

Tab 1	OPA-PA-12-017 Exhibit List	
Exhibit A	PDS Protest Dated May 9, 2012	Agency Record Tab 16 May 9, 2012 Protest
Exhibit B	Affidavit Disclosing Ownership and Commission	Agency Record Tab 5
Exhibit C	GSA Written Determination	Agency Record Tab 16
Exhibit D	April 18, 2012 Letter from GSA to GTA	Agency Record Tab 16
Exhibit E	April 19, 2012 Letter from GTA to GSA with updated Affidavit	Agency Record Tab 16
Exhibit F	GTA Terms and Conditions	Agency Record Tab 5
Exhibit G	GSA IFB 064-11 Bid Specifications	Agency Record Tab 6 Pages 23-25
Exhibit H	Letter from GSA Denying PDS Protest	
Exhibit I	PUC Order Granting COA to Teleguam Holdings	

Tab 2	OPA-PA-12-018 Exhibit List	
Exhibit A	GTA Bid Form 11	Agency Report Tab 4
Exhibit B	PDS Bid Form 11	Agency Report Tab 5
Exhibit C	GSA IFB 064-11 Bid Specifications	Agency Record Tab 6 Pages 25-35
Exhibit D	GSA IFB 064-11 Bid Specifications	Agency Record Tab 6 Pages 48
Exhibit E	GSA IFB 064-11 Amendment No. 4 September 16, 2011	Agency Record Tab 8 Pages 5-7
Exhibit F	Responses to Questions Lodged by Prospective Bidders September 17, 2011	Agency Record Tab 9 Page 1, 3, 6, 13,19,20

* NOTE: TELEGUAM HOLDINGS' TRIAL EXHIBITS WERE PLACED IN THE RESPECTIVE APPEALS BINDER. FOR EXAMPLE, EXHIBITS FOR OPA-PA-12-017 WERE PLACED IN THE OPA-PA-12-017 BINDER.

IN ADDITION, TELEGUAM HOLDINGS SUBMITTED EXHIBITS FOR OPA-PA-12-016 THAT WERE NOT LISTED IN THIS TABLE OF CONTENTS.

**BERMAN
O'CONNOR &
MANN**

Attorneys at Law

TELEGUAM HOLDINGS TRIAL
EXHIBITS FOR OPA-PA-12-01

TAB K

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May 9, 2012

VIA HAND DELIVERY

Ms. Claudia Acfalle
Chief Procurement Officer
General Services Agency
148 Route 1 Marine Corps Drive
Piti, Guam 96915

GOV'T OF GUAM
G.S.A.
2012 MAY -9 AM 10:16
RECEIVED

Re: Protest by Pacific Data Systems, Inc. to Award to
Teleguam Holdings, LLC in GSA-064-11

Dear Ms. Acfalle:

This is a protest by Pacific Data Systems, Inc. ("PDS") to the award made to Teleguam Holdings, LLC ("Teleguam") on Bid Form 10 in procurement GSA-064-11. This office represents PDS.

This protest was originally submitted by PDS on December 23, 2011. However, by letter dated January 9, 2012, Chief Procurement Officer Claudia Acfalle denied that protest on the ground that it was premature. Thereafter, by Revised Bid Status dated May 3, 2012, certain awards were made to Teleguam, including the award on Bid Form 10. PDS protests that award. This protest is based upon the following grounds:

I. TELEGUAM'S AFFIDAVIT DISCLOSING OWNERSHIP
AND COMMISSION VIOLATES 5 G.C.A. § 5233.

The award to Teleguam must be vacated as a result of Teleguam's failure to comply with 5 G.C.A. § 5233. That statute provides in relevant part:

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Ms. Claudia Acfalle
Chief Procurement Officer
General Services Agency
May 9, 2012
Page 2

As a condition of bidding, any partnership, sole proprietorship or corporation doing business with the government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid. The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have held by each such person during the twelve (12) month period... (emphasis added).

Attached to this Protest as Exhibit "1" is the Affidavit Disclosing Ownership and Commission submitted by Teleguam. The Affidavit states that Teleguam is owned 100% by AP Teleguam Holdings, Inc. However, the Affidavit omits any reference to the previous owner of Teleguam, namely Shamrock Teleguam Holdings, LLC. This previous ownership is demonstrated by Exhibit "2" to this Protest, which is an Affidavit submitted in connection with another procurement by Teleguam, namely GDOE IFB 020-2011. That Affidavit was signed on March 15, 2011, and Shamrock Teleguam Holdings, LLC was stated to own an 89% interest in Teleguam. Since this previous ownership occurred within the twelve month period preceding the submission of Teleguam's bid in this procurement, Teleguam's Affidavit is in violation of this statute. The consequence of this violation of 5 G.C.A. § 5233 is that Teleguam's bid should be rejected and the award to it vacated.

This is not the first time Teleguam has failed to comply with this statute. Attached to this Protest as Exhibit "3" is the Decision of the Public Auditor in In the Appeal of Pacific Data Systems, Inc., OPA-PA-10-005. In that case, Teleguam had bid on a Guam Community College telecommunications procurement. In its Major Shareholders Disclosure Affidavit, Teleguam Holdings, LLC stated that it was owned 100% by Teleguam Holdings, LLC, in effect that it owned itself. PDS protested to GCC, but GCC denied the protest on the grounds that the Affidavit related to the bidder's responsibility and not responsiveness to the bid. GCC allowed Teleguam to correct the Affidavit after bid opening. The corrected Affidavit revealed that Teleguam was owned 60% by Shamrock Capital Advisors and 29% by GE Asset Management, Inc.

PDS appealed GCC's rejection of its protest. The Public Auditor found that the Affidavit submitted by Teleguam with its bid was false since it failed to list the names of entities that held more than 10% of its stock. Importantly, the Public Auditor found that

Ms. Claudia Acfalle
Chief Procurement Officer
General Services Agency
May 9, 2012
Page 3

Teleguam's bid was non-responsive since 5 G.C.A. § 5233 requires the Affidavit as a "condition of bidding", and could not be corrected after bid opening. The Public Auditor found that the public interest is best served by "... strict enforcement of the requirement for submission of Major Shareholders Disclosure Affidavit which must be complied with correctly at the time of bid submission." Decision at p. 19. The Public Auditor ruled that Teleguam's bid must be rejected and that the award of the contract by GCC to Teleguam was void.

In response to a Freedom of Information Act request regarding this procurement, GSA provided PDS with certain documents, including Teleguam's response to the protest that PDS had filed on December 23, 2011. In its response, which is attached to this Protest as Exhibit "4", Teleguam acknowledges on p. 2 that its Affidavit Disclosing Ownership and Commissions was mistaken, and then proceeded to make exactly the same arguments that were rejected by the Public Auditor in the above-referenced Decision.

Teleguam argues that its mistaken major stockholders Affidavit does not render its bid non-responsive, but is instead a matter of responsibility which permits GSA to conduct a responsibility investigation and permit correction of the stockholders Affidavit. GSA apparently did so as evidenced by GSA's letter to Teleguam dated April 18, 2012, attached hereto as Exhibit "5", requesting Teleguam to provide an updated Affidavit. Teleguam then responded by letter dated April 19, 2012, attached as Exhibit "6", wherein it provided a new stockholders Affidavit reflecting the previous ownership of Teleguam by Shamrock Capital Advisors and GE Asset Management, Inc. within the one year period prior to its bid. By then making an award to Teleguam, GSA made exactly the same mistake that GCC made in the above-referenced case. In her Decision, the Public Auditor specifically held that Teleguam's bid in that case was non-responsive, since the stockholders Affidavit is required as a condition of bidding. See Decision at p. 11. The Public Auditor also specifically held that the defective shareholders Affidavit could not be corrected through a responsibility inquiry. See Decision at pp. 16-17.

Teleguam further argues that the defect in its major shareholders Affidavit may be viewed as a minor informality. GCC made the same argument to which the Public Auditor replied: "... Here, GTA's failure to submit a valid Major Shareholder's Disclosure Affidavit with its bid is a matter of substance and not merely a matter of form. Specifically, as stated above, GTA's original Affidavit disclosed that one hundred percent of its interest was owned by itself and the substance of this disclosure was false ..." See Decision at p. 14. Teleguam seeks to avoid the impact of the Public Auditor's Decision by arguing that its initial major stockholders Affidavit was not false, but merely incomplete. However, 5 G.C.A. § 5233 clearly requires a bidder to reveal its

ownership "... at any time during the twelve (12) month period immediately preceding submission of a bid ..." The only inference that can be drawn from Teleguam's original Affidavit is that its only owner was AP Teleguam Holdings, Inc. during said twelve-month period. Its Affidavit was thus not merely "incomplete", it was false.

Teleguam further attempts to draw a distinction between the language in the GCC procurement which stated that failure to comply with the requirements "will mean" a disqualification and rejection of the bid, as opposed to the language in the subject IFB which states that failure to comply with the requirements "may" be cause for disqualification and rejection of the bid. However, in light of the Public Auditor's Decision in the GCC case, this difference in language is irrelevant. Here, GSA made exactly the same mistake as GCC in purporting to allow amendment of the defective major shareholders Affidavit after bid opening, and the result must be the same, namely that Teleguam's bid must be rejected and that the award to Teleguam is void.

II. TELEGUAM FAILED TO MEET THE REQUIREMENTS OF THE IFB BY IMPROPERLY CONDITIONING ITS BID.

Teleguam included with its bid submission additional Terms and Conditions, attached as Exhibit "7", which improperly conditions its bid. These additional conditions conflict with multiple requirements of the IFB and/or Guam law. Attached as Exhibit "8" are specific examples of Teleguam's improper conditions.

Teleguam's conditions limit its obligations or add new terms not included in the IFB. For example, Teleguam claims the right to impose Early Termination Fees despite the fact that the Bid Form specifically mandates that the Government may terminate the service with no liability. Teleguam also disclaims any warranties, and provides that services are provided "as is". However, the IFB requires that all services shall have a 99.999% up time, and that failure to meet that standard shall result in liquidated damages. Teleguam also reserves the right to require a security deposit or advance payment, despite the prohibition in Guam law against advance payments. See 5 G.C.A. § 5007.

Teleguam's conditions render its bid non-responsive under 5 G.C.A. § 5201(G), which defines a "responsive bidder" as "... a person who has submitted a bid which conforms in all material respects to the Invitation for Bids." Teleguam's Terms and Conditions materially altered its obligations as clearly demonstrated by Exhibit "8". The award to Teleguam is therefore void.

All Teleguam has to say about the Terms and Conditions document is that it was inadvertently inserted in its bid. It apparently claims this was a "minor informality," and that its Terms and Conditions should be ignored. However, withdrawal of a portion of a bid is a modification governed by 2 GAR § 3109(k). A "minor informality" correction can only be made when "... the effect on price, quantity, quality, delivery, or contractual conditions is negligible ..." See 2 GAR § 3109(m)(4)(b). To the contrary, Teleguam's Terms and Conditions materially altered its obligations, and its removal from Teleguam's bid after opening cannot be corrected as a minor informality. As a result, the Teleguam bid must be rejected and the award to it voided.

III. THE JOINT BID SUBMISSION BY TELEGUAM HOLDINGS LLC, GTA TELECOM LLC, GTA SERVICES LLC AND PULSE MOBILE LLC WAS IMPROPER AND MUST BE REJECTED.

Teleguam's bid was submitted on behalf of "Teleguam Holdings LLC and its wholly owned subsidiaries GTA Telecom LLC, GTA Services LLC, and Pulse Mobile LLC". This is an invalid submission. Although Teleguam states that the three LLCs are wholly owned by it, they are still separate legal entities as demonstrated by the fact that Teleguam's bid included separate business licenses for each of these three LLC entities. *See* Exhibits 9, 10 and 11. Although Teleguam submitted various other business licenses in its bid package, they all expired on June 30, 2011.

The submission of a joint bid by separate legal entities violates multiple requirements in the IFB. For example, on page 1 of Teleguam's bid submission, it is stated that the bidder is incorporated in Delaware. Which bidder? That information is not disclosed. John J. Kim signed the bid in his capacity as "Vice-President, Controller, Authorized Officer", but of which entity?

Fundamentally, the Government has a right to know with whom it is doing business. In Teleguam's bid, it is unclear to which entity the Government would issue a Purchase Order. Even the Teleguam Bid Forms do not clearly identify who the bidder is for each of the parts of the IFB. The IFB clearly does not envision that separate legal entities may submit a joint bid. The fact that the three LLCs may be wholly-owned by Teleguam does not change the fact that they are separate legal entities bidding on separate parts of the IFB. For this reason also, the Teleguam bid must be rejected and the award to it voided.

IV. TELEGUAM HAS FAILED TO SPECIFY THE SPIN NUMBER OF THE ENTITY THAT IS INTENDED TO PROVIDE A SPECIFIC SERVICE.

Bid form 0 at p. 3 requires that "SPIN and SPAC - Service Provider Identification Number (SPIN) and Service Provider Annual Certification (SPAC). A SPIN is required." At the top right of each Bid Form, Teleguam did identify SPIN numbers as follows: "USAC SPIN: 143002715 (GTA Telecom LLC) and/or 143016481 (Pulse Mobile LLC)". Teleguam used the same designation on subsequent Bid Forms where it bids specific prices for specific services. However, there is no way the Government can determine which entity is providing which service. It should be noted there are three possible service providers, GTA Telecom LLC, Pulse Mobile LLC, or both. No SPIN number at all is stated for Teleguam Holdings LLC or GTA Services LLC, even though they are bidders.

Once again, the Government has a right to know with whom it is doing business, namely which entity is providing which service. It is only if the Government knows this that the Government can determine whether the entity actually providing the service is properly licensed and authorized to do so. Teleguam's failure to disclose this basic information is fundamental, and its bid must be rejected in its entirety and the award to it voided.

