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Attorneys for Petitioner
Data Management Resources, LLC.

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
JUL 21 2012
TRC: 3:30 pm
FILE NO. OPA-PA- 12-007

THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM
HAGÁTÑA, GUAM

In the Appeal of) DOCKET NUMBER. **OPA-PA-12-007**
)
) **AFFIDAVIT OF RICHARD C. TAITANO IN**
) **SUPPORT OF APPELLANT’S OPPOSITION**
DATA MANAGEMENT RESOURCES, LLC.,) **TO GOVERNMENT’S MOTION TO DISMISS**
) **AND VACATE PROCUREMENT AND**
Appellant.) **REQUEST TO STRIKE**
)
)

RICHARD C. TAITANO hereby deposes and states as follows:

1. I am the authorized representative of Data Management Resources, LLC. (“DMR”); I make this Affidavit of my own personal knowledge, unless stated upon information and belief, and will testify truthfully to the contents herein if called upon to do so.

2. On or about June 15, 2012, I received a copy of the Office of the Attorney General’s filed Motion to Dismiss and Vacate Procurement (hereinafter “GSA Motion”). I was disturbed by the unfounded and outrageous allegations made by Attorney General Benjamin Abrams (“Abrams”). Upon information and belief, the statements made against DMR, as addressed below, by Abrams is unfounded and defamatory in nature.

COPY

1 3. Upon information and belief, I believe that the statements made against my company are
2 defamatory, and I ask that the Office of Public Accountability strike the Motion to Dismiss; specifically,
3 I am requesting that the document be stricken from the internet due to the lack of truth and veracity in
4 the statements made.

5 4. ¶6 of the Motion to Dismiss unjustly and falsely implies that DMR and the Chief
6 Procurement Officer committed wrongful conduct in the procurement process. While the statement of
7 attorney Abrams states that there is an “investigation” of “collusion,” this also necessarily implies that
8 DMR falsely provided a sworn affidavit in its bid to the Government of Guam. This is a serious
9 allegation made by attorney Abrams, is completely unfounded, and DMR contests any allegation of
10 collusion.
11

12 5. ¶8 of the Motion to Dismiss falsely and without any justification accuses DMR of “. . .
13 without any apparent authorization by GovGuam, took it upon itself to lay in a short haul fiber optic
14 cable . . .” directly linking DMR to “GovGuam[’s] datacenter.” DMR does not deny that there exists an
15 underground fiber optic cable. However, as set forth in correspondence dated May 6, 2009, DMR was
16 authorized to proceed with the inlay of the fiber optic cable without cost to the Government of Guam for
17 which one the stated purposes was to provide services to the Government of Guam. A true and correct
18 courtesy-copy of the letter dated May 6, 2009, is attached hereto as Exhibit 1.
19

20 6. Throughout the Motion to Dismiss, attorney Abrams states that DMR has “direct and
21 continuous access to confidential and sensitive GovGuam data”. DMR does not deny it has access to
22 Government data. DMR, however, denies any implication direct, indirect, or otherwise, that its access
23 to Government data is “uncontrolled” or “unrestricted.” Attorney Abrams by omission fails to inform
24 the Public Auditor and the Hearings Officer that the Government of Guam has authorized DMR’s access
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1 to its data is by virtue of its current contracts with the Government of Guam. This blatant omission
2 clearly lacks candor.

3 7. Attorney Abrams further makes unfounded allegations that DMR was involved in an
4 anticompetitive scheme to deprive the Bank of Guam from competing in the procurement process.
5 Upon information and belief, Bank of Guam did not submit a bid nor did it lodge any protest that it was
6 unable to formulate a bid based on the lack of information attorney Abrams now claims.

7
8 8. While Attorney Abrams goes to great lengths to disparage DMR, as having some form of
9 competitive advantage in the procurement process due to its status as an incumbent vendor, the same
10 could be said of every vendor currently contracted with the Government of Guam.

11 9. DMR was recently interested in participating in Invitation for Bid IFB-11-2012 (IFB)
12 with the Department of Education. I requested clarification of the unequal bidding specifications in the
13 procurement process because the bid called for a training component for all non-Cisco platform bidders,
14 while those providing a Cisco brand were not required to provide any training. I believed that this
15 created unequal bidding specifications and an anti-competitive environment. Government of Guam,
16 however, did not agree that its preference for its incumbent platform created an anti-competitive
17 environment. I also requested for network drawings to enable DMR to accurately provide the equipment
18 requested in the IFB. However, Government of Guam refused to provide the network drawings; upon
19 information and belief, the incumbent vendor had the information available to it whilst all other bidders
20 did not. Notwithstanding, that the Government now asserts in this procurement that DMR has unfair
21 competitive advantage; however, the Government was not concerned with these same issues in the IFB.
22 Upon information and belief, the Office of the Attorney General was required to approve the purchase
23 order since it exceeded Five Hundred Thousand (\$500,000.00). For your reference, I have attached a
24 true and correct copy of the response provided to me in the IFB as Exhibit 2.
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I declare under penalty of perjury of the laws of Guam that the foregoing is true and correct to the best of my knowledge.

