



Office of the Governor of Guam

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Office of the People's Speaker
vicente (ben) c. pangelinan

FEB 06 2004

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FEB 06 2004

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

February 6, 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 204 (COR), "AN ACT TO AMEND AND REENACT CERTAIN SECTIONS OF PUBLIC LAW 26-70 RELATING TO THE TERMS OF THE PRIVITIZATION OF THE GUAM TELEPHONE AUTHORITY", which I signed into law on February 5, 2004 as Public Law No. 27-63.

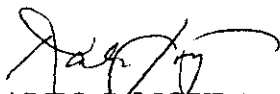
Six months ago Governor Camacho and I submitted for introduction this measure to accelerate the privatization of the Guam Telephone Authority and I commend *I Mina' Bente Siete Na Liheslaturan Guåhan* for acting expeditiously and decisively on Bill No. 204. I also want to thank the Honorable Vicente C. Pangelinan, Speaker and Chairman for the Committee on Utilities and Land, for introducing this measure at the Governor's request and for moving the measure through the legislative process.

Since the enactment of Public Law No. 26-70, there have been many changes in the economic climate on Guam and the state of the telecommunications industry that has made it difficult to sell the last government owned telephone exchange in the United States. Provisions in Public Law No. 26-70 needed to be changed to lift the restrictive provisions that have hampered the sale of the Guam Telephone Authority. Changes to the provisions have been made and are now provided for in this legislation.

The Honorable Vicente C. Pangelinan
February 6, 2004
Page 2 of 2

Public Law No. 27-63 is a commitment of the government of Guam to provisions that reflects the market conditions in which GTA must be sold. Therefore, in line with the Administration's goal to privatize GTA without further delay, and with Governor Camacho's concurrence, I have signed Bill No. 204. We can now move forward in ensuring the caliber of services our people deserve.

Sincerely yours,



KALEO S. MOYLAN
I Maga' Lâhi Para Pa'go
Acting Governor of Guam

Attachment: copy attached of signed bill

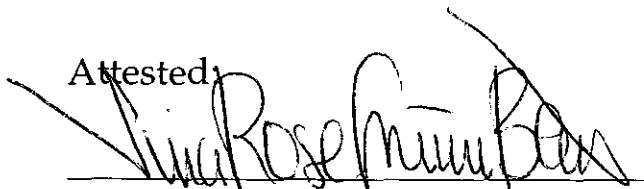
cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary

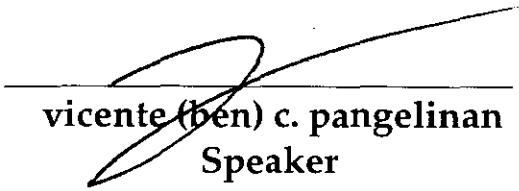
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

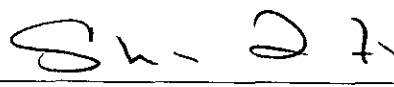
This is to certify that Bill No. 204 (COR), "AN ACT TO AMEND AND REENACT CERTAIN SECTIONS OF PUBLIC LAW 26-70 RELATING TO THE TERMS OF THE PRIVATIZATION OF THE GUAM TELEPHONE AUTHORITY," was on the 4th day of February, 2004, duly and regularly passed.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahen Guåhan* this 4 day of February,
2004, at 5:35 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


KALBO S. MOYLAN
I Maga'lahen Guåhan, Para Pa'go

Date: FEB 04, 2004

Public Law No. 27-63

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

Bill No. 204 (COR)

As amended by the
Committee on Utilities and Land
and further amended on the Floor.

Introduced by:

v. c. pangelinan

At the request of *I Maga'lahaen Guåhan*,
the Governor of Guam, in accordance
with the Organic Act of Guam, as
amended.