V. TELEGUAM FAILED TO SUBMIT A CERTIFICATE OF AUTHORITY.

Guam law requires that any person or entity that provides or resells telecommunications services in Guam must obtain a Certificate of Authority issued by the Guam Public Utilities Commission. See 12 G.C.A. § 12103. Bid Form 0 at page 1 contains a similar requirement. As part of its bid package, Teleguam did submit a Certificate of Authority dated February 28, 2005 which was issued by the Guam Public Utilities Commission to TeleGuam Holdings, LLC. However, by Order of the Guam Public Utilities Commission dated July 27, 2005, this Certificate of Authority was transferred from TeleGuam Holdings, LLC to GTA Telecom, LLC. See Exhibit 12, attached to this Protest. As a result, no valid PUC Certificate of Authority was provided for the Teleguam bid, and its bid must be rejected and the award to it voided for failure to comply with the requirement that the bidder submit evidence that it is qualified to bid and provide the services specified.

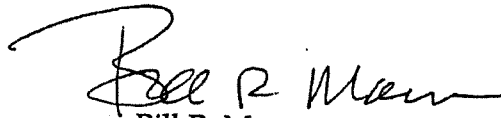
Ms. Claudia Acfalle
Chief Procurement Officer
General Services Agency
May 9, 2012
Page 7

In its response to the PDS protest of December 23, 2011, Teleguam states that it has a current Certificate of Authority for GTA Telecom LLC, which it is ready to provide to GSA. However, no such document was included in the materials provided to PDS in response to its FOIA request. In any event, the bid was submitted by Teleguam, and a Certificate of Authority issued to GTA Telecom LLC cannot validate Teleguam's bid.

For any or all of the above reasons, Teleguam's bid must be rejected and the award to Teleguam on Bid Form 10 voided. Since PDS was the next lowest bidder, the award for Bid Form 10 should be to PDS.

GSA is reminded that PDS has made a timely protest and under 5 G.C.A. § 5425(g) no further action on this procurement can be taken until this protest has been duly reviewed and a determination made by the Chief Procurement Officer. PDS is available to meet with the Chief Procurement Officer in an effort to resolve this protest pursuant to 5 G.C.A. § 5425(b).

Respectfully submitted,


Bill R. Mann

Attachments: As stated.

AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSION

TERRITORY OF GUAM)
HAGATNA, GUAM) SS:
)

A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the offeror and that [please check only one]:

[] The offeror is an individual or sole proprietor and owns the entire (100%) interest in the offering business.

[X] The offeror is a corporation, partnership, joint venture, or association known as Teleguam Holdings, LLC and its wholly owned subsidiaries GTA Telecom LLC, GTA Services, LLC, Pulse Mobile, LLC [please state name of offeror company], and the persons, companies, partners, or joint venturers who have held more than 10% of the shares of interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows [if none, please so state]

<u>Name</u>	<u>Address</u>	<u>% of Interest</u>
<u>AP Teleguam Holdings, Inc</u>	<u>c/o National Registered Agents, Inc 160 Greentree Drive, Suite 101, City of Dover County of Kent, DE 19904</u>	<u>100% Teleguam Holdings, LLC</u>
<u>Teleguam Holdings, LLC</u>	<u>624 N. Marine Corps Drive Tamuning, Guam 96913</u>	<u>100% GTA Telecom LLC, 100% GTA Services LLC, 100% Pulse Mobile LLC</u>

B. Further, I say that the persons who have received or are entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or proposal for which this affidavit is submitted are as follows [if none, please so state]:

<u>Name</u>	<u>Address</u>	<u>Compensation</u>
<u>None</u>		

C. If the ownership of the offering business should change between the time this affidavit is made and the time an award is made or a contract is entered into, then I promise personally to update the disclosure required by 5 GCA §5233 by delivering another affidavit to the government.

John J. Kim
Vice President, Controller, Authorized Officer

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
this 5th day of December, 2011.

Paul J. Anelli
NOTARY PUBLIC

NAURINA T. MENDIOLA
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: Apr. 06, 2015
624 N. Marine Corps. Drive Tamuning, Guam 96913

Eddie Baza Calvo
Governor



Benita Manglona
Director, Dept. of Admin.

GENERAL SERVICES AGENCY
Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915
475-1710 (T) / 475-1727 (F)

TAB C
Ray Tenorio
Lt. Governor

Anthony C. Blaz
Deputy Director

Memorandum to file:

WRITTEN DETERMINATION

GSA BID NO.: GSA-064-11
TELECOMMUNICATION SERVICES

Pursuant to 2 GARR Div.4, Section 3109(m)(4)(B), I Anita T. Cruz, Buyer Supervisor, delegated the authority to review and act upon GSA-064-11, due to a conflict by the Chief Procurement Officer, as indicated by the lawsuit filed against her by Pacific Data Systems, do hereby make the following determination:

1. The "Major Shareholder Affidavit and Commission" form submitted by the bidder, GTA, failed to include all ownership of that company for the past year.
2. The submission specifically did not include that past ownership, within the past year.
3. I am aware of the OPA decision of OPA-011-11, in which a failure to submit a valid Major Shareholder Disclosure at the time of the bid opening was grounds for rejecting the bid.
4. However, a determination by the head of the purchasing agency indicating that it may have been a minor informality was not done in that case.
5. I therefore, based upon all of the information provided, the review of the bid documentation, do hereby made the determination that the failure to submit the total ownership for the past twelve months in this case is a minor informality for the following reasons:
 - a). The current ownership is provided.
 - b). The failure to submit the entire ownership for the past twelve months did not have any effect upon the price, delivery, quantity, quality or contractual conditions.
6. Also, a protest was further raised by GTA's failure to submit a correct "Certificate of Authority" and "Business License"
7. GTA notes that some of the business license submitted for the bid had expired.

TAB D

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahenslan Setbision Hinirat)
Department of Administration

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
Director

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Anthony C. Blaz
Deputy Director

April 18, 2012

Memorandum

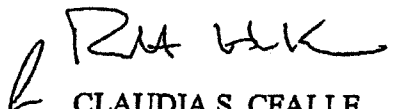
GTA
Attn: Ms. Jennifer Sgambelluri
624 N. Marine Corps Drive
Tamuning, Guam 96913

Re: Major Shareholder Affidavit and Commission

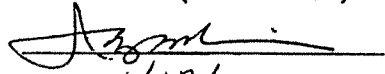
Dear Ms. Sgambelluri:

Please provide an updated "Major Shareholder and Commission" affidavit for Bid No. GSA No. 064-11 by 2 pm on Thursday, April 19, 2012. Your prompt response will allow GSA to move toward closure of this bid evaluation.

If you have any questions, please feel free to contact GSA at 475-1710.


CLAUDIA S. CFALLE
Chief Procurement Officer

Please Print
ACKNOWLEDGEMENT COPY (Re-fax to GSA)

Received BY: 

Date: 4/18/2012

Vendor Name: Telecom Holdings LLC

Fax #'s: 472-4217 / 475-1727 / 1716



624 North Marine Corps Drive
Tamuning, Guam 96913

April 19, 2012

Claudia Acfalle
Chief Procurement Officer
Government of Guam General Services Agency
148 Marine Corps Drive
Piti, Guam 96915



Subject: Updated Major Shareholder and Commission Affidavit; Invitation for Bids No. GSA 064-11

Dear Ms. Acfalle:

Pursuant to your request of April 18, 2012, attached here is an updated "Major Shareholder and Commission" affidavit for Bid No. GSA 064-11. Please note that on March 26, 2012, the Guam Public Utilities Commission, in Docket 11-14, issued an Order approving the transfer of Certificate of Authority and Eligible Telecommunications Carrier Certificate from GTA Telecom LLC to Teleguam Holdings LLC. Under this order, Teleguam Holdings, LLC is now the sole entity providing telecommunications services under these certificates.

Sincerely,

Andrew S. Quenga
GTA Legal Counsel
Phone 644-1609
squenga@gta.net

Attachment (1)

EXHIBIT 6

Affidavit Disclosing Ownership and Commission

Territory of Guam)
) ss.
 Hagatna, Guam)

A. I, the undersigned, **JOHN J. KIM**, being first duly sworn, deposes and say that I am an authorized representative of the offeror and that (please check only one):

() The offeror is an individual or sole proprietor and owns the entire (100%) interest in the offering business.

(X) The offeror is a corporation, partnership, joint venture, or association known as Teleguam Holdings, LLC, and its wholly owned subsidiaries GTA Telecom, LLC, GTA Services, LLC, Pulse Mobile, LLC, (please state name of offeror company), and the persons, companies, partners, or joint venturers who have held more than 10% of the shares of interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows (if none, please so state).

Name	Address	% of Interest
Shamrock Capital Advisors Will Wynperle	4444 W. Lakeside Drive Burbank, CA 91505	60% of Teleguam Holdings, LLC
GE Asset Management, Inc Dan Furman	3001 Sunset St. Stamford, CT 06905	29% of Teleguam Holdings, LLC
Teleguam Holdings, LLC	624 N. Marine Corps Drive Tamuning, Guam 96913	100% of GTA Telecom, LLC, GTA Services, LLC, and Pulse Mobile, LLC
Ownership of Teleguam Holdings LLC changed on or about June of 2011 to:		
AP Teleguam Holdings, Inc	c/o National Registered Agents, Inc. 160 Greentree Drive, Suite 101, City of Dover County of Kent, DE 19904	100% of Teleguam Holdings, LLC

B. Further, I say that the persons who have received or are entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or proposal for which this affidavit is submitted are as follows (if none, please so state):

Name	Address	Compensation
NONE		

C. If the ownership of the offering business should change between the time this affidavit is made and the time an award is made or a contract is entered into, than I promise personally to update the disclosure required by 5 GCA §5233 by delivering another affidavit to the Government.

Date: 4-19-2012

 John J. Kim, Vice President, Controller
 Signature of Individual if bidder is a sole proprietorship;
 Partner, if the bidder is a partnership;
 Officer, the bidder is a corporation.

Subscribed and sworn to before me this 14th day of April, 2012

By: [Signature]

Notary Public
 In and for the Territory of Guam
 My Commission Expires: _____

MARIA TISHA M. MAKIO
 NOTARY PUBLIC
 In and for Guam, U.S.A.
 My Commission Expires: Dec. 21, 2015
 624 North Marine Corps Dr., Tamuning 96913

TAB F

TERMS AND CONDITIONS

PLEASE READ THE TERMS AND CONDITIONS CAREFULLY. For the purposes of this document, the term "GTA" refers to GTA TeleGuam LLC and its affiliates (GTA Telecom LLC, GTA Services and Pulse Mobile LLC dba MPULSE) and the words "you" and "your" refer to the entity that has signed this Agreement. The word "Services" includes and incorporates wireless, broadband, digital television, and/or other services ordered on the Customer Application and any additional services you may order or obtain from GTA at any time that are not expressly governed by another agreement you sign with us. The word "Agreement" includes and incorporates the Customer Application, the Terms and Conditions, the GTA rules and policies applying to the use of the Services, and any GTA addendums that you may sign at any time.

By signing this Agreement:

- (1) You acknowledge that you are an adult, eighteen (18) years or older. If this is a business account, you acknowledge that you are authorized to act as an agent for your company, corporation, partnership, or other business entity.
- (2) You have read, understood, and agreed to be bound by this Agreement.
- (3) GTA will provide the Services as indicated in the Customer Application to you for the period stipulated relevant to the Services ordered. If you cancel this order at any time prior to the expiration of the initial term, you may be charged a termination charge as described below, relevant to the Services ordered.