EXECUTED in Hagatna, Guam on this 21st day of June, 2012.



RICHARD C. TAITANO

SUBSCRIBED AND SWORN before me on this 21st day of June, 2012.



Notary Public

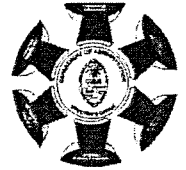
PRISCILLA CASTRO TORRES
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: **Mar. 05, 2016**
P.O. Box 1119 Hagatna, Guam 96932



Felix P. Camacho
Governor
Michael W. Cruz
Lieutenant Governor

GOVERNMENT OF GUAM
(Gubetnomention Guahan)
DEPARTMENT OF ADMINISTRATION
(Dipattamenton Atmenestrasion)
DIRECTOR'S OFFICE
(Ufisinan Direktot)

Post Office Box 884, Hagatna, Guam 96932
Tel: (671) 475-1101/1250 Fax: (671) 477-6788



Lourdes M. Perez
Director
Joseph C. Manibusan
Deputy Director

May 6, 2009

MEMORANDUM

To: Director, Department of Public Works
From: Director, Department of Administration
Subject: Fiber Connection - Hardening

Buenas yan Hafa Adai.


The Department of Administration (DOA) hereby authorizes Data Management Resources, LLC. (DMR) and its designated contractor to harden the current fiber connection between DOA and DMR by replacing the existing aerial fiber with an underground fiber connection such that the new underground connection will provide equivalent or greater connectivity service and speed. All services related to the above shall be performed by DMR and/or its designated contractor at no cost to the Government of Guam.

This work will not impact any Government services being provided on the existing aerial fiber connection.

Kindly provide the necessary permits.

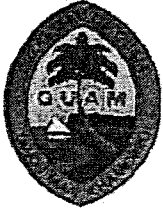
Should you have any questions on this matter, please call me at 475-1232.

Si Yuos Maase.


LOURDES M. PEREZ

cc: Rich Taitano, DMR

EXHIBIT I
to AFFIDAVIT of R. Taitano



TALING M. TAITANO
Interim Superintendent of Education

DEPARTMENT OF EDUCATION OFFICE OF SUPPLY MANAGEMENT

www.gdoe.net
Manuel F.L. Guerrero / Administration Building
2nd Floor, Suite B-220
Hagatna, Guam 96932
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MARCUS Y. PIDO
Supply Management Administrator

March 2, 2012

ADDENDUM 1

Prospective Bidders:

Please refer to our Invitation for Bid No. 011-2012 E-Rate Network – Internal Connection Network Equipment, a copy of which was issued to your company for consideration.

GENERAL INFORMATION:

Layer 2 Switch, Minimum Specifications

- Page 5, Part A-5 Layer 2 Switch, Minimum Specifications but not limited to: *Shall read:* 10/100/1000 Mbps (Gigabit port speed), Layer 2 Stackable Managed Switch, Quality of service (QoS), Auto-negotiation, Auto-MDIX (media-dependent interface crossover, Port Aggregation, Rate Limiting, VLans, VLAN1 minimization (allows VLAN1 to be disabled on any individual VLAN trunk), Maximum number of Vlans should be at least 150, TFTP, NTP, STP, RSTP, ACL – Standard and Extended, SNMP (v1, v2c, v3), SPAN/Port Mirroring, Port-based Security – Dynamic and Static, SSH and Telnet access.
- The Media Access Control Security (MACsec) should not be part of the layer 2 minimum specification.

UPS Network Management Solution

- Page 5, GDOE is expecting a centralized management solution for the requested Managed UPS.

The following are the answers to questions submitted by prospective Bidders:

Answers to Written Questions Submitted by Data Management Resources, LLC. (DMR)

1) **Question:**

Relative to Parts A-1 and A-2: IFB specifies that the switches are required to have both EIGRP *and* OSPF routing. EIGRP is Cisco proprietary, whereas OSPF is open standard. If equivalent non-Cisco switches are acceptable then please clarify specification that non-Cisco equivalents only require OSPF.