**AN ACT TO AMEND AND REENACT CERTAIN SECTIONS
OF PUBLIC LAW 26-70 RELATING TO THE TERMS OF
THE PRIVATIZATION OF THE GUAM TELEPHONE
AUTHORITY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** Since the adoption of
2 Public Law 26-70, there have been substantial and adverse changes in the
3 economic environment relating to telecommunications companies such that
4 the values which are placed on such companies have dropped significantly.
5 As a result, certain of the economic assumptions underlying the terms
6 adopted for the privatization of the Guam Telephone Authority ("GTA")
7 set out in Public Law 26-70 and Sections VI and VII of the Privatization
8 Request for Proposals (Exhibit B to Public Law 26-70) are no longer
9 applicable. In addition, based on comments GTA has received from
10 interested parties and industry experts, certain process rules and
11 mandatory requirements set forth in Public Law 26-70 and Exhibit B have
12

1 been found to be unrealistic and objectionable given current and
2 prospective market conditions. Public Law 26-70 and Exhibit B, therefore,
3 need to be modified to account for these new economic realities and market
4 concerns and thereby permit the GTA privatization process to proceed as
5 intended.

6 **Section 2.** Rule 5 of Section 2 of Public Law 26-70 is hereby *amended*
7 to read:

8 **"5. Manner of Process.** Subject to and within the context of
9 Section 4 of these GTA privatization rules and regulations, the
10 privatization process shall be conducted as follows. GTA shall solicit
11 offers for the acquisition of the assets and business of GTA through
12 the issuance of a Request for Proposal ('RFP'). After receipt and
13 evaluation of proposals there will be selected a 'short list' comprised
14 of one (1) or more offers that GTA determines have complied with all
15 the requirements of the RFP and have sufficiently demonstrated to
16 GTA their ability to carry out their plans. The sale, privatization, or
17 other disposition of substantially all of the assets of GTA shall *not* be
18 subject to the requirements of Chapter 5 of Division 1, Title 5 of the
19 Guam Code Annotated, or its companion rules and regulations.
20 Upon execution of the Privatization Agreements, the offeror will be
21 required to make an up-front payment or deposit in an amount equal
22 to ten percent (10%) of the minimum cash consideration required
23 under the RFP. The up-front payment or deposit (and accrued
24 interest) shall be in the form of cash or letter of credit and shall be put
25 in escrow and held by an independent escrow agent (the 'Escrow

1 Agent'). The Escrow Agent and the financial institution issuing the
2 letter of credit shall be a depository institution, bank, or trust
3 company which is insured by the Federal Deposit Insurance
4 Corporation and whose long term unsecured debt obligations of
5 which are rated *at least* 'A' by S&P, Fitch, Duff, or 'A2' by Moody's.
6 The selection of the Escrow Agent shall be subject to a competitive
7 bid process administered by GTA and all compensation payable to
8 the Escrow Agent for holding the deposit or up-front payment shall
9 be paid by the successful offeror. The executed Privatization
10 Agreements shall, by their express terms, be subject to approval by
11 the Legislature, *I Liheslatura*, and other applicable regulatory
12 authorities, and these agreements will be submitted by GTA to *I*
13 *Liheslaturan Guåhan* as part of a recommendation for legislative
14 approval."

15 **Section 3.** Rule 7(c) of Section 2 of Public Law 26-70 is hereby
16 *amended* to read:

17 **"(c) Final Offers Review and Presentation to *I Liheslaturan***
18 ***Guåhan*.** After final offers are received and contract negotiations
19 completed, the General Manager of GTA will make a final
20 recommendation to the Board of GTA ('Board') for their approval of
21 the negotiated privatization transaction. Included in the information
22 submitted will be an explanation of the basis for the
23 recommendation, the Evaluation Summaries for all candidates, and
24 of the final offer recommended and the fully-negotiated and signed
25 Privatization Agreements (the 'Recommendation Package').

1 The Board of GTA shall base its approval upon the
2 Recommendation Package and the evaluation criteria set forth in the
3 RFP. The Board shall transmit its approval to *I Liheslaturan Guåhan*
4 for their approval of the privatization transaction. Included with this
5 submission shall be the Recommendation Package and the Board’s
6 basis for its approval. Should the Board approve an offer *other* than
7 that detailed in the Recommendation Package, the Board must
8 explain, in detail, its reason(s) for its actions to *I Liheslaturan Guåhan*,
9 in writing, including a point by point explanation of it’s divergence
10 from the Recommendation Package.