General Terms & Conditions

- I. **Acceptance of Agreement.** You acknowledge and accept this Agreement by (a) activating or using the Service; (b) signing the Agreement; (c) orally or electronically accepting the Agreement. If you do not accept this Agreement, GTA will be under no obligation to provide you with these Services.
- II. **New and Existing Customers.** A New Customer is defined as an individual or business entity that has NOT had ACTIVE Services with GTA for ninety (90) days and does not have any outstanding balances. If a customer does not meet the above criteria, then they will be defined as an Existing Customer. If a former Customer attempts to activate terminated services within 90 days, this account will NOT be considered a new Customer but rather a reactivation of an existing Customer and/or Services. Customers are identified by (but not limited to): Name, Business Name, DBA, Mailing or Physical Address, Social Security Number, Federal Tax ID or EIN.
- III. **Eligibility Requirements.** GTA may have eligibility requirements, terms and conditions that are in addition to the Terms and Conditions described herein.
- IV. **Authorized User(s).** You, as the primary account holder, can add one (1) authorized user to your account by turning in a written document to GTA confirming the appointed authorized user. You and any Authorized User on your account will have access to account information and will have the ability to make changes to the account. Authorized Users cannot add or terminate end users, lines, subscribers, or Services on the account. If you add an Authorized User to your account, they will be able to access and make changes to your account. These changes will be binding on you. You or the Authorized User may request to switch to another Rate Plan, and if we authorize the change, fees may apply. Authorized changes may require your agreement to a new minimum term and/or new Terms & Conditions. You agree to hold GTA, its employees, staff and management harmless from any litigation or legal action if account information is provided to your Authorized User.
- V. **Services.** You request Services and agree to pay all charges for the Services at the applicable service rates for the selected service plan(s) by the due date indicated on your invoice. The rates for Services provided will be billed to you as outlined in the Customer Application and are subject to change without notice. Charges may include, but are not limited to: the monthly charges, applicable taxes, and any other recurring or nonrecurring charges established by GTA. If you do not pay in a timely manner, upon appropriate notice, the Services will be disconnected. GTA may suspend, modify or terminate your service for any reason or no reason upon 30 days notice.
- VI. **Misuse of Services, Network, or Devices.** You agree not to use the Services in a manner prohibited by any Federal or Guam law or Regulation. You agree not to misuse GTA Services, the GTA network, or any devices which may adversely impact, affect or interfere with the GTA network, service levels, operations, reputation, or ability to provide quality service to all subscribers as a whole. GTA reserves the right to protect its network from misuse, harm, compromised capacity or degradation in performance which may impact network performance for all Customers. WE MAY LIMIT, SUSPEND OR TERMINATE YOUR SERVICES OR AGREEMENT WITHOUT NOTICE FOR ANY REASON, if you, any user of your subscribed Services, or any user on your account are found in violation of this Agreement. Misuse can be defined as (but not limited to): (1) using devices or the Services to engage in unlawful activity, or engaging in conduct that adversely affects our customers, employees, business, or any other person(s); (2) by "spamming" or engaging in other abusive or unsolicited automated machine to machine connections or peer to peer file sharing, lines for full time or dedicated data connections. Tampering, modifying, or reprogramming devices used to access Services is prohibited. Rebilling or reselling our Services without authorization is prohibited.
- VII. **Bills and Payments/Late Charges.** Billing will commence on the date your Services are activated. With this Agreement, you have consented to responsibly pay in full each month in a timely manner all charges relating to: (1) subscription of Services; (2) any usage based Services; (3) installation or activation, change and disconnection of Services; (4) all applicable local and federal taxes and surcharges; (5) any additional charges and fees associated with the Services. You may be required to pay a security deposit or advance payment for Services as a requirement at the time of application, to offset against any unpaid balance on your account, or as otherwise set forth in these TOS or permitted by law. Interest will not be paid on advance payments or deposits unless required by law. We may require additional advance payments or deposits if we determine that the initial payment was inadequate. Based on your creditworthiness or for other reasons, we may establish limits and restrict service or features we deem appropriate. If your account balance goes beyond the limit we set for you, we may immediately interrupt or suspend service until your balance is brought below the limit. Any charges you incur in excess of your limit become immediately due. Upon determination solely by GTA of satisfactory payment history or as required by law, GTA may begin refunding of the deposit or advance payment through bill credits, cash payments, or as otherwise determined solely by GTA. Regular recurring charges are billed in advance and charges incurred on a per-use basis are billed in arrears. A partial month or prorated charge may be generated on your initial bill and whenever you make a change to your Services. Charges for service will be billed monthly and all amounts owed by you must be paid by the date indicated on the bill. Failure to make a full payment for the total amount due on or before the due date will result in a late payment charge equivalent to 1.5% of the outstanding balance or the maximum rate permitted by law. To avoid a temporary suspension of Services, payments for any amounts in arrears must be received by the 15th day of the following billing cycle. If payment is not received, your account will be subject to suspension without further notice. In the event your service has been suspended, you will be required to pay all charges including outstanding balances, reconnection fees, late payment fees and any outstanding balances for old accounts before service is reconnected. A termination order will be issued forty-five (45) after service has been suspended. To re-re-establish service, you will be required to pay all outstanding charges and any fees associated with new service activation before service is restored. A fee of \$25.00 will be applied to your account if your check or other payment instrument is not honored by a financial institution. GTA reserves the right to investigate and review your credit history. In the event of a bill dispute for any telecommunication services provided, you must file the dispute with Customer Service within fifteen (15) days from the date of the disputed invoice. GTA will have thirty (30) days from the date you file the dispute to investigate the dispute. If the dispute is in your favor, a credit adjustment will be made to your account. If the dispute is in GTA's favor, you must pay the disputed amount to include any outstanding balance to bring the account to current.
- VIII. **Terminations.** Unless otherwise stipulated, the minimum contract period is one month service. You may terminate Services upon written notice received by GTA at least thirty (30) days prior to the actual date of termination. If you terminate Services or Services are terminated by GTA for any reason and you are a participant of a Service that covers a specified period of time via a term agreement or contract, Early Termination Fees (ETF) may apply. Please read below for detailed descriptions of early termination fees. Any usage charges incurred will be billed up to the date of actual termination. If you have a credit balance on your final bill, GTA will issue you a refund. GTA will not issue you a refund if your credit balance is less than \$1.00 unless a written request from you is received by GTA. If a written request is not received within a year, your account will be set to zero.
- IX. **Termination of Voice Service.** If you change or terminate your GTA local wireline voice service ("Voice Service"), we may in our discretion terminate other Services or continue to provide it at the then-current rates, terms and conditions applicable for Services without voice. You agree to pay any new or higher monthly fees that may apply to your new Service after termination of the wireline voice service. If GTA elects to terminate your Service, we reserve the right to charge any applicable early termination fees.
- X. **Pricing - Term Plans, Bundle Discounts.** When you purchase the Service, you agreed to specific price and plan, which may have included a term of 6 months, one year or two years ("Term Plan"). Similarly, some plans may offer a discount on the Service if you sign up for other Services ("Bundle Discount"). You agree to maintain your Service and the other bundled services for the applicable term. If you sign up for a Term Plan or a Bundle Discount, the price available with those plans is valid until one of the following occurs: (1) the term expires; (2) you move from your current service address to another service address; or (3) you drop one of the Services you were required to purchase to receive the special rate.
- XI. **Special Discounts.** You may be eligible for a discount on your monthly access charges based on your affiliation with an organization that has an agreement with GTA. You may be required to provide proof of your affiliation with the organization upon activation of service or when you make changes to your account. GTA may share certain information relating to the Services, such as (but not limited to): Name, Telephone Number, Mailing or Physical Address, and Total Monthly Charges with the organization to verify your affiliation. GTA may adjust the discount in accordance with the organization's agreement with GTA and remove your discount after the minimum term expires or if you end or change your affiliation with

the organization. You agree that any change or removal of your discount, based on your affiliation with the organization or the organization's agreement with GTA, shall not be considered to have a material adverse effect on you.

- XII. Minimum Contract Period. GTA offers a variety of price plans, programs, and promotions ("Plans") in which a longer minimum contract period is required. In these cases, the minimum contract period varies depending on what type of Service you are applying for. Please read below for more information.
- XIII. Customer Premises. You agree to grant GTA a right of way by the shortest practical route over your Premises for the purpose of installing, removing, connecting, disconnecting, maintaining, troubleshooting, replacing, servicing, and auditing applicable Services and equipment necessary to provide you that service. You also represent that such grant has been obtained in writing from the premises owner. GTA may request from you additional documents, including right-of-way agreements, in order to maintain access in the future. Our employees and designees will show their company identification upon request and in most cases have GTA signage on their vehicles. You are responsible for making the premises available, by appointment, for inspection, audit, repair, replacement and/or removal of the cable facilities. If you continuously fail or refuse access to the equipment, GTA may terminate your service. All installations, removals, and other work done by GTA on your premises shall be done in a good and workman-like manner. However, due to the effects of normal workmanship which may remain after the removal of GTA equipment, the following conditions must apply: (a) GTA shall not be held liable for any damage, such as holes, in walls, ceilings, floors, or any other locations necessary to provide Services; (b) GTA and/or our agents are not permitted to move furniture or appliances.
- XIV. Cable Facilities. All outside cable facilities installed pursuant to this Agreement on your premises are and shall remain the property of GTA. You will not and shall not permit others to move or tamper with the outside cable facilities or use it contrary to this Agreement. You are responsible for any damage, other than normal wear, done on the outside cable facilities. If the Services are terminated for any reason, at GTA's option and direction, you shall make the premises available for the removal of the cable facility. GTA does not guarantee that repairs on cable facilities will be made within a specific time frame or after normal business hours, on weekends, or on holidays.
- XV. Equipment. GTA will provide you certain equipment, such as a modem, gateway, or Optical Network Terminal (ONT) (all of which is herein collectively referred to as "Customer Premise Equipment," or CPE) which may be required for broadband and digital television services. All GTA equipment will remain the property of GTA and must be returned to GTA upon termination of this Agreement for any reason. Any CPE will be either a new or a fully inspected and tested refurbished unit. Neither you nor a third party may change, interfere with, or block access to equipment data or settings. If you make modifications that make the CPE inaccessible remotely to GTA technicians, you will be billed for the repair and re-configuration of the CPE. If any equipment you lease from GTA are stolen, lost, or become damaged (except for normal wear-and-tear), then you will be responsible for the full cost of replacement. Other than the CPE provided to you by GTA for use with the service, you must provide all equipment, devices, and software necessary to receive the service. GTA cannot guarantee the ability to support non-GTA provided hardware or its compatibility with our Services. If a GTA technician's visit is required to reconfigure pre-owned or non-GTA provided hardware, an additional charge may be applied. Regardless of whether the equipment used to access your service is owned by you or GTA, GTA reserves the right to manage such equipment for the duration of your service. You are responsible for returning all CPE in "like new" condition within 14 days of cancellation of your service, either by you or by GTA. "Like new" condition means the equipment and/or accessories appears unused without scratches or unnatural marks, in its original container, with all original contents. Failure to return the CPE to GTA in "like new" condition within the allotted time frame after cancellation of broadband service will result in a charge to your account equal to the replacement price of the CPE. The charge may be deducted from your deposit or any amounts prepaid by you, charged to your card or billed to your account. The value of the CPE is determined by GTA at its sole discretion.
- XVI. US Military. GTA is a supporter of the US Military and makes every effort to assist active duty military customers in managing their Services. If you, as an active member of the US Military are given permanent relocation orders off of Guam, GTA will waive the Early Termination Fee(s) associated with breaching the term agreement or contract if any, provided that you furnish proof of these new relocation orders. Please read below for more information of what equipment and/or accessories you may be charged or billed for.
- XVII. Communication and Notices. Notices, updates, new products and/or Services may be sent to you by written notice, which may be on or included with your bill. GTA may also send notifications to you by posting the notification on www.gta.net, email, voicemail or by text messages.
- XVIII. Attorney's Fees. You shall be liable for all reasonable costs incurred by GTA in enforcing its rights against you under this Agreement, including reasonable costs of collecting unpaid charges and (in the case of any action in which GTA is the prevailing party) reasonable attorney's fees and expenses of litigation.
- XIX. Default/Termination or Discontinuance by GTA. GTA may, without notice, terminate or temporarily discontinue your service if you are in default of this Agreement. Default shall include: (1) any failure by you to pay any undisputed amounts as provided in this Agreement; (2) any breach by you of any material provision of this Agreement; (3) any unlawful use of GTA Services or use the Services in a manner that may interfere unreasonably with the Services used by other Customers or interfere with GTA's ability to provide Services to others, whether unlawful use or interference is by you or any other user of the Services. Termination or temporary discontinuance of Services shall be in addition to any and all other remedies provided in the Agreement, or that may be available at law and in equity. In addition to the foregoing, GTA may terminate or discontinue Services without liability in the case of any governmental prohibition or required alteration of the Services.
- XX. Force Majeure. GTA shall not be liable for any delay or failure in performance of this Agreement, to the extent such delay or failure is caused by an event of Force Majeure, including (but not limited to) fire, flood, war, strike, orders of civil or military authorities, omissions of common carriers, warehousemen or suppliers, or other cause beyond its reasonable control. Any such delay or failure shall suspend the Agreement until the Force Majeure condition ceases, and the term shall be extended by the length of the suspension.
- XXI. DISCLAIMER OF WARRANTIES. GTA CANNOT GUARANTEE ITS SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT YOUR MESSAGES OR DATA TRANSMISSIONS WILL NOT BE LOST. ALL SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU ASSUME ALL RISK OF USING THE SERVICES AND EQUIPMENT. GTA DOES NOT AUTHORIZE ANYONE TO MAKE WARRANTIES ON ITS BEHALF, AND ANY PURPORTED EXPRESSION OF WARRANTY IS HEREBY DISCLAIMED. ANY STATEMENTS MADE BY GTA AGENTS OR IN PACKAGING, MANUALS OR OTHER DOCUMENTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY, AND SHALL NOT BE CONSTRUED AS WARRANTIES BY GTA.
- XXII. Technology. Telecom Technology rapidly evolves and advances. For the latest information on GTA's network and Technology, refer to www.gta.net.
- XXIII. Assignment. You may not assign this agreement or any interest in the Services without the prior written consent of GTA.
- XXIV. Password Protection. You are solely responsible for maintaining the confidentiality of any password or user name required to utilize the Services. You shall be liable for payment of charges to your account made by any person using your password or user name until GTA is notified that the confidentiality of a password or user name has been compromised.
- XXV. Use of Customer Identifiable Information. GTA will collect and use customer identifiable information for billing, credit references, provisioning of service, to solve problems associated with service, and to inform you of new products or Services that will better meet their needs. GTA may also use customer identifiable information to market products and services, but will not disclose or make available any customer identifiable information to any third parties seeking to market products. If you choose not to participate in direct marketing of new products and services from GTA, your information will not be used for the purpose of marketing new products. GTA will not trade, sell, or disclose to any third party any form of your identifiable information without the consent of you (except as required by subpoena, search warrant or other legal process or in the case where failure to disclose information will lead to imminent harm to you or others). GTA may use your identifiable information to investigate and help prevent potentially unlawful activity or activities that threaten the integrity of service or network integrity, to protect itself against fraud, or to defend its rights in legal or administrative proceedings.
- XXVI. Limitation of Liabilities and Services. In no event shall GTA, its employees, officers, representatives, suppliers, and authorized agents be liable to you or any other party for any direct, indirect, special, incidental, consequential or punitive damages, or any other damages or losses whatsoever arising directly or indirectly from your use of the Services, regardless of the cause of action, including negligence, and even if GTA has been advised of, or could reasonable have foreseen, the possibility of such damages or losses. GTA's sole and exclusive liability to you and your sole and exclusive remedy for any breach by GTA or any interruption or failure of services shall be a credit of such charges for Services as would have accrued but for such interruption or failure based on a prorate basis. Without limiting the generality of the foregoing, GTA is not liable for (1) the delay or failure in performance or Services resulting from an act of force majeure, including without limitation: acts of God, natural disasters, typhoons, communications failure, governmental actions, shortage of labor or materials, vandalism, terrorism, wars, strikes, or any reason beyond reasonable control; (2) any act or omission of a telecommunications carrier whose network facilities are used in establishing connections to points which GTA does not directly serve; (3) defamation or copyright infringement arising from material transmitted or received over GTA's network facilities; (4) infringement of patents arising from combining or using your facilities or equipment with GTA's network facilities.
- XXVII. Terms and Conditions are subject to change. We may give you notice of a change by posting the change on www.gta.net, by email, or by written notice which may be on or included with your bill. Such notices will be considered given and effective on the date posted.

