

**Anne Camacho**

**From:** Rebecca M. Perez (Attorney) [rebecca.perez@gdoe.net]  
**Sent:** Wednesday, June 08, 2011 5:07 PM  
**To:** Anne Camacho; Jehan'Ad G. Martinez; anthony camacho; Doris Flores Brooks; info@terlajelaw.com  
**Cc:** legal-admin@gdoe.net  
**Subject:** RE: Protest No. OPA-PP-11-008

Hello Anne –

Pursuant to your direction of yesterday, the Proposed Resolution to Protest OPA-PP-11-008, as agreed upon by GDOE and the Protestor, is attached for review by the Hearing Officer and Public Auditor.

Counsel for Data Management Resources, an Interested Party to this matter, is also copied on this mail.

Thank you,

Rebecca M. Perez  
Legal Counsel  
Guam Department of Education

|                                 |         |
|---------------------------------|---------|
| <b>RECEIVED</b>                 |         |
| OFFICE OF PUBLIC ACCOUNTABILITY |         |
| DATE:                           | 6/8/11  |
| TIME:                           | 5:07 PM |
| BY:                             | AE      |



herein and said parties hereby request approval of the resolution by the Hearing Officer and Public Auditor.

**RESPECTFULLY SUBMITTED** this ---- day of June, 2011.

BY: \_\_\_\_\_  
**REBECCA M. PEREZ**  
*Attorney for the Government of Guam, Department of Education*

BY: \_\_\_\_\_  
**JEHAN'AD G. MARTINEZ**  
*Attorney for Sanford Technology Group*

S63\69129-01  
G:\FLD\JGM\284-PROPOSED AMENDMENT NO GPA-EP-11-008 RE DOE FEB 006-2011.DOC



Nerissa Bretania Underwood, Ph.D.  
Superintendent of Education

**DEPARTMENT OF EDUCATION  
OFFICE OF SUPPLY MANAGEMENT**

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Marcus Y. Pido  
Supply Management, Administrator

AMENDMENT NO. 2

June 8, 2011

**Prospective Offerors:**

Please refer to our Invitation For Bid No. GDOE IFB 006-2011, Gateway to Success Indefinite Quantity of Laptops and Mobile Labs a copy of which was issued to your company for your consideration.

Please note that corrections and/or changes have been made to the specified sections of the original IFB as listed below:

1. Page 16, Section 2.5.4 – Bond Requirements and Performance Guarantees:

The above referenced IFB is Federally funded, therefore, governed in part by Federal procurement regulations. These regulations disallow the Guam Department of Education ("GDOE") from requiring any of the following financial protections in connection with this non-construction procurement: Bid Bond/Guarantee; Performance Bond/Guarantee; Payment Bond/Guarantee; and Surety Bonds. Although Federal procurement regulations provide discretion to GDOE, as a Federal grantee, to apply certain exceptions to the barring of use of the aforementioned financial protections, GDOE declines to do so in connection with the above referenced IFB. FAR Part 28.1.

Considering the foregoing, all potential bidders and interested parties should disregard and/or remove Section 2.5.4 – BOND REQUIREMENTS AND PERFORMANCE GUARANTEES, in its entirety, from the above referenced bid and are invited to prepare their respective bids free of any bonding or other financial protection requirements. In the spirit of clarity, the following text from the original and official IFB appearing immediately below and between the double lines (beginning on page 1 and ending on page 3) shall be disregarded and/or removed from the IFB.

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**2.5.4 – BOND REQUIREMENTS AND PERFORMANCE GUARANTEES**

**2.5.4.1 – BID BOND REQUIREMENTS FOR CONTRACT AMOUNTS IN EXCESS OF \$15,000**

Bidders submitting bids in response to a procurement that will result in a contract amount in excess of \$15,000.00 must meet the bid guarantee requirements stipulated below in this section. Bidders are required to complete the Bid Bond Form in **Section 5** labeled as "GDOE Procurement Form 003" if providing a surety bond for security. Bidders choosing to provide a cashier's check, certified check, or letter of credit are not required to submit "GDOE Procurement Form 003" but should provide the cashier's check, certified check, or letter of credit and a copy of same attached to its bid submission in lieu of "GDOE Procurement Form 003".

