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May 15, 2015

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

**RE: Second Further Notice of Proposed Rulemaking (FNPRM) WC Docket No. 12-375
New Jersey Contract to Provide ICS at 4.384 Cents per Minute**

Dear Secretary Dortch,

The New York University School of Law Immigrant Rights Clinic (IRC) and New Jersey Advocates for Immigrant Detainees (NJAID), jointly, and the New Jersey Institute for Social Justice, separately, filed comments in the above-referenced proceeding in January 2015. In the comments, we described the New Jersey Department of Corrections' Inmate Calling Services (ICS) contract with Global Tel*Link (GTL), which then provided for a flat rate of thirteen cents per minute and did not include a commission. The rate had been lowered incrementally from the original rate of thirty three cents per minute subsequent to the Federal Communication Commission's (FCC) Order on ICS rates adopted August 9, 2013. However, the lower rate was not binding on the counties, which were permitted to continue providing ICS at much higher rates. Inmates in every county facility continue to be charged rates on intrastate calls that exceed the interstate rate caps set by the FCC.

On April 27, 2015, the State of New Jersey entered into a new contract with GTL to provide ICS to New Jersey state prisons.¹ The contract affords GTL a transition period of 120 days, leaving the rates under the old contract in effect until a contract transition can be completed or until

¹ New Jersey Department of the Treasury, Division of Purchase and Property, Notice of Award for Term Contract, Index No. T-1934: Inmate/Resident Telephone Control Service, Contract No. 88935 (May 4, 2015), *available at* http://www.state.nj.us/treasury/purchase/noa/contracts/t1934_14-x-22648.shtml.

August 25, 2015, whichever occurs first. Under the new contract, GTL will provide ICS at a rate of 4.384 cents per minute.² This rate is the only fee that GTL may charge the consumer, as the Request for Proposal (RFP) explicitly provides that “No service charge or additional fees above the rate indicated in this Schedule C shall be billed to any party.”³ In addition to prohibiting any per call surcharges, the contract prohibits GTL from charging account setup fees, bill statement fees, monthly account maintenance charges, or refund fees.⁴ The RFP also explicitly excludes commissions.⁵ The contract allows counties to opt in to the state contract at the same rate and terms.⁶ However, county jails will retain the ability to opt out of the state contract and enter into independent contracts with ICS providers. Regrettably, counties have an incentive to contract separately with ICS providers, as this will be the only manner in which they will be able to receive commissions.⁷

New Jersey’s new contract demonstrates that, under this contract, a rate of less than five cents per minute is feasible in both state prisons and county jails, even those facilities with fewer than 350 beds. In addition to GTL’s winning bid of providing ICS at a rate of 4.384 cents per minute,

² Email from Eugene Pryor, State Contract Manager, Bureau of Procurement and Contract Management, New Jersey Department of Corrections to Karina Wilkinson, New Jersey Advocates for Immigrant Detainees (April 28, 2015, 16:09 EST) (on file with author). The total per minute rate is the sum of the rates of three different cost components: “basic phone service,” “voice recognition software,” and “text analytics.” Eugene Pryor has stated to NJAID that the rate of 4.384 cents per minute was the result of a Best and Final Offer negotiated informally between GTL and the Department of Corrections. GTL’s formal Best and Final Offer, negotiated with the Division of Purchase and Property, proposed a per-minute rate of 4.48 cents per minute. Global Tel*Link, Best and Final Offer Schedules (C, J & K) to Request for Proposal 14-x-22648 (June 6, 2014) [Attachment A].

