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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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FILED A-PA 11-003

5 IN THE OFFICE OF PUBLIC ACCOUNTABILITY
6 PROCUREMENT APPEAL

7 In the Appeal of)

APPEAL NO. OPA-PA 11-003

8 DATA MANAGEMENT RESOURCES,)
9 LLC.)

Reply To Appellant's Motion

Appellant.)
10 _____)

11 1. DOE is willing to waive its right to formal hearing on the matter and submit the matter on the record.

12 2. The procurement in IFB 023-2010 is pre-award. DOE issued a Notice of Intent to Award on
13 September 24, 2010 and Appellant filed a protest to that notice. There has not been an award as stated by
14 Appellant in its motion.

15 3. DOE pursuant to 5 GCA Ch 5 § 5425 and § 5451 has expressed its intent to Appellant to not proceed
16 forward with the prior issued Notice of Intent(s) and to revise the notices as set forth in the stipulation of
17 fact below.

18 4. Attorney fees have been requested by Appellant and are objected to by DOE. Attorney fees are not
19 part of the remedies forth in § 5425 (h) which specifically excluded attorney fees and states as follows:
20 "the protestant shall be entitled to reasonable costs incurred in connection with the solicitation and
21 protest, including bid preparation costs, excluding attorney's fees."

22 5. DOE's Supply Management Administrator is authorized to waive minor informalities under § 3.9.13.4
23 (1) and pursuant to the Superintendent's delegation of authority under § 2.5 of the DOEPR.

24 6. DOE's Supply Management Administrator has subsequently determined that what was believed to be a
25 minor informality is not and DOE has met with Appellant with regard to the issues.

1 7. DOE has proposed the following stipulation of facts to Appellant and to the extent stated in Appellant's
Motion agrees to the following:

2 Stipulation of Facts:

3 (a) On August 16, 2010 GDOE issued IFB 023-2010 Outright Purchase of Computer Systems
and Multimedia Equipment Items # 1 - #11, and 16 prospective bidders picked up bid packages.

4 (b) On September 14, 2010 the bid closed and 5 bid submittals were received. GDOE Bid
5 Abstract of the Bids of the same date indicated that the following as to the apparent lowest
responsive responsible bidders for the Items #1 thru # 11.

6	Items # 1, # 2, # 6, #8, #9, # 11	Micro Fidelios Micronesia, Inc.
7	Items # 5, #7	ME International Inc.
8	Items # 4, #10	Comp Pacific
9	Item # 3	Data Management Resources, LLC.
		Guam Technology Associates Inc.

10 (c) On September 23, 2010 GDOE completed its Bid Analysis & Recommendation.

11 (d) On September 24, 2010 GDOE sent notice to the Bidders of its Intent to Issue Awards as listed
in No. 2 above.

12 (e) On October 4, 2010 Data Management Resources, LLC (DMR) filed a protest with regard to
the portion of the intent to award Item # 1 to Micros-Fidelio Micronesia, Inc. Item # 1 consists of
13 (f) Genuine Windows 7 Professional 32 bit, (b) Internal English Keyboard with Anti-Microbial
Protection, and (c) Integrated 10/100/100 Ethernet.

14 (g) On March 15, 2011 GDOE stipulated that the bid requirement that Item # 1 (b) have "Anti-
Microbial Protection" was material to the bid and not a minor informality that can be waived.

15 (h) The bid proposal of Micro Fidelios Micronesia, Inc. with regard to Item # 1 (b) does not meet
the bid requirement in that it does not have "Anti Microbial Protection"; and therefore with regard
16 to Item # 1 it is not GDOE's intent to award to Micros Fidelio Micronesia, Inc.


17 (i) The next apparent lowest, responsive and responsible bidder for Item # 1 is Comp Pacific. The
bid proposal of Comp Pacific with regard to Item # 1 (b) does not meet the bid requirement in that
18 it does not have "Anti Microbial Protection", and therefore with regard to Item #1 it is not
GDOE's intent to award to Comp Pacific.

19 (j) GDOE pursuant to its authority under 5 GCA Chapter 5, Section 5425 (b), would like to
mutually resolve the issues in this matter and wants to proceed with awarding the bids in GDOE
20 IFB 023-2010.

21 (k0) With regard to Item # 1 GDOE modifies its September 24, 2010 Notice of Intent to Award to
be an intent to award Item #1 in addition to Item # 3 to DMR.

22 (l) With regard to all other Items (# 2, #4, #5, #6, #7, #8, #9, #10 and #11) it is GDOE's intent to
23 continue with the awards as set forth in its September 24, 2010 letter.

24 Respectfully submitted,

25 
Laura J. Mooney
DOE Legal Counsel