11 The Recommendation Package submitted to *I Liheslaturan*
12 *Guåhan* will *not* include information which constitutes a ‘trade secret’
13 (as such term is defined below), although this information, if it was
14 used to reach an evaluation conclusion, shall be available on a
15 confidential basis to the Negotiations Observer and any investment
16 banker or similar advisor retained by *I Liheslaturan Guåhan* to make
17 an independent fairness review of the proposed privatization
18 transaction. The information included in the Recommendation
19 Package submitted to *I Liheslaturan Guåhan* shall be subject to public
20 disclosure under the Guam Sunshine Act, §10108 of Article 1,
21 Chapter 10, Title 5 of the Guam Code Annotated (the ‘Sunshine Act’)
22 at the time it is received by *I Liheslaturan Guåhan*.”

23 **Section 4.** Rule 8(a) of Section 2 of Public Law 26-70 is hereby
24 *amended* to read:

1 **“(a) Ineligible Offerors.** No Covered Person, as such term is
2 defined below, shall be eligible to acquire, in whole or in part, the
3 assets of GTA. For the purpose of this Section, the term ‘Covered
4 Person’ shall mean any:

5 (i) elected or appointed officials of the government of
6 Guam, directors or unclassified managers of GTA and members
7 of *I Liheslaturan Guåhan* who hold office at the time of approval
8 of the Privatization Agreements, or who held office at any time
9 during the period from February 27, 1997, (the date the GTA
10 Privatization Task Force was established pursuant to Executive
11 Order No. 97-09) to the date of approval of the Privatization
12 Agreements;

13 (ii) advisors or consultants of GTA who are advising or
14 working with GTA with respect to the privatization of GTA
15 either at the time of approval of the Privatization Agreements,
16 or any time during the period from February 27, 1997, to the
17 date of approval of the Privatization Agreements;

18 (iii) advisors, consultants or employees of *I Liheslaturan*
19 *Guåhan* who are advising or working with *I Liheslaturan Guåhan*
20 with respect to the privatization of GTA, either at the time of
21 approval of the Privatization Agreements or any time during
22 the period from February 27, 1997, to the date of approval of
23 the Privatization Agreements;

1 (iv) the Escrow Agent, or any of its directors, officers or, *if*
2 the Escrow Agent is *not* a publicly traded company, owners of
3 any percentage of its outstanding beneficial interests;

4 (v) offerors or any entity comprising an offeror which
5 has a director, officer or, *if* not a publicly traded company,
6 owners of any percentage of its outstanding beneficial interests
7 who is:

8 (1) related by consanguinity or affinity of the
9 second degree, which, for the purposes of this Act, shall
10 include all children, parents, grandchildren, siblings, and
11 grandparents, of a person, to any person described in
12 Rule 8(a)(i), (a)(ii), (a)(iii) or (a)(iv), above;

13 (2) related by consanguinity of the second degree
14 to the spouse of any person described in Rule 8 (a)(i),
15 (a)(ii), (a)(iii) or (a)(iv), above;

16 (3) the spouse of a person related by consanguinity
17 of the second degree to any person described in Rule 8
18 (a)(i), (a)(ii), (a)(iii) or (a)(iv), above; *or*

19 (4) the spouse of any person described in Rule
20 8(a)(i), (a)(ii), (a)(iii) or (a)(iv), above; *and*

21 (vi) offerors or any entity comprising an offeror or
22 affiliated with an offeror, who has paid or agreed to pay any
23 person described in Rule 8 (a)(i), (a)(ii) or (a)(iii), above, for the
24 purpose of advising, consulting, representing, brokering, or
25 otherwise assisting such entity in its efforts to acquire GTA.

1 In addition, the successful offeror shall *not* solicit for
2 employment or employ any person described in Rule 8 (a)(i) above
3 or, with respect solely to its operations or business in Guam, persons
4 described in Rule 8 (a)(ii) or (a)(iii) above, for a period of three (3)
5 years *after* the closing of the Privatization Transaction, nor shall any
6 subcontract or business arrangement be entered into between the
7 successful offeror and any firm in which a covered person described
8 in Rule 8 (a)(i) above has any financial interest or, with respect solely
9 to any business or operations in Guam, any firm described in Rule 8
10 (a)(ii) or (a)(iii) above, for a period of three (3) years *after* the closing
11 of the Privatization Transaction; *provided*, however, that such offeror
12 may retain any unclassified manager of GTA for a period *not to exceed*
13 one (1) year *after* the closing date of the privatization for the sole
14 purpose of providing post-closing transition assistance. Each
15 violation of the provisions of this paragraph shall make the
16 successful offeror liable to the government of Guam for liquidated
17 damages in the amount of One Hundred Thousand Dollars
18 (\$100,000).