MPULSE™ Section

- I. Credit Approval and Deposits. Acceptance of this Agreement by GTA is dependent on approval of your credit. GTA has the right to investigate and review your credit history and/or payment record if you have an existing account. On the basis of that investigation and review, GTA may require you to make a suitable deposit to guarantee payment of charges for services. A credit card will be requested from you and will be kept in the System as non-recurring if you are not enrolled in AUTOPAY. If you do not have a credit card, then the minimum deposit is \$100 regardless of an approved credit score. Upon termination of your wireless service, or upon the first billing cycle after the twenty-fourth month of wireless

service, whichever comes first, GTA has the right to apply the deposit against any outstanding wireless service charges or any other amount owed to GTA. If you are terminating the Agreement, any remaining balance of the deposit will be released to you at the last known address within approximately 90 days. If you continue receiving wireless services under the Agreement, any credit balance remaining after the deposit is applied will be applied to any amounts that may be owing to GTA in the future. GTA will issue a refund upon request to any customer whose account is in good standing after the satisfaction and completion of the contractual term.

- Charges Associated with Wireless Services. As stated in Section VII. of the General Terms and Conditions, you are responsible for paying all charges and fees associated with the Services. Charges associated with GTA's wireless services include but without limit to: monthly recurring service charges, airtime, roaming, long distance, toll charges, SMS messages whether read or unread, images, sound files, data, features such as Internet access and voicemail, calling services such as directory assistance and calling card use. You will be charged for more than one call when you use certain features resulting in multiple inbound or outbound calls such as call forwarding, call waiting, voicemail retrieval, and conference calling. Except to the extent prohibited by law, billing of roaming charges or services used may be delayed or applied against your service. Roaming and other call rating times are dependent on the location and time of the network equipment providing the service for a particular call. Usage charges will apply as required for services such as directory assistance, roaming charges incurred outside of GTA's wireless home network, long distance charges, and per minute of use charges. Airtime usage is billed in full minute increments, fractional and partial increments are rounded up to the next full minute increment at the end of each call for billing purposes.
- III. Nights and Weekends. Nights are 7:00 p.m. to 6:59 a.m. Weekends are Friday 7:00 p.m. to Monday 6:59 a.m.
- IV. Mobile to Mobile. GTA mobile to mobile minutes are minutes used between GTA wireless subscribers while on the GTA wireless network (and not roaming.) Mobile to mobile applies to the account or phone number when directly dialing or receiving calls from any other GTA mobile phone number within the GTA network. Calls to GTA Voicemail are not considered mobile to mobile minutes.
- V. Data Usage and Billing. GPRS/EDGE/3G data usage will be charged as specified in your Rate Plan. Data transfer is billed in full kilobyte increments. Actual data transport is rounded up to the next full kilobyte increment at the end of each data session for billing purposes. Overages will be billed by the kilobyte or as specified in your Rate Plan. Some devices such as Smartphones, Blackberrys and iPhones can generate data usage without user intervention. This can generate unexpected charges when roaming outside GTA's home network.
- VI. Minimum Contract Period. As stated in Section XII. of the General Terms and Conditions, GTA offers Plans in which a longer minimum contract period is required. Unless otherwise indicated, if you opt into a Plan, a two-year minimum contract period will apply. At the end of the minimum term, this Agreement shall be renewed automatically thereafter on a month-to-month basis (that is still subject to this Agreement as modified) or until terminated by either party. If you terminate the service before expiration of the minimum term for any reason, you agree to pay an ETF of \$150 for each phone number per contract year. Blackberrys, iPhones, netbooks and selected "Advanced Data Devices" that require a two-year minimum contract on voice and data services are subject to an Advanced Data Device ETF of \$180 for each phone number per contract year in addition to the standard ETF terms and conditions. These termination fees may be deducted from your deposit or any amounts prepaid by you, charged to your card or billed to your account. If you opt into a new Plan, you must fulfill the Terms and Conditions of the current plan unless expressly waived by GTA.
- VII. Trial Period and Return Policy. When you initiate a new wireless service with GTA, you are given a period of 14 calendar days from the date of service activation (the "Trial Period") in which to cancel the service without incurring any early termination fee, subject to the following conditions: (a) You must pay for all wireless services received and other charges incurred prior to cancellation which includes but not limited to, a non-refundable, one time activation fee of \$25 per phone number; (b) The 14 calendar days or the "Trial Period" refers only towards the service and not towards equipment. Equipment exchanges must be made within 3 calendar days of the activation date. If you purchased a subsidized equipment and/or accessories in connection with any new service, and the promotional price of the equipment and/or accessories was less than the replacement/no contract price at the time of service activation, the equipment and/or accessories must be returned to GTA in "like new" condition within the Trial Period with proof of purchase, or you will be charged for the difference between the subsidized promotional price and the replacement/no contract price of the equipment and/or accessories. If the equipment and/or accessories are returned in "like new" condition, you will receive a refund in the amount of the purchased price. "Like new" condition means the equipment and/or accessories appears unused without scratches or unnatural marks, in its original container, with all original contents. For GTA wireless devices, the unit must have no more than 60 minutes of call time as indicated by the call timer. A restocking fee of \$25 will apply with or without a service purchase. Out of Box Failure (OBF) - If equipment and/or accessories are returned and have been determined by an approved technician to be an OBF, the equipment and/or accessories shall in the discretion of GTA either be replaced, with the approval of authorized management, or repaired with loaner equipment provided to you. All OBF returns must be made within 3 days of original purchase. If the OBF returned can be repaired by a GTA technician, no penalty shall be assessed to you. If you return the equipment and/or accessories and the damage is determined to be a result of misuse or abuse and can be repaired by where repair has been declined, do not comply with OBF requirements, or returned after the first 3 days from initial purchase shall be your sole responsibility. All damaged equipment and/or accessories US Military. If you purchased any subsidized equipment and/or accessories in connection with any service contract and the promotional price of the equipment and/or accessories was less than the replacement/no contract price at the time of service activation, you may be charged the difference between the subsidized promotional price and the replacement/no contract price of the equipment and/or accessories if you are within the first year of the service contract. If you are within the second year of the service contract, you will be charged 50% of the difference between the subsidized promotional price and the replacement/no contract of the equipment and/or accessories. This is not a penalty fee; rather this is a means for GTA to recover associated costs, such as labor, advertising, equipment subsidies and all other associated costs in acquiring a new Customer.
- IX. Numbers. Except as provided by law, you have no proprietary or ownership rights to or interests in a specific telephone number assigned to your equipment or account. GTA may change the access number assigned to you and may require you to modify wireless telephone equipment accordingly at GTA's expense. Except as permitted by law, you may not assign a telephone number to any other equipment, and shall not program any other number into equipment provided for use with GTA services. GTA may deactivate or suspend service to any number without prior notice if unlawful or fraudulent use of a number is suspected.
- X. GSM Phones/Devices and Other Carrier Networks/Phones. You may purchase a phone from someone other than GTA, provided that it must be 850/1900MHz GSM/GPRS/EDGE wireless device that is compatible with GTA's GSM network. GSM phones/devices do not all use the same technologies. GTA does not guarantee that all services and features will be available with such equipment. GTA GSM Phones/devices may be programmed to accept only a GTA SIM card.
- XI. Lost or Stolen Phones. If your wireless telephone or other wireless device is lost or stolen, you will remain liable for all charges in connection with usage of the wireless device until the theft or loss is reported to GTA and to the police. A copy of the police report must be filed with GTA. After reporting the theft or loss to GTA, you will remain liable for all non-usage based charges, as provided in this Agreement.
- XII. Call Privacy. The GTA system uses radio channels to transmit communications. Customer's calls may be monitored by third persons acting within the law, and GTA will cooperate with intercepting and disclosing calling records, voice and data transmissions, accounts and other information, pursuant to lawful subpoenas, court orders and the like. Your transmissions may also be monitored by persons acting outside of the law. Call privacy cannot be guaranteed, and GTA will not be liable for any lack of privacy while using GTA equipment or systems.
- XIII. Wireless Local Number Portability. You may have the capability to transfer your wireless number to another wireless carrier or have the ability to bring your wireless number to us. For detailed information about Local Number Portability, please contact GTA Customer service at (671) 644-4GTA (4482). You will not be able to transfer your number if your account has been disconnected for any reason. If you are porting a prepaid account, your prepaid account must not be expired. You still remain liable for all charges incurred resulting from your wireless service with us or your wireless service with your former wireless carrier; this includes but not limited to cancellation fees, monthly access fees, overages, long distance and all other expenses associated with your wireless service. GTA reserves the right to charge a one-time \$50 port out fee to recover costs incurred with Wireless Local Number Portability.

MPULSE™ Prepaid Section

- I. You accept these terms and conditions and agree to be bound by them at the point of sale of a Card.
- II. The number printed on each Card (comprising the PIN or PUK Number) is unique to that Card and you shall be solely responsible for safeguarding such number or any other access number or password from any unauthorized use. GTA shall not be liable to you for any losses, damages, claims, liabilities, costs or expenses suffered or incurred by you resulting from the theft, misuse or unauthorized usage of the number printed on the Card or other related services such as web access.
- III. Every Card, once purchased, is not refundable and has no surrender value. GTA is not obligated to refund any unused portion of the Card value whether before or after its expiration date.
- IV. Each Card has an expiration date after deposit into your account. A \$5 card expires 15 days after deposit into an account. A \$10 card expires 30 days after deposit into an account. Both \$20 and \$50 cards expire 60 days after deposit into an account. When depositing a Qwik Charge card into an account with a valid balance, the greater of expiration dates shall apply. In the case of a Qwik Share, the greater of expiration dates shall apply. When purchasing a deposit using a credit card, the expiration date shall be 60 days from deposit regardless of the amount purchased. Unused airtime will be forfeited unless used by expiration date.

- V. Charging commences as soon as the call, data, or text message is processed or received by you.
- VI. You shall use the Card and the Services in accordance with local and federal law. GTA shall not be liable for any losses, damages, liabilities, costs or expenses suffered or incurred by you resulting from the failure by you to do so. You shall indemnify GTA from any losses, damages, claims, liabilities, costs (including legal costs on a full indemnity basis) and expenses suffered or incurred by GTA as a result of or arising from the misuse or wrongful usage of the Card.
- VII. Without prejudice to MPULSE Prepaid clauses 2 to 4 above, the liability of GTA to you, whether in contract, tort or otherwise, in relation to the Card shall be limited to the price of the Card.

SPYDER™ Section

- I. National Exchange Carriers Association Tariff. Broadband services are provided by GTA under Sections 8 and 17 of the National Exchange Carriers Association (NECA) Tariff FCC No. 5, which is made part of this Agreement. The terms and conditions stated in this Agreement are subject to revisions in the NECA Tariff and/or mandated by the Federal Communications Commission (FCC).
- II. Local Exchange Service Lines. Broadband services will be provided over existing GTA local exchange service lines. Thus, rates and regulations for broadband services are in addition to the rates and regulations for local exchange services. If you apply for Data-Only broadband services, GTA may provide the broadband service over the physical local loop connection capable of simultaneous voice and data communications to your premise. If you decide to terminate and then reconnect your broadband service, the reconnection of your broadband service will be considered a new installation subject to the rates and regulations for broadband service and local exchange service where required.
- III. Inside Wiring & Installations. You have the option to have GTA install any inside wire required or to have a third-party contractor do the installation. However, if you choose to hire a third-party contractor, other terms and conditions may apply. GTA does not represent, warrant or covenant an installation by you or a third party chosen by you will enable you to successfully access, operate, or use the broadband services, nor that such installation will not cause damage to your computer, data, software, files or peripherals. In addition, GTA and its agents and contractors shall have no liability whatsoever for any damage, or for the failure to properly install, access, use or operate the equipment or broadband services by you who chooses this method of installation. The foregoing limitation of liability is in addition to and shall in no way be construed to limit any and all limitations of liability set forth elsewhere in this Agreement.
- IV. Broadband Service Speeds. Because broadband is distance sensitive, you must be located within a serviceable loop distance from a GTA serving wire center. Broadband peak speeds are not guaranteed by GTA due to the factors that may affect the actual speeds delivered including loop distance, condition of the cable facilities, limitations in GTA's network design, and limitations in any CPE. Due to this, GTA provides broadband services as a best effort service, and cannot guarantee upload or download speeds. If it has been determined by GTA that your premises has exceeded the loop distance and broadband service is not available, you will not be charged any early termination fees for cancelling your broadband service request.
- V. Minimum Contract Period. As stated in Section XII. of the General Terms and Conditions, GTA offers Plans in which a longer minimum contract period is required. Unless otherwise indicated, if you opt into a Plan, a one-year minimum contract period will apply. At the end of the minimum term, this Agreement shall be renewed automatically thereafter on a month-to-month basis (that is still subject to this Agreement as modified) or until terminated by either party. If you terminate the Plan before expiration of the minimum term for any reason, you agree to pay an ETF of \$180 per contract year. These termination fees may be deducted from your deposit or any amounts prepaid by you, charged to your card or billed to your account. If you opt into a new Plan, you must fulfill the Terms and Conditions of the current plan unless expressly waived by GTA.
- VI. Trial Period. When you initiate a new broadband service with GTA, you are given a period of 14 calendar days from which the date of service activation (the "Trial Period") in which to cancel the service without incurring any early termination fees. The Trial Period refers only towards the service and not towards equipment. You are required to return all CPE in "like new" condition, which means the CPE appears unused without scratches or unnatural marks, in its original container, with all original contents. Failure to return the CPE to GTA in "like new" condition will result in a charge to your account equal to the replacement price of the CPE.
- VII. Relocation of Services. You may transfer your broadband service location to a different location if your new location is within our serving area. If you relocate the broadband service before expiring a minimum term of one year for any reason, you agree to pay a relocation fee of \$100. If you have completed a minimum term of one year, you will not be charged any relocation fee for the broadband service. If you are relocating broadband and digital television services, you agree to pay a relocation fee of \$59.95. These relocation fees may be deducted from your deposit or any amounts prepaid by you, charged to your card or billed to your account.
- VIII. US Military. You are required to return all CPE in "like new" condition within 14 days of cancellation of your broadband service. Failure to return the CPE to GTA in "like new" condition will result in a charge to your account equal to the replacement price of the CPE.

