

MAR 04 2010

TIME: 3:30 pm
BY: mlh
FILE No. OPA-PA 10-002



Office of the Attorney General
Alicia G. Limtiaco
Attorney General of Guam
Civil Division
287 West O'Brien Drive
Hagåtña, Guam 96910 • USA
Tel. (671) 475-3324 • Fax (671) 472-2493
www.guamattorneygeneral.com

Attorneys for the General Services Agency, Government of Guam

BEFORE THE OFFICE OF THE PUBLIC AUDITOR

Procurement Appeal

In the Matter of the Appeal of)	DOCKET NO. OPA-PA 10-002
Teleguam Holdings, LLC)	
)	
D/B/A GTA Telecom,)	RESPONSE MEMO TO APPELLANT'S
)	COMMENTS ON AGENCY REPORT
Appellant.)	
)	
)	

1. False statements in the Protest. The appeal of Appellant in this matter is necessarily predicated upon the content of its 16 December 2009 Protest. It is incorrectly stated in the Protest that “[t]he Aastra 480 is not compatible with a digital phone system. The Aastra is a VOIP phone”. No substantiation was given for these false statements and there is none.
2. Substantial compliance. Nearly as old as procurement law itself, is the time-honored maxim that the bid of one proposing to contract for the doing of a public work must substantially conform to the specifications in the invitation to bid. See: Urbany v. City of

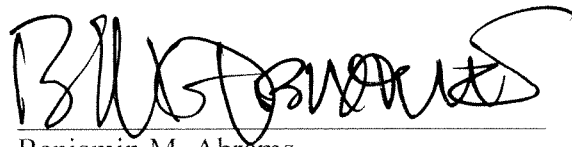
Carroll, (Iowa Supreme Ct., 1916) 157 N.W. 852, 854; Weed, P. & Co. v. Beach (1879) 56 How. Pr. (N.Y.) 470; Chippewa Bridge Co. v. Durand (1904) 99 N.W. 603

3. A digital “system”. To characterize the Pacific Data Systems as anything less than a digital system is fallacious. The mere fact that some componentry of the PDS bid may have been analog as well as digital in function, does not render the entire PDS “system” non-digital. In fact the PDS “system” is digital. The bid specifications themselves called for analog backup components, which of course does not detract from the digital nature of the overall system.

Dated this 4th day of March 2010.

OFFICE OF THE ATTORNEY GENERAL
Alicia G. Limtiaco, Attorney General

By:



Benjamin M. Abrams
Assistant Attorney General