19 Also, for the purpose of this Act, the term 'official of the
20 government of Guam' means any person holding any elected office in
21 Guam or any appointed member of the government of Guam,
22 including members of boards, commissions, and task forces, as well
23 as any person working directly for the office of *I Maga'lahaen Guåhan*
24 or otherwise under contract to the office of *I Maga'lahaen Guåhan* with
25 the exception of the Guam Education Policy Board members."

1 **Section 5.** Rule 10 of Section 2 of Public Law 26-70 is hereby *repealed*
2 and *reenacted* to read:

3 **“10. Retention of Title to Land by the Government of Guam**
4 **and Permitted Use of Properties.** The government of Guam shall
5 retain title to all land owned by the government of Guam or GTA
6 which is used by GTA for ongoing operations of a telephone
7 authority and ancillary services, and which is identified in **Exhibit A**
8 hereto. Such land shall be leased for an initial ten (10) year term at
9 nominal value to the party acquiring GTA’s business, with options to
10 renew for up to two (2) consecutive terms of twenty (20) years each at
11 the then fair market value. The party acquiring GTA’s business shall
12 be authorized and empowered to occupy and use, on the basis of an
13 easement, for so long as the term of the lease referred to in this
14 Paragraph, and subject to the restrictions that may now or hereafter
15 be imposed by law, public buildings, bridges, and other public
16 property, as well as streets, sidewalks, alleys, and public roads,
17 making excavations therein and restoring the same, for the purpose
18 of erecting, attaching, maintaining and using poles, pole lines,
19 underground conduits, manholes, cables, wires, and other facilities
20 necessary to provide telecommunications and related services. The
21 party acquiring GTA’s business shall also be empowered to occupy,
22 use and maintain any GTA properties acquired or leased for any
23 purpose relating to the provision and operation of
24 telecommunications, wireless, information technology, and related
25 and ancillary services.”

1 **Section 6.** Rule 12 of Section 2 of Public Law 26-70 is hereby *amended*
2 to read as follows:

3 **"12. Approval of Recommendation.** The Approval
4 Recommendation shall be deemed disapproved sixty (60) calendar
5 days *after* submission to the Speaker of *I Liheslaturan Guåhan* if *not*
6 approved by statute. *I Liheslaturan Guåhan* has the right to reject any
7 proposal or bid submitted in accordance with the Request for
8 Proposals."

9 **Section 7.** Section 7 of Public Law 26-70 is hereby *amended* to read:

10 **"Section 7.** Notwithstanding anything to the contrary, the RFP,
11 identified as the attached **Exhibit B**, is hereby approved, as *amended*,
12 and the General Manager of the Guam Telephone Authority shall
13 make such changes necessary to:

14 (a) update and correct financial and technical information in
15 the Request for Proposal; *and*

16 (b) conform the terms of the Request for Proposal and any
17 exhibits, appendices or agreements provided therein or contemplated
18 thereunder with the terms and provisions of this Act or any
19 amendment thereto. The Request for Proposal shall be subordinate
20 to and governed by the terms of this Act, and in the event of any
21 inconsistency between the Request for Proposal and this Act, the
22 provisions of this Act shall control."

23 **Section 8.** Section 5 of Public Law Number 24-36, as *repealed* and
24 *reenacted* by Section 8 of Public Law 26-70, is hereby *amended* to read:

1 **“Section 5.** *Prior to approval of any agreements submitted to I*
2 *Liheslaturan Guåhan* for the sale, privatization, or other disposition of
3 the assets of the Guam Telephone Authority (GTA), a second opinion
4 as to the price and terms and conditions by a nationally recognized
5 professional services firm may be obtained.

6 A nationally recognized professional services firm with proven
7 expertise in the mergers, acquisitions, and sale of telecommunications
8 industry may be retained by *I Liheslaturan Guåhan* as advisor to the
9 following:

10 (a) review all documents and agreements being submitted to
11 *I Liheslaturan Guåhan* relating to the sale, privatization, or other
12 disposition of the assets of the Guam Telephone Authority,
13 including any other documents relating to the sale,
14 privatization, or other disposition of the assets of the Guam
15 Telephone Authority, which in the opinion of the advisor is
16 required to properly review the submitted documents and
17 agreements;

18 (b) review and advise *I Liheslaturan Guåhan* as to the fairness
19 of the price offered for the sale, privatization, or other
20 disposition of the assets of the Guam Telephone Authority
21 based upon current market conditions; *and*

22 (c) review and advise *I Liheslaturan Guåhan* as to the fairness
23 of the terms and conditions offered for the sale, privatization or
24 other disposition of the assets of the Guam Telephone
25 Authority based upon current market conditions.