GUdTV™ Section

- I. Digital Television (TV) Services. The terms and conditions apply to your use of the video and audio programming services and associated telecommunication services that GTA provides and any equipment provided to you for use with the service. Digital TV services provided under this Agreement is contingent upon you having telephone service with GTA. The digital TV services may include video-on-demand, interactive programming and other enhanced video services. Failure to maintain telephone service constitutes a breach of this Agreement.
- II. Redistribution Policy. Some programming may not be available in certain areas due to legal, regulatory, and contractual prohibitions, including restrictions of the Federal Communications Commission and sports blackouts. GTA may recover from you any damages provided by television laws for tampering with any of our equipment, our television system or for receiving or distributing unauthorized services. GTA has a zero tolerance policy for any infraction of the above items. If you also purchase GTA Voice Service, Caller ID information for GTA Voice calls can be displayed on your TV screen. In addition, call history information for all missed and answered calls can be displayed on your TV screen and cannot be PIN protected. Call history for dialed calls cannot be displayed on your TV screen. As permitted under applicable law, in addition to other rights provided for in this Terms of Service, in the event a payment is past due, GTA may restrict your account to prevent access to video on demand, pay-per view, and other usage-based services and content.
- III. Charges Associated with Digital TV Services. As stated in Section VII. of the General Terms and Conditions, you are responsible for paying all charges and fees associated with the Services. You will be charged for the use of the digital TV services by any person, including but not limited to, Video on Demand and Pay Per View, and other enhanced video services ordered from any set top box providing access to the digital TV services, regardless of who ordered such programming. You are responsible for setting and securing a password on your set top box to prevent unauthorized use of Services. As long as payments are current, you will have a limit (up to a maximum of \$150) per month on such one-time orders billed to your account. This limit will vary based on creditworthiness or for other reasons. A downgrade fee may apply if you make changes to your Service within thirty (30) days of Service provisioning or later programming orders.
- IV. Programming. GTA reserves the right to add, change, or remove any video and audio channel included in any program tier or package upon 30 days notice.
- V. Customer Premises. In order to provide you with digital TV services, you agree to give GTA and/or our agents permission to enter your premises for the purpose of installing, removing, connecting, disconnecting, maintaining, troubleshooting, replacing, servicing, and auditing the equipment and service. Your permission includes the premises outside your home at times when you may not be there. Our employees and designees will show their company identification upon request and in most cases have GTA signage on their vehicles. If you are not the owner of your home, we will require you to obtain permission from the landlord/owner for us to enter the premises and install digital TV and all associated wiring.
- VI. Credit Approval and Deposits. In order to establish an account with us, you authorize GTA to inquire into your credit worthiness by checking with credit reporting agencies. If you are delinquent in any payment to GTA, you authorize GTA to report any late payments or nonpayment to credit reporting agencies. GTA may require a security deposit from you (a) before digital TV services are provided, if you do not have a satisfactory credit history with GTA or do not provide other proof of credit worthiness, or (b) at any time during this Agreement, if you have an unsatisfactory credit rating with GTA as a result of your payment practices, or (c) if you clearly present an abnormal risk of loss. GTA may apply any portion of the security deposit against unpaid charges on your account at any time and, upon termination of service or where the conditions justifying the security deposit no longer apply, will refund any outstanding security deposit retaining only the amount you owe on your account.

GOVERNMENT OF GUAM

SEALED BID SOLICITATION INSTRUCTIONS

1. **BID FORMS:** Each bidder shall be provided with two (2) sets of Solicitation forms. Additional copies may be provided upon request. Bidders requesting additional copies of said forms will be charged per page in accordance with 5 GCA § 10203 of the Government Code of Guam. All payments for this purpose shall be by cash, certified check or money order and shall be made payable to the General Services Agency (EO 86-24).

2. **PREPARATIONS OF BIDS:**
 - a) Bidders are required to examine the drawings, specifications, schedule, and all instructions. Failure to do so will be at bidder's risk.
 - b) Each bidder shall furnish the information required by the Solicitation. The bidder shall sign the solicitation and print or type his name on the Schedule. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent are to be accompanied by evidence of this authority unless such evidence has been previously furnished to the issuing office.
 - c) Unit price for each unit offered shall be shown and such price shall include packing unless otherwise specified. A total shall be entered in the amount column of the Schedule for each item offered. In case of discrepancies between a unit price and extended price, the unit price will be presumed to be correct.
 - d) Bids for supplies or services other than those specified will not be considered.
Time, if stated as a number of days, means calendar days and will include Saturdays, Sundays, and holidays beginning the day after the issuance of a Notice to Proceed. Time stated ending on a Saturday, Sunday or Government of Guam legal holiday will end at the close of the next business day.

3. **EXPLANATION TO BIDDERS:** Any explanation desired by a bidder regarding the meaning or interpretation of the Solicitation, drawings, specifications, etc., must be submitted in writing and with sufficient time allowed for a written reply to reach all bidders before the submission of their bids. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective bidder concerning a Solicitation will be furnished to all prospective bidders in writing as an amendment to the Solicitation if such information would be prejudicial to uninformed bidders.

4. **ACKNOWLEDGEMENT OF AMENDMENTS TO SOLICITATIONS:** Receipt of an amendment to a Solicitation by a bidder must be acknowledged by signing an acknowledgement of receipt of the amendment. Such acknowledgement must be received prior to the hour and date specified for receipt of bids.

5. **SUBMISSION OF BIDS:**
 - a) Bids and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the Solicitation. The bidder shall show the hour and date specified in the Solicitation for receipt, the Solicitation number, and the name and address of the bidder on the face of the envelope.
 - b) Telegraphic bids will not be considered unless authorized by the Solicitation. However, bids may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt (see paragraph 6 of these instructions).
 - c) Samples of items, when required, must be submitted within the time specified, unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at bidder's request and expense, unless otherwise specified by the Solicitation.
 - d) Samples or descriptive literature should not be submitted unless it is required on this solicitation. Regardless of any attempt by a bidder to condition the bid, unsolicited samples or descriptive literature will not be examined or tested at the bidder's risk, and will not be deemed to vary any of the provisions of this Solicitation.

6. **FAILURE TO SUBMIT BID:** If no bid is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard shall be sent to the issuing office advising whether future Solicitations for the type of supplies or services covered by this Solicitation are desired.

7. **LATE BID, LATE WITHDRAWALS, AND LATE MODIFICATIONS:**
 - a) **Definition:** Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated for opening is late (Guam Procurement Regulations 2 GAR, Div.4 §3109(k)).
 - b) **Treatment:** No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of territorial personnel directly serving the procurement activity.

8. **DISCOUNTS:**
 - a) Notwithstanding the fact that prompt payment discounts may be offered, such offer will not be considered in evaluating bids for award unless otherwise specified in the Solicitation. However, offered discounts will be taken if payment is made within the discount period, even though not considered in the evaluation of bids.
 - b) In connection with any discount offered, time will be computed from date of delivery and acceptance of the supplies to the destination as indicated in the purchase order or contract. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

9. **GOVERNMENT FURNISHED PROPERTY:** No material, labor or facilities will be furnished by the Government unless otherwise provided for in the Solicitation.

10. **SELLER' INVOICES:** Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified. Invoices shall be "certified true and correct" and shall contain the following information: Contract and order number (if any), item numbers, description of supplies or services, sizes, quantities, unit prices, and extended total. Bill of lading number and weight of shipment will be shown for shipments made on Government bills of lading.

11. **RECEIPT, OPENING AND RECORDING OF BIDS:** Bids and modifications shall be publicly opened in the presence of one or more witnesses, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be read aloud and recorded, or otherwise made available. The names and addresses of required witnesses shall be recorded at the opening. The opened bids shall be available for public inspection except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in accordance with Section 12, below. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Prices, makes and models or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary (Guam Procurement Regulations 2 GAR, Div.4 §3109(k)).

12. **CONFIDENTIAL DATA:** The Procurement Officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data.

I. Introduction

The Government of Guam (GovGuam) recognizes the competitive nature of telecommunication services and invites telecommunications service providers to offer services in accordance with the terms and conditions of this IFB.

II. Purpose of the Invitation for Bid

The purpose of this Invitation for Bid (IFB) is to enable the Government of Guam to establish a Price List for Telecommunication Services (PLTS). The Price List will be for a comprehensive set of voice, data, and television services that are routinely used by the Government of Guam.

Each Part of the IFB shall be treated separately for bid submission and shall not affect the other Parts of the bid.

Bid Submission for the following services:

- Part A - Central Office (CO)/Centrex Telephone Services
- Part B - Non-Centrex Cable or Wireless Telephone Services
- Part C - Mobile Telephone Services
- Part D - Integrated Services Digital Networking (ISDN) Primary Rate Interface (PRI), Basic Rate Interface (BRI), and Session Initiation Protocol (SIP) Trunks
- Part E - Dedicated GovGuam Wide Area Network (GGWAN) Data Communication Services
- Part F - Broadband Internet Access
- Part G - Digital Subscriber Line (DSL)/Cable or Wireless Internet Services for Small Offices
- Part H - Television Services
- Part I - Routers, Managed Switches, and Network Equipment
- Part J - Direct Inward Dialing (DID) Numbers

Bidder may respond to one Part or all Parts of the IFB.

The term of the awards that will be made in accordance with this IFB will be for 5 years upon availability of funding. The Government of Guam may elect to extend the awards for no more than two (2) consecutive one (1) year terms upon availability of funding.

This IFB constitutes authority over the conditions of the purchase by the Government of Guam and authorizes the release of customer records and other information to the GovGuam Bureau of Information Technology (BIT) in accordance with Section 222 of the U.S. Telecommunications Act of 1996. The chief executive of any independent organization shall specify the office and person that shall receive the data and information required under this IFB.

The Bidder shall treat the Government of Guam as a "Best Customer" and shall provide to the GovGuam the lower price for a service if such price is provided to another customer of about equal or lesser size.

The Bidder is to provide a Notice to the Chief Procurement Officer of any lower prices offered for a service. Should rates not be adjusted, the GovGuam shall be entitled to a 10% penalty in addition to the price difference for the period of time another customer that is smaller than or equal to the size of GovGuam receives a larger discount for tariff services provided for under this IFB.

The Bidder is sometimes referred to as Bidder/Contractor/Service Provider in this IFB when necessary to denote the responsibilities of the Bidder following the award of the contract.

III. Background Information

Attachment A of this IFB consists of a number of Appendices from a draft of the Brief Summary and Assessment of Telecommunication Services Used by the Government of Guam (Assessment). While the assessment is a work in progress, the Appendices are provided to enable the Bidders to better understand the major telecommunication services that are in use by the GovGuam.

The GovGuam intends to acquire these services through competitive procurement. Appendix A is a complete list of services provided by GTA.

A. Part A - Central Office (CO) Centrex Telephone Services

Appendix B and C of the Assessment is a list of the telephone services currently being used by the Government of Guam. The data is based on information from Appendix A. Appendix B contains a list of all current Centrex services and Appendix C is a list of the Government Telephone Services provided to GovGuam by the current provider.

Appendix B shows that there are about:

- .. 675 Billed Government Telephone Service Lines
- .. 1,686 Billed Centrex Telephones Service Lines
- .. 2,361 Total Estimated Lines

The assessment is a review of the services and comparisons between the results of the IFB of the GDOE and the IFB and non-bid authorizations of procurements. This is a work in progress by the Telecommunications and Information Policy Group of the Social Science Research Institute of the University of Hawaii.

The GovGuam plans to acquire around 1,686 Central Office (CO) and plain old telephone services (POTS) based telephone services through this IFB.

Bidder shall be aware that small offices that close during disasters may use the non-Centrex based services in Part B of this IFB.

Appendix C shows that some GovGuam agencies are using a Government Hosted Private Branch Exchange (PBX) or standalone PBX system. The telephones and services for the Government Hosted and standalone PBX systems are not included in this IFB. A determination by each GovGuam agency to continue with a "Hosted PBX" or standalone PBX will be made following the Price List established by this IFB. Should a GovGuam agency decide to continue with any existing service, then, a separate IFB may be issued for the support of this service.

B. Part B - Non-Centrex Cable or Wireless Telephone Services

For smaller agencies that will not need line powered CO Centrex Telephone Services, the GovGuam is requesting competitive bids for cable or wireless telephone services for small offices. The GovGuam agency may select this option only for sites that are not considered essential during disasters.

The GovGuam estimates that at least ten (10) offices may use this type of service. More may use the service, depending on the cost of the service and features provided. There may be several hundred lines.

C. Part C - Mobile Telephone Services

The GovGuam currently uses mobile telephone services. There are over 50 GSM accounts with GTA. The GovGuam will be seeking a corporate plan for these mobile services. The corporate plan will include shared minutes, unlimited texting, no-cost nights and weekends, and other plan features comparable to plans offered throughout the United States. An optional data plan will also be required as part of this IFB. The GovGuam plans to use at least 50 of these mobile services in a corporate GovGuam plan.

Bidder shall port the current mobile phone to new service

D. Part D - Integrated Services Digital Networking (ISDN) Primary Rate Interface (PRI), Basic Rate Interface (BRI), and Session Initiation Protocol (SIP) Trunks

The GovGuam currently uses ISDN Primary Rate Interface (PRI), ISDN Basic Rate Interface (BRI), and Session Initiation Protocol (SIP) Trunks. Appendix E of the Assessment contains a listing of the current trunks and pricing for the GovGuam. There are about 22 PRI and 3 BRI circuits. Although the GovGuam does not currently use SIP trunking, the price differential between PRI channels and SIP trunks may yield sufficient savings to warrant a conversion, at least for those sites that do not use PRIs or BRIs for video teleconferencing applications. The GovGuam will use an estimated 12 PRIs, 2 BRIs, and up to 30 SIP trunks.