Answer: GDOE recognizes that EIGRP is a Cisco proprietary routing protocol. GDOE's current network equipment (routers and L3 switches) run and operate on the EIGRP protocol. GDOE is currently not positioned to deploy its network on the OSPF routing protocol. GDOE plans to move to the OSPF routing protocol at the beginning of 2013. The requirement is specifically only for Part A-1 and Part A-2 which is vital to the continuous operations of the GDOE network with the introduction of new equipment. Should vendors propose Non-Cisco equivalents for Part A-1 and Part A-2, then the vendor will be responsible (at no cost to GDOE) to ensure and configure their proposed equipment to effectively and efficiently run GDOE's network using the Non-Cisco equipment's OSPF routing protocol.

2) **Question:**

Relative to Part A-3: Will the two 10GE ports be connected to existing GFE via the single mode fiber in the MDF?

EXHIBIT 2

to AFFIDAVIT of R. Taitano

Answer: Yes.

3) Question:

Relative to Part A-3: Is the requirement for one (1) 10Gig connection per MDF switch, or two (2) 10Gig connections per MDF switch?

Answer: Two (2) 10 Gig connection per MDF switch

4) Question:

Relative to Parts A-4 and A-5: The minimum specifications for the Layer 2 switches list 'stackable' managed switches. The Cisco 2960S stacking feature requires extra part number '2960S-STACK.' Is this part number and feature required for all 310 L2 switches?

Answer: NO

5) Question:

Relative to Parts A-4 and A-5: The minimum specifications for the Layer 2 switches list MACsec. The Cisco website doesn't show support for MACsec in the 2960S, rather it does show support for MACsec in the 3750X and 3560X. Should one of these models be used as the L2 switch instead of the 2960S?

Answer: NO. The 3750X and 3560X should NOT be used as the L2 switch. Please refer to the Addendum 1 General Information section for an update to the specification.

6) Questions:

Relative to Part A-6: The IFB specifies 310 optics. The assumption can be made that this equals the 310 L2 switches in the IDFs in A-4 and A-5. Is this assumption correct?

Answer: GDOE requests for 310 optics.

- a. If not, will there be 'stacks' of switches in IDFs that only require 1 optic per stack, therefore providing necessary optics for the MDF side?

Answer: (response not required)

- b. Or is there supposed to be one (1) optic per L2 switch and the number of optics should include both MDF termination (310) and IDF termination (310)?

Answer: GDOE requests for 310 optics

7) Question:

The IFB does not specify the need for PoE (Power over Ethernet). With the recent GDOE contract award for VDI (Virtual Desktop Infrastructure), is the plan for GDOE to extend VDI across the 42 schools?

Answer: GDOE does not request for any PoE (Power over Ethernet) switches.

- a. If so, would GDOE prefer PoE-capable switches instead of the non-PoE switches listed for the IDFs? PoE is a feature that provides power over the ethernet cable to devices like VDI zero or thin clients and wireless APs.

Answer: (response not required)

8) Question:

Will network drawings be made available to bidders so an accurate port/SFP count can be calculated?

Answer: NO.

9) Question:

Since the hardware is expected to eventually be E-Rate funded, is the hardware required to be TAA compliant?

Answer: No, the E-rate program does not require the purchase of hardware to be TAA compliant.

10) Question:

Is the equipment required to be brand new and not refurbished?

Answer: Equipment is required to be NEW and NOT refurbished.

11) Question:

The IFB indicates that vendors who bid on Cisco products do not have to provide pricing for training whereas vendors bidding on non-Cisco products must include training pricing. This creates unequal bidding specifications by which to determine lowest price for the whole part (i.e. vendors who bid on non-Cisco products will always have an additional cost not required of Cisco product vendors). How does the A-7 training component, which is not required of all bidders, meet the competitive provisions of Guam Procurement law?

Answer: GDOE has standardized on the Cisco platform and has trained Cisco personnel for its network. GDOE currently operates on Cisco routers and Cisco switches that run on the Cisco EIGRP proprietary protocol. This standard sets the hardware and software requirements for GDOE's network. GDOE already has Cisco trained and certified personnel to manage the GDOE Cisco network which doesn't require any additional training to manage the current GDOE network. GDOE requires a product that it can self-manage, maintain, and operate with trained and certified personnel. This requirement ensures that the product provides the necessary functionality, security, and maintenance for the GDOE network.