1 The cost to retain a nationally recognized professional services firm
2 as an advisor and perform the above actions shall be paid out of the
3 GTA Privatization Proceeds Fund.”

4 **Section 9.** Sections VI. A.1., 2., 3. and 4. of the RFP, attached to
5 Public Law 26-70 as Exhibit B, are hereby *amended* to read:

6 “1. **Payment.** The successful offeror will acquire the assets and
7 business of GTA for a specified price consisting of cash and
8 assumption of substantially all of GTA’s liabilities and obligations (as
9 described below).

10 2. **Assets.** The successful offeror will acquire a fee simple
11 interest in and clear title to all of the assets of GTA (except land and
12 subject to the terms of Section VI. B. 4. hereof) pursuant to an Asset
13 Purchase Agreement (and ancillary agreements referenced therein),
14 the proposed form of which appears in Appendix H.

15 3. **Contract Rights and Obligations (including debt).**
16 Pursuant to an Assignment and Assumption Agreement, the
17 successful offeror will:

18 (a) succeed to GTA’s contractual rights and liabilities
19 (including all accounts payable, accounts receivable, and
20 prospective pension responsibilities relating to GTA employees
21 who are employed by the offeror);

22 (b) assume GTA’s obligations to Rural Utilities Service
23 (‘RUS’) (if any) outstanding as of closing (subject to the consent
24 of RUS) or provide sufficient cash as part of the required
25 Minimum Cash Consideration to satisfy such debt; *and*

1 (c) assume any other debts of GTA outstanding at the
2 time of closing or provide sufficient cash at closing in excess of
3 the Minimum Cash Consideration to satisfy such debt. The
4 proposed form of Assignment and Assumption Agreement is in
5 Appendix I.

6 **4. Real Estate Assets.** The successful offeror will acquire the
7 right to use, on a long-term basis, GTA's real estate assets, including
8 GTA's easements and rights of way. Under such arrangements, title
9 to all land owned by GTA shall remain in the name of the
10 government of Guam, but the offeror will assume full responsibility
11 for the operation and maintenance of all such properties and any
12 buildings or fixtures thereon. Ground leases for such properties shall
13 be subject to a rent obligation at nominal value for an initial ten (10)
14 year term, with options to renew for up to two (2) consecutive terms
15 of twenty (20) years each at the then fair market value. Rights of way
16 and easements shall be transferred by separate instrument. Existing
17 third (3rd) party leases of GTA with private parties or government of
18 Guam shall be assigned, subject to the approval of the Lessors.
19 Leases held by GTA on United States government property will be
20 transferred via a novation agreement (a form of which is attached in
21 Appendix J) in accordance with United States government
22 regulations."

23 **Section 10.** Sections VI. B. 1., 3., and 4. of the RFP, attached to Public
24 Law 26-70 as Exhibit B, are hereby *amended* to read:

1 **1. Purchase Price.** Financial offers must include the following
2 elements of the Purchase Price:

3 (a) Minimum Cash Consideration: One Hundred Thirty
4 Million Dollars (\$130,000,000) less the principal amount
5 outstanding of RUS debt assumed by the successful offeror
6 (subject to RUS approval); plus

7 (b) assumption of GTA's liabilities, or sufficient
8 additional cash of equal value to such liabilities.

9 Other financial benefits that an offeror might choose to
10 offer for the people of Guam in addition to the foregoing (local
11 telecommunication and information technology investment
12 commitments, residual interest in GTA profits, etc.) will be
13 considered favorably.

14 **3. Up-Front Payment.** The successful offeror will be required
15 to make an up-front payment or deposit in an amount equal to ten
16 percent (10%) of the Minimum Cash Consideration within five (5)
17 business days of execution of the Privatization Agreements. The Up-
18 Front Payment or Deposit (and accrued interest thereon) shall be put
19 in escrow and held by an independent escrow agent. The proposed
20 form of this escrow agreement is in Appendix K of this RFP.