E. Part E - Dedicated GovGuam Wide Area Network (GGWAN) Data Communication Services

Part E of this IFB is for a Government of Guam Wide Area Network. The GGWAN connects government offices to the GovGuam Data Center (GDC) in Hagatna through Ethernet based capacity. Appendix F of the Assessment shows that GovGuam is currently using a minimum 5 Mbps ETS service and a managed router service. There are an estimated 46 of these circuits that are in use.

The GovGuam has established a centralized server farm which requires higher bandwidth to ensure good response. The GovGuam is seeking dedicated fiber based capacity of 1 or 10 Gbps that would be used only by authorized GovGuam agencies. The Bidder must provide these services in a fiber ring topology to each site. The Bidder shall provide a single line diagram for a site and identify the demarcation. The network node must be installed within 90 days after receipt of a purchase order.

F. Part F - Broadband Internet Access

The Broadband Internet service is for users connected to the GGWAN. The GovGuam issued an IFB for a Price List for High Capacity Internet Access in 2007. Awards were made for T1 and 512 Kbps Internet links. The current services are aggregated via a router from the GDC rather than used from an ordering agency.

The Bidder will be required to provide per 1 Mbps pricing for Internet Access in 6 Different categories:

1-25 Mbps	76-100 Mbps
26-50 Mbps	101-150 Mbps
51-75 Mbps	151-200 Mbps

Bidder must install the Internet capacity within 30 days from receipt of a purchase order. The Bidder must meet the service level and operational requirements for the Internet Access and must have and/or agree to establish a peering relationship with the major Internet Service providers (GTA, IT&E, MCV, PDS) for all local Internet traffic.

The GovGuam is using approximately 12 Mbps for Internet Access. Depending on the price offered, the GovGuam plans to increase the capacity substantially.

G. Part G-Digital Subscriber Line (DSL)/Cable or Wireless Internet Services for Small Offices

There are a number of GovGuam sites that do not need GGWAN services but do need Internet access. For these offices, the GovGuam plans to use DSL/Cable or Wireless Internet Services. The DSL/Cable or Wireless Internet Services may also be used as a backup connection for large offices. The list of existing DSL/Cable Internet services provided to GovGuam by the current provider is also provided in the Assessment.

The GovGuam may use 10 to 70 Mbps of these services. More capacity may be added Over time.

H. Part H - Television Services

The GovGuam requires television services in Government agencies. The services must provide the full range of non-premium channels.

GovGuam anticipates a minimum of 5 agencies will be using this service. The provider must provide a basic installation, monthly recurring cost for the first television, and monthly recurring cost for any additional television service within a building.

I. Part I - Routers, Managed Switches, and Network Equipment

The GovGuam has standardized on Cisco routers and switches. The Bidder must provide a single price for the purchase of all Cisco products, a price for shipping and installation of all equipment which exceeds \$1,000 and a annual maintenance of all equipment and software that GovGuam elects to have on maintenance for 5 years. New equipment shall have a 1 year warranty. The existing equipment that GovGuam decides to place under maintenance will be at the awarded price. GovGuam anticipates purchasing 4-20 routers and managed switches in the next two years upon availability of funds.

J. Part J - Direct Inward Dialing (DID) Numbers Blocks

The GovGuam will require DID Number Blocks for the GovGuam PBX systems. The GovGuam will acquire 3-10 Number Blocks of 100 DIDs.

IV. General Requirements and Conditions for the Invitation for Bid

A. GOVERNMENT OF GUAM GENERAL TERMS AND CONDITIONS FOR SEALED BIDS

The Bidder shall comply with all terms and condition of this IFB, the Government of Guam General Terms and Conditions for Sealed Bids.

B. BEST CUSTOMER STATUS

The Bidder shall treat the Government of Guam as a "Best Customer" and shall provide to the GovGuam the lower price for a service if such price is provided to another customer of about equal or lesser size. The Bidder is to provide a Notice to the Procurement Officer and the GovGuam Bureau of Information Technology of any lower prices offered for a service. Should rates not be adjusted, the GovGuam shall be entitled to a 10% penalty in addition to the price difference on a prorated monthly basis if another customer the smaller than or equal to the size of GovGuam receives a larger discount for services provided for under this IFB.

C. AUTHORIZED TELECOMMUNICATION SERVICE PROVIDER

If the telecommunication service to be provided by the Bidder requires that the Bidder be authorized to provide the service or goods by the Guam Public Utilities Commission (GPUC), the Federal Communications (FCC), and/or the Universal Service Administrative Company (USAC), then, the Bidder shall provide a copy of all appropriate authorizations (e.g. Certificate of Public Convenience and Necessity).

D. BID PREPARATION

1. Instructions - Bids must be prepared in conformity with all instructions, conditions, and requirements included in this IFB and the Government of Guam General Terms and Conditions for Sealed Bids. In addition to the provisions of the IFB, any additional clauses or provisions required by the laws and regulations of the GovGuam that are in effect at the time of execution of the contract are incorporated. Bidders are required to examine and comply all conditions. Failure to observe all terms and conditions will be at the Bidder's risk.

2. Special Conditions - The GovGuam General Terms and Conditions for Sealed Bids applies to all parts of the IFB. In addition, each section may contain Special Terms and Conditions within the Part that will apply only to that Part.

IFB Specific Information - The IFB requires that information be provided.

Technical Information is required for the following Parts of the IFB

Part A - Centrex Services

Part D - GG Wide Area Network (1 or 10 Gbps)

Part E - Broadband Internet Access Point-by-Point Response

The IFB requires a Point-by-Point response. To facilitate the IFBs, a spreadsheet form is provided. This Form must be completed for the IFB General Requirements section, Parts A, B, and C. The Forms are labeled as Bid Forms 0, 1, 4 and 7. The Bidder may adjust the row heights.

SPIN and SPAC Service Provider Identification Number (SPIN) and Service Provider Annual Certification (SPAC) A SPIN is required. Bidder should make sure that the SPAC is updated and shows updated on the SLD Web Site CD or DVD Disk with Copies of IFB Documents. The IFB requires that 1 original and 4 copies of the Bid (including all Bid Forms) be submitted together with a Disk containing the complete electronic version of the Bid. Bidder should make appropriate copies.

3. Bid Forms - The following is a list and description of the Bid Forms for the IFB. This is provided for the convenience of the Bidder.

Bid Form Number Description 0 Point-by-Point Response to General Requirements of IFB - Bidder to fill out Columns C and D

- 1 Point-by-Point Response for Centrex Telephone Service
- 2 Price Bid for Centrex Telephone Service
- 3 Price Bid for Centrex Telephone Instruments
- 4 Point-by-Point Response for Non-Centrex Telephone Service
- 5 Price Bid for Non-Centrex Telephone Service
- 6 Price Bid for Non-Centrex Telephone Instruments
- 7 Point-by-Point Response for Mobile Telephone Service
- 8 Price Bid for Mobile Phone Services and Devices
- 9 Evaluation Model for Mobile Telephone Service
- 10 ISDN PRI, BRI, and SIP Trunks
- 11 GovGuam Wide Area Network (1 and 10 Gbps)
- 12 Broadband Internet Access Services
- 13 Cable, DSL or Wireless Internet Services for Small Offices
- 14 Cisco Routers, Managed Switches, and Networking Equipment Price Bid and Evaluation Model
- 15 Television Services
- 16 DID Number Blocks

4. If a Bidder is planning to submit a bid for more than one telecommunication service or equipment, the Bidder only has to provide one copy of the required Bid Submission documentation (e.g. Technical Information, Affidavits, etc.). The Bidder is required and reminded to reference the Bid Part which contains all the necessary forms.

The Bidder may provide any other information that is specific to the Part that is required or the Bidder wants to provide. Please be sure that the additional information for the service is included and labeled in the other sections.

5. Cost of Bid Preparation - There is no expressed or implied obligation for GovGuam to reimburse responding Bidders for any expenses incurred in preparing any Bid in response to this IFB.

6. Pricing of Service - The IFB pricing of Monthly Recurring Costs shall be a firm fixed price. The Bidder shall not apply any surcharges or other fees to the service which are not been identified in the Bidder's price.

7. Individual Case Basis (ICB) Tariff - The Bidder, as may be required by the Guam Public Utilities Commission (GPUC) in accordance with the Guam Telecommunications Act of 2005, shall submit a copy of any ICB filing and shall submit a copy of the GPUC Orders and Decisions regarding an ICB within two working days of the filings and/or decision(s). The information shall be submitted to the Director of the BIT. Any failure to perform this requirement shall result in a \$1,000 a day penalty. The GovGuam does not need any Long Run Incremental Cost (LRIC) confidential information. The GovGuam does require that the ICB include (a) a specific technical description of the service; (b) a description how the service will be provisioned to meet the specifications of the IFB; and the cost. The cost shall identify any and all costs associated with the service and shall be consistent with the costs proposed in the appropriate Bid Form. The GovGuam also requires that any and all general terms, specification, and special conditions of the IFB be incorporated into the ICB Tariff or incorporated through a reference in the ICB Tariff.

8. Sealed Bids - The Bidder shall submit the binder Bids in sealed envelope or enclosed box clearly marked (IFB XXX) - PART "X". The Bidder is also instructed, in accordance with the IFB procedures. If the Bidder is submitting bids for multiple Parts, the Bidder may submit a comprehensive technical information to cover all parts of the IFB.

9. Revisions and Amendments to the IFB - GovGuam reserves the right to amend the IFB at any time. In the event that it is necessary to revise any part of the IFB, an amendment will be provided to all Bidders who are known to the department as having received the IFB and having been registered as to their intent to submit a Bid. Acknowledgement of receipt of all issued addenda /Amendments is required from all Bidders and should be included in the Bid submission.

10. Cancellation of the IFB - GovGuam reserves the right to cancel the IFB, in whole or in part at any time, or reject any or all proposals submitted in response to the IFB, when this action is determined to be fiscally advantageous to the Government or otherwise in the best interest of the Government.

E. TYPE OF CONTRACT - The IFB will result in multiple Price Lists for Telecommunication Services or equipment established through a Fixed Price Contract in accordance with the terms of the IFB.

F. TERM OF CONTRACT

Each Part will be awarded separately in accordance with the terms of this IFB. The Price Lists shall be for a period of 5 years with a for two (2) one-year extensions upon availability of funds.

G. PRICE LIST - The final determination of the quantity of the type of circuits, services, equipment, and the like, will be made after analysis of cost proposed and the availability of funding. The GovGuam agencies and entities identified and mentioned in this IFB are not obligated to purchase all or any services listed in this IFB. The Bidder shall be aware that some purchases will be dependent on federal funding as described below and require that the bidder/Contractor prepare and submit documents to U.S. Government agencies and/or the U.S. Government contractor (e.g. Universal Service Administrative Company (USAC)).

Successful Bidder will provide instruments.

The Bidder/Contractor must comply with all federal government procedures, including the reimbursement procedures for the USAC, if so elected by GovGuam.

H. ALL GOVERNMENT AGENCIES

The Price List for Telecommunication Services established by this IFB will be used by the Government of Guam for all telecommunication services established through this IFB. GovGuam agencies may elect to competitively purchase PBX or other telecommunication systems which are not included in this IFB in accordance with the procurement procedures of GovGuam.

Independent government agencies such as the Guam Medical Hospital Authority (GMHA), the University of Guam (UOG), Guam Department of Education (GDOE), and/or others may elect to use any of the Price Lists established by this IFB. However, such government public service corporation entities are not under any obligation to use the PLTS established under this IFB.

If an independent GovGuam agency decides to use a Price List for Telecommunication Services, then, all terms and conditions of this IFB shall be extended or applied to the independent agency. For example, this IFB requires that Station Message Detailed Report (SMDR) data be provided to the Bureau of Information Technology for the Executive Branch

I. INVOICES FOR SERVICES

The Invoices for Services shall be billed on a monthly basis to the entity designated by the Government of Guam.

J. BILLING DATA

The billing data for telecommunication services contracts with an ongoing MRC must also be consolidated into an excel spreadsheet or other data format acceptable to the BIT. The data to be provided includes, but is not limited to, the following:

- .. YY-MM of Service
- .. Department
- .. Location of Service
- .. Circuit or Phone Number
- .. Charge

The spreadsheet data must be provided within 7 days following the last day of the month. The failure to comply with this requirement shall result in a % of 1 per day penalty based on the total MRC for the service.

K. STATION MESSAGE DETAILED RECORDING

The Bidder shall provide to the GovGuam Station Message Detail Recording (SMDR) for Long Distance and Mobile phone call data by station line, authorization code, number called, date, time of call start, time of call end, and number of minutes and seconds.

The SMDR data shall be provided in electronic form, on a CD or DVD, as an excel spreadsheet or other data file format as directed by the Bureau of Information Technology (BIT). The data shall be provided on a monthly basis and within 5 working days following the last day of the month.

This IFB constitutes authority over the conditions of the purchase by the Government of Guam and authorizes the release of such customer records and other information to the Bureau of Information Technology and other agencies in accordance with Section 222 of the U.S. Telecommunications Act of 1996. The chief executive of any independent organization shall specify the office and person that shall receive the data and information required under this IFB.

The Bureau of Information Technology, on behalf of the Government of Guam and in accordance with the IFB requirements, shall instruct the Bidder on how the SMDR data shall be provided for all Executive Branch agencies to both the BIT and the Executive Branch agency. The BIT shall provide to the Bidder/Contractor the name of the office or person that will receive the data for each Executive Branch agency.

The SMDR data for the Attorney General and for the Police Department shall be provided directly to the respective office designated by the head of the agency.

For all other Executive Branch agencies, the SMER shall be provided to the BIT and to the Executive Branch agency.

The head of any independent agency that elects to use the Price List will provide instructions to the Bidder/Contractor regarding the office that should received the SMDR data.

L. AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The goods and/or services procured through this IFB may be funded, in whole or in part, by the American Recovery and Reinvestment Act (ARRA). If a government agency elects to procure goods or services with ARRA funds, the bidder / Contractor will be required to comply with the terms and conditions set forth by the Act to prevent termination of source funding. Select compliance and assurance requirements of the Act are highlighted in Section VII. Purchases using ARRA funding are subject to the rules and reporting under the ARRA.

M. UNIVERSAL SERVICE ADMINISTRATIVE COMPANY SERVICE PROVIDER IDENTIFICATION NUMBER (SPIN)

Since this PLTS may be used by the clinical providers of the Guam Department of Public Health and Social Services, all Service Providers are required to obtain a Service Provider Identification Number (SPIN) number from USAC. The SPIN Number must be provided as part of the Bid submission.

If the Bidder does not have a SPIN Number, the Bidder should go to the Universal Service Administrative Company (USAC) web site to obtain and/or renew the SPIN Number. The Bidder should also submit confirmation that the Service Provider Annual Certification has been filed.

1. All purchases made under the Erate, Rural Health Care, and Pacific Broadband Telehealth Demonstration Project (PBTDP) shall be subject to rules of the Schools and Libraries Division (SLD), Rural Health Care Division (RHCD), Universal Service Administrative Company (USAC), and Federal Communications Commission (FCC).

2. The GovGuam will inform the Bidder that a purchase is being made under the rules and procedures of the SLD and/or RHCD.

N. PAYMENT SCHEDULE FOR UNIVERSAL SERVICE ERATE AND RURAL HEALTH CARE PROGRAMS

The Bidder shall be aware that the PLTS may be used by the Department of Public Health and Social Services and the Guam Memorial Hospital Authority under the Rural Health Care Program and the Rural Health Care Pilot Program of the Federal Communications Commission.

The Bidder shall be aware that the payment process is considerably complex and cumbersome. To further understand the SLD Erate and the Rural Health Care program process, the Bidder should visit the <http://www.universalservice.org/rhc/> or <http://www.universalservice.org/sl/>.

Rural Health Care (RHC) Pilot Program - In the case of the RHC Pilot Program, the Service Providers shall invoice the customer for 100% of the cost. The customer (health care agency) shall pay a portion of the invoiced amount. The GovGuam with the assistance of the UH TIPG, as the Project Coordinator, will validate invoice items, 15% payment, and complete USAC invoice forms. The Bidder shall be paid the balance directly by the USAC.

The Service Provider will be required to review these USAC invoice forms, sign and mail to the RHCD Project Reviewer. RHCD forwards invoices to USAC for reimbursement to the Service Provider. The payments may take a considerable amount of time. The GovGuam reserves the right to convert back to the standard USAC process.

O. CONTINGENT ON FUNDING AND APPROVALS

The contract and its annual continuation and/or use by GovGuam agencies are contingent upon the availability of local funds, Administrative Company (USAC), approval by the Federal Communications Commission, funding by the U.S. Congress, approval by agencies in accordance with the American Recovery and Reinvestment Act of 2009, and/or the availability of matching funds by the local agencies, as may be appropriate.

P. SERVICE LEVEL REQUIREMENTS AND LIQUIDATED DAMAGES

All services shall have a 99.999% uptime. Failure to meet the uptime on a daily basis shall result in a daily liquidated damage of 4 of 1% of the monthly recurring cost for each day the service is unavailable following the first 8 hour working period that service is unavailable.

Q. GEOGRAPHIC COVERAGE

The Bidder must be able to provide the services on an island-wide basis and to any and all government departments, agencies, and offices on the island of Guam.

R. LENGTH OF TERM

The Price List established by this IFB will be for a term of five (5) years upon availability of funds, with two (2) additional one-year extension terms upon availability of funds at the sole election by the Government of Guam.

S. BID ANALYSIS - Each Part shall be analyzed and awarded separately.

The final determination of the quantity of the type of circuits, services, equipment, and the like, will be made after analysis of cost proposed and the availability of funding. The GovGuam agencies and entities identified and mentioned in this IFB are not obligated to purchase all or any services listed in this IFB.

Certificate of Authority (Exhibit 3) - Certificate of Authority to provide Local Exchange Service/Interconnection Agreement issued by Guam Public Utilities Commission - The Bidder must hold a current Certification of Authority to provide Telecommunication services on Guam from the Guam Public Utilities Commission. The Bidder must also have a Business License and any other professional certifications for the IFB.

Bidder Qualifications

a. The Bidder shall furnish satisfactory evidence and the requisite experience, ability, including sufficient capital, facilities, and plant, and record which are necessary to prosecute the specific work successfully and promptly within the terms set forth in the IFB.

b. The Bidder shall submit documentation regarding the qualifications of the firm, including a description of the company, current services provided, number of Customers and lines or circuits in service, resumes of key technical and operations personnel, number of personnel in telecommunication operations, type of equipment used in the delivery of services, and training certifications in maintaining key equipment.

c. The Bidder shall list and submit a dossier of relevant personnel qualifications and professional credentials.

d. The Bidder shall submit a list of three or more references and a project history to document a minimum of five (5) years of specifically related experience.

Technical Information - The Bidder shall submit a full, complete, and detailed Technical Information which describes the goods, services, and procedures that completely addresses the requirements presented in the Scope of Work, Specifications and Special Conditions for the Part that the Bidder is competing for. As part of the Technical Information, the Bidder shall provide the following information:

1. Point-by-Point Response - The Bidder shall describe whether the Bidder meets or exceeds all of the system services and feature specifications provided for in the various Parts of the IFB.

Instruction: The Bidder shall use the applicable Bid Form for the Point-by-Point Response. The Bidder must explain how the service is provided in the Point-By Point Response.

The Point-by Point Response in Bid Form 0 is required for all Parts.

The Point by Point Response is required for Parts A (Bid Form 1), B (Bid Form 4), and Part C (Bid Form 7). Bid Forms are provided for the Bidder's convenience and a Spreadsheet of the form may be found on the website of the Bureau of Information Technology.

Telecommunication Facilities - The Bidder shall describe the specific carrier-class facilities and services related to the Part of the Service. The Bidder shall provide a detailed description of the telecommunication system and facilities that will support the service for:

Part A - Central Office (CO) Centrex Telephone Service,
Part B - Non-Centrex Telephone Service,
Part C - Mobile Telephone Services
Part D - Dedicated GovGuam Wide Area Network Data Communication Services,
Part F - Broadband Internet Access, and
Part G - DSL, Cable or Wireless Internet Services.

The Bidder shall also describe how the Bidder's switching systems, networks, power backup, operations capability, and the like. The Bidder shall describe how the system will protect against natural threats such as typhoons, earthquakes, and the like.

The Bidder shall describe how each of the telecommunication services will perform during a power outage at a government building. For all other Parts, as appropriate, a general description will be sufficient.

Project Management, Timetable, and Milestones - If required by the Special Terms and Conditions, the Bidder shall submit a project plan that includes all tasks, timetables, schedules and milestones to provide the telecommunication service. The period to plan and implement the telecommunication service shall not exceed 90 calendar days. Liquidated damages shall be assessed after the 90 day period. The Bidder shall include, in this section, the following information.

- a. Project Liaison. Designate a contact person who will serve as the liaison between GovGuam and the Bidder for all matters pertaining to this bid. Include the person's name, title, mailing address, direct telephone line, and fax number.
- b. Other Participants and Description of Involvement. Identify and describe any subcontractor parties and services to be involved in carrying out this requirement. Include the person's name, title, mailing address, direct telephone line, email address and fax number.
- c. Project Description. Provide a detailed description of equipment and services following the requirements outline format.
- d. Project Management Plan. Provide a detailed and consolidated description of how your organization plans to manage the installation and maintenance of the service that is being proposed.
- e. Project Start Date. Describe steps taken to ensure a start-up date which will allow you to complete the project on time. Describe the expected availability of equipment and personnel as of that date to support the requirement.
- f. Additional Benefit to GovGuam. Describe what the Bidder proposes to perform that will especially benefit the system users and/or make the bid stand out from other applicants. This may include outstanding features of the system, integration, guarantee project timeliness, etc.

4. Operations and Maintenance of System - The Bidder shall describe the maintenance required for any major equipment and/or transmission system provided for under this IFB.

5. Prioritization for Service Restoration - The Bidder shall prioritize the repair or restoration of telecommunication services to GovGuam in the event of a disaster. The Bidder shall describe how the prioritization will be provided. The Bidder shall provide the Bidder's Telecommunications Service Priority (TSP) plan or policy. The TSP should include priority restoration for the Office of the Governor, Department of Homeland Security, Emergency Operations Center, Police, Health and Emergency Services, Bureau of Information Technology and the General Services Agency.

6. Bidder's Professional and Installation Team - The Bidder shall describe the individuals and qualifications of the project team with and task assigned.

7. Training - The Bidder shall provide end-user training in the use of the telecommunication services for the Government of Guam personnel. The Bidder shall submit a description of the type of training appropriate to the service. For Centrex Services - The training in the use of the telephone systems must include hands-on training with the telephone stations and be planned to occur just before cut-over. Training must be provided to BIT and Department or Agency representatives on the system functions, including the auto-attendant function.

GENERAL TERMS AND CONDITIONS - The Bidder must complete and submit a Point-by-Point Response acknowledging agreement and/or compliance with the terms and conditions of the IFB in Bid Form G. NOTE: THIS IS REQUIRED FROM ALL BIDDERS.

The Bidder is advised that a failure to respond and/or the response may result in disqualification (e.g. any disagreement with the performance bond requirements will result in disqualification). The Bidder shall state its acknowledgement, acceptance, and compliance with the requirement.

ADDITIONAL INFORMATION - The Bidder must submit any additional information, including company and product brochures. The Bidder, for example, must include telephone brochures for the Central Office telephone services bid.

a. The Bidder shall complete and submit the appropriate "Item Pricing Form for the Telecommunication Categories."

b. The Bidder shall complete the electronic spreadsheet and submit both hard and softcopies as part of the bid. The soft copies must be on a CD or DVD.

VII. Requirements for all Solicitations Funded by ARRA

Solicitations and awards that will be funded by the American Recovery and Reinvestment Act (ARRA or Act) must comply with the terms and conditions set forth by the Act to prevent termination of source funding. In some instances these terms and conditions may impose higher standards of reporting, record keeping, and compliance. ARRA rules and regulations shall prevail over any conflicting terms and conditions present in this IFB or local and federal laws.

Select ARRA requirements requiring special attention are highlighted below. Full text of the Act can be found at: <http://www.recovery.gov/>.

A. REGISTRATION IN CCR

Bidders and its subcontractors who are awarded a contract as a result of a solicitation that will be funded by ARRA may be required to register their Data Universal Numbering Systems (DUNS) Number and Taxpayer Identification Number (TIN) in the Central Contractor Registration (CCR).

B. REPORTING REQUIREMENTS

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must submit monthly and quarterly reports to the GOVGUAM identifying the following:

1. Vendor's DUNS number;
2. Award number or other identifying number assigned by the GovGuam or GovGuam Agency;
3. Amount of ARRA funds received by the vendor during the reporting period;
4. Amount of ARRA funds expended or obligated to the vendor during the reporting period;
5. Detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
 - a. The name of the project or activity;
 - b. A description of the project or activity;
 - c. An evaluation of the completion status of the project or activity;
 - d. An estimate of the number of jobs created or retained by the project or activity;
 - e. The primary place of performance of the sub-award, including the city, state, congressional district, and country
 - f. The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80 or more of its annual gross revenues in federal awards; and 2) \$25 million or more in annual gross revenue from federal awards
6. Any other information reasonably requested by the GovGuam, GovGuam Agency, or required by Guam or federal law or regulation.
7. Samples of ARRA reporting forms are included in Attachment B of this IFB. Please be aware that these sample ARRA reporting forms are in draft form and may change over time.

C. SEGREGATION OF FUNDS

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must be willing segregate and refrain from comingling obligations and expenditures of ARRA funds from other sources of funding.

D. TRANSPARENT USE OF GRANT FUNDING

Solicitations and awards that will be funded by ARRA must be completely transparent to prevent the misuse and misappropriation of the funds. All payments made in connection with this solicitation and any award granted therefrom will be publicly reported online at <http://www.federalreporting.gov>.

E. ACCESS TO RECORDS

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must be willing to participate in, either scheduled or unannounced, interviews and examinations of any pertinent books, documents, paper, and records of Bidder related to Bidder's charges and performance under this award by officials from the GovGuam, GDOE (sub-grantee), the Guam Public Auditor's Office (grantee's state auditor), the Office of the Governor of Guam (grantee), the United States Department of Education (grantor), the Office of Inspector General, and Government Auditing/Accountability Office GAO). The failure to comply with this requirement shall result in a \$250 a day penalty. Such Records shall be kept by Bidder for a period of three (3) years after final payment under this award.

F. ACCEPTANCE OF FUTURE REQUIREMENTS

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA should be aware that the rules and regulations governing ARRA funding may change over time and additional compliance requirements may be imposed by the grantor.

G. CLEARANCE INVESTIGATION

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA will be subject to a clearance investigation to ensure that the vendor's owner (and/or project assigned employees) have not been Debarred, Suspended, or deemed Ineligible from federally funded projects.

H. REQUIREMENT OF AN EEOF

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA should have an Equal Employment Opportunity Plan (EEOF) that complies with 28 CFR § 42.302. For contracts \$500,000 or more, Bidders must identify their company's Civil Rights contact person and provide a copy of their EEOF.

I. REQUIREMENT OF AN LEP POLICY

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must have a Limited English Proficiency (LEP) policy and plan that will provide persons with Limited English Proficiency meaningful access to services being provided.

J. "BUY AMERICAN" REQUIREMENTS

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must comply with the "buy American" provisions. Pub. L. 111-5 § 1605(b) (also to be found in 2 C.F.R. §§ 176.60 to 176.170). The "buy American" provisions may be waived under certain very specific criteria identified in section 1605(b) of the ARRA.