Vendors who provide a non-Cisco branded product with different configurations, different required training, different user-interfaces, different commands, and different certifications without the necessary training provide GDOE with products and a network it cannot manage, secure, or maintain upon installation and after installation. The necessary training and certification for a Non-Cisco branded for product provides GDOE with a complete, functional, and managed technology solution that meets its requirements. The A-7 requirement is necessary to ensure that the technology product is complete and meets GDOE requirements.

12) Question:

Relative to Part B: The IFB requires automatic shutdown of connected devices for all UPS units. Will the UPS units be required to have a process for shutting down network switches?

Answer: NO.

13) Question:

Relative to Part B: Will GDOE provide all the electrical receptacles necessary to provide power to the UPS units procured under this IFB?

Answer: NO – GDOE will not provide the electrical receptacles necessary. GDOE requires the managed 750VA UPS to have a standard NEMA 5 plug which is a standard for GDOE electrical outlets.

a. If not, is the vendor responsible for installing the proper receptacles, or will GDOE

separately procure this?

Answer: Vendor is not responsible for installing the proper receptacles.

14) Question:

Will the vendor be required to replace all existing copper patch cables to be connected to the upgraded network equipment or is the vendor expected to re-use GDOE cables?

Answer: Vendor is expected to re-use GDOE cables.

Answers to Written Questions Submitted by Dell

1) Question:

What type of Layer 3 do you need?

Answer: The Layer 3 Switch Minimum Specifications are, but not limited to:
10/100/1000 Mbps (Gigabit port speed), Layer 3 Stackable Managed Switch – Enterprise grade, IPv4 and IPv6 routing, EIGRP and OSPF routing, Quality of service (QoS), Auto-negotiation, Auto-MDIX (media-dependent interface crossover, Port Aggregation, Rate Limiting, VLANs, VLAN1 minimization (allows VLAN1 to be disabled on any individual VLAN trunk), Maximum number of VLANs should be at least 150, TFTP, NTP, STP, RSTP, ACL – Standard and Extended, Media Access Control Security (MACsec), SNMP (v1, v2c, v3), SPAN/Port Mirroring, Port-based Security – Dynamic and Static, SSH and Telnet access

2) Question:

Static routes or Dynamic routes?

Answer: BOTH.

3) Question:

What Layer 3 protocols do you require?

Answer: OSPF

4) Question:

On the Layer 2 switches, how many multimode transceivers do you need?

Answer: GDOE requests for 310 multimode transceivers

5) Question:

Do you need any stacking capabilities?

Answer: Yes. GDOE requests for the Layer 2 access switches to have stacking capabilities.

6) Question:

Do you need redundancy power supplied?

Answer: No.

7) Statement:

For the network management piece, the options we are looking at is a centralized management solution (incorporating network management cards with the UPS and a centralized management platform) or individual

network management cards in the UPS's. For ease of use, the centralized management solution is recommended for its ease of use and accessibility.

Response: GDOE is expecting a centralized management solution.

Answers to Written Questions Submitted by Pacific Data System (PDS)

1) Question:

Regarding Part A-4 Layer 2 Managed Switch - 48 Gigabit Ethernet Ports: Please verify the referenced model number, should the proper model number reference actually be WS-C2960G-48TC-L.

Answer: The referenced model number is Cisco Catalyst 2960S-48TS-L

2) Question:

Regarding Part A-5 Layer 2 Managed Switch - 24 Gigabit Ethernet Ports: Please verify the referenced model number, should the proper model number reference actually be WS-C2960G-24TC-L.

Answer: The referenced model number is Cisco Catalyst 2960S-24TS-L

3) Question:

Regarding Part A-6 Fiber Module Multi-Mode (SC): Please verify of this module should instead support LC connectors rather than the SC connectors specified.

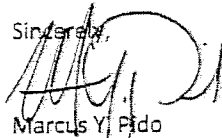
Answer: GDOE currently has SC connectors for its fiber backbone from the MDF to the IDF. GDOE requires SC.

4) Question:

Regarding Part B-1 thru B-3 UPS: Please confirm that GDOE will be responsible to provide any required AC and grounding electrical infrastructure to support the installation of the UPS systems at the locations specified.

Answer: GDOE will be responsible for the electrical infrastructure.

Please acknowledge receipt of this Addendum 1 for IFB 011-2012 by signing below and return the signed document by fax at (671) 472-5001.

Sincerely,


Marcus Y. Pido
Supply Management Administrator

c: Procurement File: GDOE IFB:011 2012

Acknowledge Receipt:

Print Name

Signature

Business Name

Date

Time

AM/PM