21 **4. Purchase Price.** At least fifty percent (50%) of the Minimum
22 Cash Consideration must be paid and all of GTA's liabilities must be
23 assumed at closing. Any unpaid balance of the Minimum Cash
24 Consideration must be secured by providing the government of
25 Guam a promissory note and a security interest in the GTA assets

1 and must be paid in full before the second anniversary of the closing.
2 Interest on the unpaid balance shall accrue at the Prime Rate as
3 published in the Wall Street Journal on the date of the closing, plus
4 one percent (1%).”

5 **Section 11.** Sections VI. C.1, 2., 4., and 6. of the RFP, attached to
6 Public Law 26-70 as Exhibit B, are hereby *amended* to read:

7 **“1. Address GTA Employee Issues.** Offerors shall take
8 special note that the GTA Privatization Task Force Plan of Action,
9 and the related legislation passed by *I Liheslaturan Guåhan*, identify
10 fair treatment of GTA employees in connection with the privatization
11 of GTA as a ‘major objective’. Accordingly, offerors are required to:

12 (a) offer each full-time classified employee employed by GTA
13 on or before December 31, 2001, and working for GTA at the time of
14 privatization, a separate employment agreement (a form of which is
15 attached in Appendix L) with a minimum term of three (3) years
16 (‘Employment Agreement’) that provides a comparable or superior
17 total compensation package (salary, benefits, and pension considered
18 in the aggregate) to that provided to such employees while employed
19 by GTA immediately prior to privatization. The terms of the
20 Employment Agreement must include, but are *not* limited to, the
21 following areas:

- 22 -- basic salary
- 23 -- performance-based salary increments/bonuses
- 24 -- education and training
- 25 -- annual leave, sick leave, military leave, and daycare benefits

1 -- pension and medical disability plans

2 -- health and life insurance plans;

3 (b) agree not to sever the employment of, or terminate any
4 classified employee eligible for privatization benefits, without cause,
5 for at least three (3) years after privatization, unless it provides such
6 employee with a severance package that meets or exceeds the terms
7 and conditions set forth in Appendix O;

8 (c) demonstrate a proven track record for harmonious
9 management-employee relations over the past five (5) years and
10 exceptional leadership in the management of human resources; and

11 (d) *if applicable*, offer incentive programs to induce employees
12 to resign or retire voluntarily as a means of reducing staffing and
13 improving efficiency and competitiveness of the privatized GTA in a
14 phased manner;

15 With respect to pension benefits, the successful offeror must:

16 (e) offer an attractive new pension plan effective as of the date
17 of the closing of the privatization, and for which the successful
18 offeror will be responsible for employer contributions earned with
19 the new pension plan after the closing date;

20 (f) provide each GTA employee accepting the offer of
21 employment with full credit for the amount of contributions and/or
22 investment earnings accrued under the existing government of Guam
23 retirement plans up to the date of commencement of his or her
24 employment with the successful offeror (that is, the employees must
25 be able to roll over 401K contributions); *and*

1 (g) provide each GTA employee accepting the offer of
2 employment with full credit (including all allowable service credits)
3 towards vesting in the offeror's pension and other benefit plans for
4 his or her period of employment with GTA.

5 2. Contain Rates and Improve Service. GTA is the
6 incumbent local exchange carrier and has *de facto* monopoly status on
7 Guam for local wireline operations. While it is anticipated that, as
8 contemplated in the Telecommunications Act of 1996, competitive
9 local exchange carriers may enter the Guam market, it is important to
10 the people of Guam that the privatization of GTA does not result in
11 an immediate and substantial increase in the costs of local phone
12 service while the GTA monopoly continues. Therefore, offerors will
13 be expected to agree to and demonstrate the viability of their plan to
14 maintain both rate stability for the provision of local service and
15 quality and scope of service at levels at, or above service standards
16 generally accepted in the telecommunications industry.

