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 OFFICE OF PUBLIC ACCOUNTABILITY  
 PROCUREMENT APPEALS  
 JUL 06 2012  
 TIME 4:00PM BY: M. HUFFER  
 FILE NO. OPA-PA-12-007

Attorneys for the General Services Agency

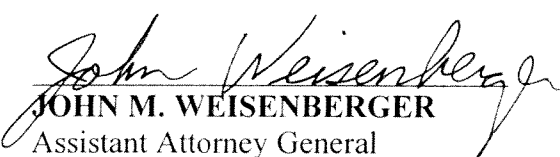
**BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY  
 PROCUREMENT APPEAL**

IN THE APPEAL OF	)	DOCKET NO. OPA-PA-12-007
	)	
DATA MANAGEMENT RESOURCES, LLC.	)	<b>THIRD AUGMENTATION OF</b>
	)	<b>PROCUREMENT RECORD</b>
	)	<b>TRANSMITTAL</b>
Appellant.	)	

The Department of Administration, General Services Agency, by and through its undersigned counsel, submits herewith a third augmentation of the procurement record for Request for Proposal No. RFP/DOA-014-11 (design, develop and implement Point of Sale), of records that have been collected, identified and compiled. This augmentation of the record are documents placed into the procurement file by the head of the purchasing agency on July 5, 2012.

Dated this 6<sup>th</sup> day of July, 2012.

OFFICE OF THE ATTORNEY GENERAL  
**Leonardo M. Rapadas**, Attorney General

By:   
**JOHN M. WEISENBERGER**  
 Assistant Attorney General

**COPY**

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- A. Written Determination dated July 3, 2012
- B. Supplemental Written Determination dated July 3, 2012

# **INDEX A**

COPY



Eddie Baza Calvo  
Governor  
Ray Tenorio  
Lieutenant Governor

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(Gubetnomention Guahan)  
**Department of Administration**  
(Dipattamenton Atmenestration)

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Benita A. Manglona  
Director  
Anthony C. Blaz  
Deputy Director

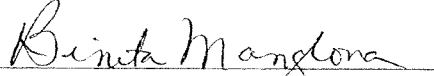
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**Written Determination**

This writing, prepared on July 3, 2012, documents, pursuant to 2 GAR, Div. 4 §3115(d)(2)(iv), the determination that I made on February 25, 2012 that there were not adequate funds available to acquire the services and hardware being offered by Data Management Services, LLC, in RFP/DOA-014-11, Acquisition of a Point of Sale system and hardware. Reasonable efforts were made by the government to decrease the scope of services and hardware to be acquired, and even with the best efforts of the government and Data Management Resources, LLC, it is apparent to me that this acquisition is not possible at this time. There exists a gap of approximately One Million, Four Hundred Forty Thousand, and One Hundred Dollars (\$1,440,100) between the amount that the government has to purchase the services and hardware, and the amount that Data Management Resources, LLC is seeking for the same. It was in the best interests of the Government of Guam and in this territory's interest, to cancel the solicitation for the reasons stated here.

  
Benita Manglona, Director of Administration  
Head of the Purchasing Agency

July 3, 2012.

# **INDEX B**

COPY



Eddie Baza Calvo  
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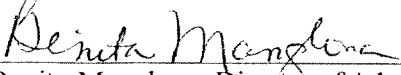
**Supplemental Written Determination**

This determination is prepared to supplement the procurement record in RFP/DOA-014-11 based upon information provided to me in an investigation that has occurred subsequent to the original cancellation of the solicitation. Had I been aware of this information on or about February 25, 2012, or earlier, I would have cancelled this solicitation on the basis of fundamental unfairness and lack of competition in the procurement process.

I have determined that it is in the best interests of the territory and the Government of Guam to cancel this solicitation because:

1. There was inadequate notice of the solicitation given to the market place as required by procurement regulation §3109(f) Public Notice in that the one advertisement run in the Marianas Variety on April 1, 2011 was not adequate to give notice to a sufficient number of offerors for purpose of soliciting competition.
2. There appears to be evidence that prospective offerors, to include the Bank of Guam, were not provided adequate information that was available and requested in order for there to be competitive offerors submitted to the government. The materials at Tab # 7 of the Procurement Record filed with the Office of Public Accountability are being reviewed to assess this matter in greater detail.
3. There has been a Counter-Offer made by the government in this matter that was not based upon any appropriation or any reasonable belief that funds would become available to meet this offer had it been accepted.
4. The Counter-Offer itself is unacceptable because it only offers to pay the exact amount the offeror was requesting in its basic underlying offer.
5. A fiber optic cable has been brought to my attention that provides the possibility that the offeror had access to confidential government information at both the Department of Administration and the General Services Agency concerning this solicitation. The possibility of this access creates an unfair situation in this procurement.

It was in the best interests of the Government of Guam and in this territory's interest, to cancel the solicitation for pursuant to 2 GAR, Div.4 §3115(d) (2) (A).

  
Benita Manglona, Director of Administration  
Head of the Purchasing Agency

July 3, 2012.