#### **2.5.4.2 – BID GUARANTEE REQUIREMENT**

Bidder is required to submit a Bid Guarantee Bond or standby irrevocable Letter of Credit or Certified Check or Cashier's Check in the same bid envelope to be held by the Government pending award. The Bid Guarantee Bond, Letter of Credit, Certified Check or Cashier's Check must be issued by any local surety or banking institution licensed to do business on Guam and made payable to the Treasurer of Guam in the amount of fifteen percent (15%) of his highest total bid offer. The Bid Bond must be submitted on Government Standard Form BB-1 (copy enclosed). Personal Checks will not be accepted as Bid Guarantee. If a successful Bidder (contractor) withdraws from the bid or fails to enter into contract within the prescribed time, such Bid guarantee will be forfeited to the Government of Guam. Bids will be disqualified if not accompanied by Bid

Bond, Letter of Credit, Certified Check or Cashier's check. Bidder must include in his/her bid, valid copies of a Power of Attorney from the Surety and a Certificate of Authority from the Government of Guam to show proof that the surety company named on the bond instrument is authorized by the Government of Guam and qualified to do business on Guam. For detailed information on bonding matters, contact the Department of Revenue and Taxation. Failure to submit a valid Power of Attorney and Certificate of Authority on the surety is cause for rejection of bid. (GPR Section 3-202.03.3) **Pursuant to Public Law 27-127, all competitive sealed bidding for the procurement of supplies or services exceeding \$25,000.00 a 15% Bid Security of the total bid price must accompany the bid package.**

#### **2.5.4.3 – PERFORMANCE BOND REQUIREMENT**

Bidder will be required to furnish a Performance Bond on either a Government Standard Form PB-1, standby irrevocable Letter of Credit or Certified Check or Cashier's Check payable to the Treasurer of Guam issued by any of the local Banks or Bonding Institution in the amount equal to **one hundred percent (100%)** of the contract prices as security for the faithful performance and proper fulfillment of the contract. In the event that any of the provisions of this contract are violated by the Contractor, the Supply Management Administrator shall serve written notice upon both the Contractor and the Surety of its intention to terminate the contract. Unless satisfactory arrangement or correction is made within ten (10) days of such notice the contract shall cease and terminate upon the expiration of the ten (10) days. In the event of such termination, the Supply Management Administrator shall immediately serve notice thereof upon the Surety. The Surety shall have the right to take over and perform the contract, provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing of notice of termination, the Government may take over and prosecute the same to complete the contract or force account for the account and at the expense of the Contractor, and the Contractor and his Surety shall be liable to the Government for any excess cost occasioned the Government thereby (GDOEPR Section 3.9.3.4.) Insert new provisions of Performance Bond by P.L. 27-127.

#### **2.5.4.4 – PERFORMANCE GUARANTEE**

Bidders, who are awarded a contract under this solicitation, guarantee that goods will be delivered or required services performed within the time specified. Failure to perform

the contract in a satisfactory manner may be cause for suspension or debarment from doing business with the Government and to enforce Section 23 of these General Terms and Conditions. In addition, the Government will hold the Vendor liable and will enforce the requirements as set forth in Section 41 of these General Terms and Conditions.

**2.5.4.5 – SURETY BONDS**

Bid and Performance Bonds coverage must be signed or countersigned in Guam by a foreign or alien surety's resident general agent. The surety must be Insurance Company, authorized by the government of Guam and qualified to do business in Guam. Bids will be disqualified if the Surety Company does not have a valid Certificate of Authority from the Government of Guam to conduct business in Guam.

All else remains the same.

**Please acknowledge receipt of this document by signing below and return acknowledgment via fax: (671) 472-5001.**



MARCUS Y. FIDO

**Acknowledge Receipt**

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_ AM/PM  
(Date) (Time)