NOTICE OF APPEAL  
FROM DECISION ON PROTEST OPA-PA-11-015

Page 4

**CABOT  
MANTANONA LLP**  
Edge Bldg., Second Floor  
929 South Marine Corps Drive  
Tamuning, Guam 96913

Attorneys-at-Law  
Cesar C. Cabot, Esq.  
Rawlen M.T. Mantanona, Esq.  
David P. Ledger, Esq.  
Heikei S. Hemminger, Esq.  
David J. Guerrieri, Jr., Esq.  
Catrina M. Campana, Esq.

**FACSIMILE TRANSMITTAL SHEET**

**TO:** Jacqueline T. Terlaje, Esq.  
LAW OFFICES OF JACQUELINE TAITANO TERLAJE

**FACSIMILE #:** 671- 648-9002

**FROM:** CATRINA M. CAMPANA

**DATE:** July 19, 2011

**CLIENT/  
MATTER:** Denial of Protest in RE GCC-FB-11-007

NO. OF PAGES INCLUDING THIS TRANSMITTAL SHEET: 4 Page(s)

---

**COMMENTS:**

Please see the attached letter regarding the above matter.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Stacy Cuasito  
*Legal Secretary*

---

*The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.*

Please contact Stacy at 646-2001 if this transmission is incomplete or illegible.

Si Yu'os Ma'ase

JUL 29 2011

2:40 PM AZ

FILE NO. OPA-PA-11-015

Jacqueline Taitano Terlaje, Esq.  
Rachel Taimanao-Ayuyu, Esq.  
**LAW OFFICE OF JACQUELINE TAITANO TERLAJE, P.C.**  
888 North Marine Corps Drive, Suite 215  
Tamuning, Guam 96913  
Telephone 671.648.9001  
Facsimile 671.648.9002  
Email: [info@terlajelaw.com](mailto:info@terlajelaw.com)  
Attorneys for *Data Management Resources, LLC*

**THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM**  
**HAGATNA, GUAM**

In the Appeal of ) REQUEST/WAIVER OF HEARING  
)  
DATA MANAGEMENT RESOURCES, )  
LLC, Appellant )  
) DOCKET NUMBER. OPA-PA-11-015  
)

Please select one:

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

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

Submitted this 29<sup>th</sup> day of July, 2011.

By:

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

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

By:   
\_\_\_\_\_  
**JACQUELINE TAITANO TERLAJE**  
Attorneys for Appellant  
*Data Management Resources, LLC*

**COPY**