17 Specifically, the successful offeror shall:

18 (a) provide service within a period of one (1) year after
19 privatization or such time as the Public Utilities Commission
20 ('PUC') deems appropriate which meets or exceeds the
21 minimum service standards set forth in Appendix N and such
22 standards that the PUC may promulgate from time to time;

23 (b) institute a plan for improving the quality and
24 responsiveness of service in areas such as service response and
25 repair times;

1 (c) commit to a capital structure for the
2 owners/operator of the GTA fixed line telephony business that
3 will mitigate upward pressure on rates;

4 (d) commit to an infrastructure enhancement plan as
5 described in Section VII. D.;

6 (e) conform with unbundling and other requirements
7 of the Telecommunications Act of 1996; *and*

8 (f) be subject to oversight by the PUC in terms of
9 conformance with post-closing requirements of the
10 privatization agreements relating to quality and terms of
11 service and rates and commit to the submission to the PUC of
12 an annual audited report on such conformance for at least the
13 first five (5) years following closing.

14 **4. Assure GTA's Future Viability and Growth.** Offerors
15 must demonstrate, individually, or as an affiliated group:

16 (a) a proven track record of financial success over the
17 past five (5) years; and

18 (b) substantial gross annual sales and net assets so as to
19 establish that the offeror has the necessary resources and
20 experience to support the long-term management and growth
21 of GTA (historic annual revenues which exceed GTA's annual
22 revenues over the past five (5) years and net assets of at least
23 One Hundred Million Dollars (\$100,000,000) are preferred).

24 **6. Minimum Financial Exposure for the Government of**
25 **Guam.** The government of Guam expects that the owner of a

1 privatized GTA will assume all financial risk of GTA's success or
2 failure. Offers based on co-investing by the government of Guam, or
3 risk sharing, may be rejected summarily without evaluation; except
4 that prospective profit-sharing over and above the Minimum Cash
5 Consideration, and in addition to the assumption of liabilities, may
6 be considered."

7 **Section 12.** Section VII. B. of the RFP, attached to Public Law 26-70 as
8 Exhibit B, is hereby *amended* to read:

9 "B. Financial Proposal.

10 The offeror's financial proposal should include, at a minimum:

11 1. Specification of the Purchase Price as required under Section
12 VI.B.1. Any offer that does not include assumption of all such debt
13 and liability must include an offer of a cash amount which at least
14 equals or exceeds the Minimum Cash Consideration by the value of
15 the debt and/or liabilities assumed. The Purchase Price must also
16 include an amount of cash paid at closing equal to or greater than at
17 least fifty percent (50%) of the Minimum Cash Consideration.

18 2. Description of the offeror's plan to develop GTA's business
19 and its commitment as a good corporate citizen of Guam, such as
20 new product lines, international expansion, technological innovation
21 and estimated capital expenditure over a five (5) year period.
22 Offerors should note that it is an important objective of the GTA
23 privatization that GTA's business not only be maintained, as
24 contemplated under Section VII.D. below, but that it be expanded in
25 terms of range of technologies and services offered, employment

APPENDIX " O "

Minimum Severance Package Requirements

	Period 0 - 6 Months	Period 7 - 12 Months	Period 13 - 24 Months	Period 25 - 36 Months
Retain Employees	Separation prior to 6 Months	Separation between 7 and 12 Months	Separation between 13 and 24 Months	Separation between 25 and 36 Months
Salary	2 Weeks for Every year of Service with GTA	1 Week for Every Year of Service with GTA	1 Week for Every Year of Service with GTA	1 Week for Every 2 Years of Service with GTA
One Time Re-Training	Valued at \$10,000.00	Valued at \$5,000.00	No Requirement	No Requirement
Annual Leave	Full buy out of accrued leave	Full buy out of accrued leave	Full buy out of accrued leave	Full buy out of accrued leave
Sick Leave	Buy out of accrued leave (up to 100 hrs.)	Buy out of accrued leave (up to 100 hrs.)	Buy out of accrued leave (up to 100 hrs.)	Buy out of accrued leave (up to 100 hrs.)

1 opportunities created on Guam, and geographic scope of markets
2 served, as described below.”

3 **Section 13.** The attached Appendix O is hereby approved and shall
4 be appended to the RFP (Exhibit B) of Public Law 26-70.

5 **Section 14. Severability.** *If* any provision of this Law or its
6 application to any person or circumstance is found to be invalid or contrary
7 to law, such invalidity shall *not* affect other provisions or applications of
8 this Law which can be given effect without the invalid provisions or
9 application, and to this end the provisions of this Law are severable.