1. The "buy American" provisions will apply to all offers and selected contractors must endeavor to insure the compliance of all sub-recipients, contractors and suppliers with the "buy American" provisions unless one of the specified exemptions in Pub. L. 111-5 § 1605(b) applies.

2. Contractors must demonstrate compliance with the "buy American" provisions by obtaining appropriate certification from their suppliers in the component distribution chain until a satisfactory certification is obtained that any iron, steel and manufactured goods used for Subject Activities was manufactured in the United States pursuant to the "buy American" provisions.

K. REQUIREMENTS FOR WAGES PAID

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must comply with the following wage requirements:

1. Wages must be paid at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40 of the United States Code. Pub. L. 111-5 § 1606.

2. Contractors and subcontractors must comply with the Davis-Bacon and related Acts minimum rates for wages determinations issued by the U.S. Department of Labor under Davis-Bacon and related Acts. Information regarding Davis-Bacon and related Acts can be accessed at: <http://www.gpo.gov/davisbacon/>.

L. REQUIREMENTS FOR PAYMENT APPLICATIONS FOR PROJECTS PROCURED USING ARRA FUNDING

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must comply with the following requirements for payment applications:

1. Wages must be paid at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance

M. ADDITIONAL REQUIREMENTS

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA must comply with the following additional requirements:

1. All U.S. Department of Education awards of federal funds are subject to the National Environmental Policy Act and other related Federal laws.

2. Adopt the On-The-Job Seat Belt Policy that enforces the use of seatbelts while operating company-owned, company-rented, or personally owned vehicles pursuant to 23 USC § 402 and 29 USC § 668 while providing goods or performing services resulting from this solicitation.

N. PROHIBITED ACTS AND USES

Bidders who are awarded a contract as a result of a solicitation that will be funded by ARRA are prohibited from engaging in the following acts or practices:

1. Using ARRA funding for casinos, gaming establishments, aquariums, zoos, golf courses, swimming pools, athletic facility, or other recreational facilities. ARRA § 1604.
2. Using ARRA funding for the payment of maintenance of systems, equipment, or facilities.
3. Using ARRA funding to improve stadiums and sectarian facilities. ARRA § 14004(c).
4. Employing or using sex offenders to provide the goods or services being procured through this IFB. Employees who are charged with a sex offender crime while working on an ARRA funded project must notify GDOE of the charges against them and must be removed from the project if convicted.
5. Participating in the procurement of sexual services and/or forced-labor practices.
6. Text messaging while driving during official federal funds project work/or grant work or from using government supplied electronic equipment to text message or email when driving pursuant. Executive Order 13513 (October 1, 2009).
7. Discriminating based on race, color, national origin, sex, disability, and age. Additional information on civil rights obligations can be found at <http://www2.ed.gov/policy/gen/leg/recovery/notices/civil-rights.html>.

TAB H

Exhibit B
GSA Protest Denial letter dated Oct 5, 2012

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)
Department of Administration
148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1746

Benita A. Manglona
Director

Ray Tenorio
Authorizing Officer
Blaz
Deputy Director

October 5, 2012

Mr. Bill Mann
Berman O'Connor and Mann
Suite 503, Bank of Guam Building
111 Chalan Santo Pa
Hagatna, Guam 96910

Please Print Francisca Mondiola
ACKNOWLEDGEMENT COPY (Re-fax to GSA)

Received BY: [Signature]
Date: 10-9-12

Vendor Name:
Fax #'s: 472-4217 / 475-1727 / 11

Re: Protest by Pacific Data System, Inc to Award
Teleguam Holding LLC in GSA 064-11

Dear Mr. Mann:

I am in receipt of your protest dated May 9, 2012 regarding awarding Teleguam Holding LLC a portion of GSA 064-11. As you are aware, an appeal was filed on a separate matter by your client on April 30, 2012, which prohibits any further action until that protest has been resolved. On September 5, 2012, the Office of Public Accountability made a decision. Waiting the required ten (10) days for an appeal to be exhausted, now allows the General Services Agency to proceed with answering the protest.

You protested that Teleguam's affidavit disclosing ownership and commission violated 5 G.C.A. Section 5233. The submission by Teleguam did not meet the requirements as stated in the law, however, under 2 GAR Division 4, Sections 3109(m)(4)(A) through 3109(m)(c) which mistakes in bid are discovered after the time and date set for bid opening and before an award. Based upon these sections, the Chief Procurement Officer determined that these were minor informalities and were cured pursuant to the law. Therefore, your protest on this matter is rejected.

You indicated that Teleguam failed to meet the requirements of the Invitation for Bid by improperly conditioning its bid. We have reviewed your issue and determined that it is without merit. Therefore, this matter is denied.

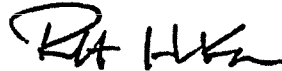
You indicated that the joint bid submission by Teleguam holdings was improper and must be rejected. The basis for this protest was that it was a joint submission by several wholly owned companies of Teleguam holdings, they were separate businesses and their business licenses all expired on June 30, 2011. We have reviewed this issue and determined that it is without merit.

You indicated that Teleguam has failed to specify the SPIN number of the entity that is intended to provide a specific service. You indicated that GTA has failed to provide

which of its subsidiary is providing what SPIN number. GTA has provided the SPIN number and therefore your protest is denied.

Finally, you indicated that Teleguam has failed to submit a Certificate of Authority. A Certification was provided Based upon the above, your protest is hereby denied.

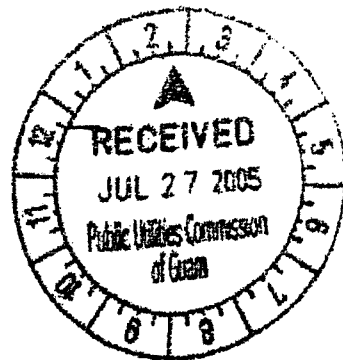
You have the right to seek administrative and judicial review as stated in the law.



Anita Cruz
Buyer Supervisor



BEFORE THE PUBLIC UTILITIES COMMISSION
TERRITORY OF GUAM



IN THE MATTER OF APPLICATION OF
TELEGUAM HOLDINGS, LLC AND
GTA TELECOM, LLC TO TRANSFER
CERTIFICATE OF AUTHORITY

DOCKET 05-03

ORDER

By this Order, the Guam Public Utilities Commission [PUC] considers the application of GTA Telecom, LLC (GTA Telecom) for a certificate of authority, which would be transferred by TeleGuam Holdings, LLC [TeleGuam] pursuant to Section 12103(g) of the Guam Telecommunications Act of 2004 [Act].

Findings of Fact:

PUC hereby makes the following findings of fact:

- A. TeleGuam is the dominant telecommunications company on Guam and was issued a certificate of authority by PUC on February 28, 2005.
- B. On March 7, 2005, TeleGuam and GTA Telecom petitioned PUC to transfer TeleGuam's existing certificate of authority to GTA Telecom [Petition].
- C. In furtherance of the Petition, GTA Telecom submitted an application to PUC on March 29, 2005 to demonstrate GTA Telecom's managerial, technical and financial resources in satisfaction of Section 12103(c) of the Act.
- D. By letter dated May 3, 2005, PUC's Administrative Law Judge concluded that the transfer of TeleGuam's certificate of authority to GTA Telecom was in the public interest in accordance with Section 12103(c)(2) of the Act.
- E. TeleGuam, GTA Telecom and Georgetown Consulting Group [GCG] have entered into a Stipulation dated July 22, 2005 [Stipulation], a copy of which is attached to this Order as Exhibit 1, pursuant to which (i) TeleGuam and GTA Telecom agreed to the imposition of certain conditions on the transfer of TeleGuam's certificate of authority to GTA Telecom and (ii) GCG agreed not to oppose the Petition, subject in each case to the resolution by PUC of the dispute between the parties referenced in paragraph F below.

EXHIBIT 12

F. GCG asserts that TeleGuam should indemnify GTA Telecom for any and all claims, liabilities, losses and expenses arising out the Credit Agreement, dated as of December 29, 2004 and as amended from time to time, among TeleGuam, GTA Services, GTA Telecom, GTA Wireless, CoBank, ACB and Bank of Hawaii [Credit Agreement] to the extent such claims, liabilities, losses and expenses arise from the actions or omissions of TeleGuam or its subsidiaries other than GTA Telecom. TeleGuam objects to the imposition of such condition. PUC agrees with the TeleGuam position on this issue.

G. The conditions identified in the Stipulation for the transfer of TeleGuam's certificate of authority are just and reasonable and are relevant to the managerial, technical and financial resources of GTA Telecom.

H. TeleGuam has submitted to PUC an officer's certificate, a copy of which is set forth in *Exhibit 2* of this Order, certifying that (a) GTA Telecom is a wholly-owned subsidiary of TeleGuam and providing a true and correct organizational chart for TeleGuam and its subsidiaries and (b) all of the assets of TeleGuam that are reasonably necessary to enable GTA Telecom to comply with the legal, regulatory, and contractual duties that apply to it under the Asset Purchase Agreement between TeleGuam and the former Guam Telephone Authority [APA], the Act, and applicable regulations, rules, and orders were assigned to GTA Telecom pursuant to the Contribution Agreement, dated as of January 10, 2005, by and among TeleGuam, GTA Telecom, GTA Services, LLC and GTA Wireless, LLC [Contribution Agreement] and providing a true and correct copy of the Contribution Agreement.

I. Claims, liabilities, losses and expenses arising out the Credit Agreement may adversely affect the financial condition of GTA Telecom, and GTA Telecom should be indemnified by TeleGuam to the extent such claims, liabilities, losses and expenses arise from the actions or omissions of TeleGuam or its subsidiaries other than GTA Telecom.

J. Subject to the satisfaction of the conditions provided in this Order, GTA Telecom possess the manager, technical and financial resources required under Section 12103(c) of the Act to justify the transfer of TeleGuam's certificate of authority to GTA Telecom.

Order

BASED ON THE FOREGOING FINDINGS OF FACT AND THE UNDERLYING RECORD IN THIS PROCEEDING, THE GUAM PUBLIC UTILITIES COMMISSION ORDERS:

A. Pursuant to Section 12103(g) of the Act, PUC hereby approves the Petition and the transfer of TeleGuam's certificate of authority to GTA Telecom subject to the following conditions:

1. To the extent that any assets reasonably necessary to enable GTA Telecom to comply with its legal, regulatory, and contractual duties were not assigned to GTA Telecom pursuant to the Contribution Agreement, TeleGuam shall make such assets available to GTA Telecom on commercially reasonable terms.
 2. TeleGuam shall provide or to otherwise make available to GTA Telecom under commercially reasonable terms such funds as may reasonably be required by GTA Telecom to discharge its contractual, statutory and regulatory duties.
 3. TeleGuam shall take necessary actions to ensure that GTA Telecom discharges its legal, regulatory, and contractual duties in a reasonable and timely manner.
 4. GTA Telecom's assets will not be transferred, pledged or encumbered for any purpose other than the provision of regulated telecommunications services by GTA Telecom without prior PUC approval.
 5. GTA Telecom shall not increase its rates or other charges, and shall not file any tariff or otherwise petition PUC for the increase of any existing or the imposition of any new rates or charges, for certificated services due to TeleGuam's internal restructuring and transfer of assets to its subsidiaries prior to the date of this Order, including by means of the Contribution Agreement. The foregoing shall apply notwithstanding the reasonableness of the terms and conditions pursuant to which any assets are leased or otherwise made available to GTA Telecom by TeleGuam and its other affiliates.
 6. TeleGuam shall provide to PUC audited financial statements and consolidated tax returns for TeleGuam and its subsidiaries for each of the next three (3) years and unaudited financial statements for each quarter during such period.
 7. TeleGuam shall cooperate with PUC and respond to all PUC requests seeking information or documents from TeleGuam or its affiliates, provided such requests are relevant to PUC's regulation of GTA Telecom and its telecommunications services.
 8. TeleGuam shall indemnify GTA Telecom for any and all claims, liabilities, losses and expenses arising out the Credit Agreement to the extent such claims, liabilities, losses and expenses arise from the actions or omissions of TeleGuam or its subsidiaries other than GTA Telecom.
 9. TeleGuam shall submit itself to PUC's regulatory authority in connection with the implementation and enforcement of the conditions imposed in this Order.
- B. PUC has the authority under the Act to impose conditions upon the issuance or transfer of any certificate of authority.

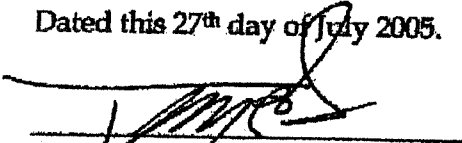
C. PUC has authority under the Act to review and consider the business terms under which GTA Telecom utilizes intrastate telecommunications assets and services provided by third parties, including TeleGuam and its subsidiaries, in assessing whether to approve rate changes requested by GTA Telecom.

E. In order to implement and enforce the conditions imposed in this Order, TeleGuam shall be subject to PUC's regulatory authority, including without limitation, PUC's enforcement and investigative authority.

E. The grant of the Petition and the ongoing validity of GTA Telecom's certificate is subject to (1) GTA Telecom's continuing possession of adequate technical, financial and managerial resources to provide telecommunications services in Guam and the continuing accuracy of the representations made both in the application for the assignment of TeleGuam's certificate of authority to GTA Telecom and in the Stipulation; (2) TeleGuam's and GTA Telecom's full and timely compliance with the commitments made in the Stipulation and with their respective contractual, statutory, and regulatory duties

F. Upon PUC's finding that either GTA Telecom or TeleGuam has violated any law, rule, regulation or regulatory order, after notice and opportunity for hearing by GTA Telecom and TeleGuam, PUC may restore the status quo by withdrawing the approval granted herein and re-assigning GTA Telecom's certificate of authority to TeleGuam. Such enforcement option shall not limit PUC's other enforcement options under 12 GCA 12103(f) or 12 GCA 12108.

Dated this 27th day of July 2005.



Terrence M. Brooks



Edward C. Crisostomo

Richie T. Lim



Joseph M. McDonald



Rowena E. Perez

Exhibit B
GSA Protest Denial letter dated Oct 5, 2012