³ New Jersey Department of the Treasury, Division of Purchase and Property, Request for Proposal 14-x-22648 § 3.2.5 (Nov. 26, 2013), available at http://www.state.nj.us/treasury/purchase/noa/contracts/t1934_14-x-22648.shtml [hereinafter Request for Proposal 14-x-22648]. Bidders asked several questions to the Division of Purchase and Property to clarify the meaning of this language, and the Division replied as follows:

- “The Bidders’ proposed charge rate must include all fees and taxes” New Jersey Department of the Treasury, Division of Purchase and Property, Addendum No. 3 to Request for Proposal 14-x-22648, Question No. 15 (Feb. 25, 2014), available at http://www.state.nj.us/treasury/purchase/noa/contracts/t1934_14-x-22648.shtml [hereinafter Addendum No. 3 to RFP 14-x-22648].
- “Discretionary fees [such as bill statement fees, monthly recurring wireless account maintenance charges, regulatory cost recovery, account expiration charges] will not be allowed.” *Id.* at Question 42.
- “Account setup fees, funding fees, refund fees, and any other such fees not listed on the schedule C form” are not allowed. *Id.* at Question No. 47.
- The state will not allow “a single bill fee as a charge for the ICS provider for placing billing records on their bill...as a standalone cost recovery fee” nor allow “for external cost recovery fees to be applied” *Id.* at Question No. 50.

⁴ *Id.*

⁵ Addendum No. 3 to RFP 14-x-22648, *supra* note 4, at Question No. 42 (“No commission will be paid under this contract.”).

⁶ Request for Proposal 14-x-22648, *supra* note 4, at § 1.1; Addendum No. 3 to RFP 14-x-22648, *supra* note 4, at Question No. 12 (“A county correctional facility opting to use this contract will use the rates awarded through this contract.”).

⁷ See Addendum No. 3 to RFP 14-x-22648, *supra* note 4, at Question No. 12 (“Under the existing contract, there is a separate rate and commission schedule for County participation. It is doubtful that the Counties will want to participate in the [new] contract given that the State has apparently elected to forgo commissions.”).

CenturyLink submitted a Best and Final Offer to provide ICS at 2.89 cents per minute.⁸ Both GTL and CenturyLink bid at these low rates with the knowledge that the state contract would permit counties to opt in at the same rate. New Jersey has five county jails with fewer than 350 beds, four of which are currently tied to the state contract.⁹ This demonstrates the feasibility of a five cent rate for facilities of all sizes.

In light of New Jersey's new contract, the FCC should closely scrutinize erroneous claims by ICS providers that the cost of providing ICS renders it unprofitable to provide ICS at a rate of five cents per minute or less. The FCC should also promulgate final rate caps for interstate and intrastate ICS much lower than the current interim interstate rate caps of \$0.25 per minute for collect calls and \$0.21 per minute for debit or prepaid calls. The FCC should make clear that these rate caps are all inclusive—that ICS providers may not charge any ancillary connection fees or account maintenance fees over and above the per minute rates.

If the FCC is unable to promulgate a national rate cap that nears 5 cents per minute, the FCC should issue a rule banning commissions. Such a rule would allow for low rates negotiated through a contractual process—as in the case of New Jersey—to have the widest effect possible, by removing the incentive for counties to contract separately with ICS providers.

Sincerely,

Alina Das, Esq.
Rebecca Hufstader, Law Student
New York University Law School Immigrant Rights Clinic

Karina Wilkinson
Alix Nguetack
New Jersey Advocates for Immigrant Detainees

Ryan P. Haygood, Esq.
Scott M. Welfel, Esq.
New Jersey Institute for Social Justice

⁸ CenturyLink, Protest of Contract Award for Inmate Resident Telephone Control Services Solicitation No. 14-X-22648, Exhibit E (page DPP-43) (Dec. 8, 2014) [Attachment B].

⁹ See Marie Van Nostrand, Drug Policy Alliance, New Jersey Jail Population Analysis 15 (2013), available at https://www.drugpolicy.org/sites/default/files/New_Jersey_Jail_Population_Analysis_March_2013.pdf.

ATTACHMENT A



Jeffrey B. Haidinger
President and Chief Operating Officer
Global Tel*Link Corporation

12021 Sunset Hills Road, Suite 100
Reston, VA 20190
Ph: (703) 955-3889

June 6, 2014

DELIVERED VIA EMAIL

Mr. Jawad Karamali
Buyer - IT Specialist
Department of the Treasury
Division of Purchase and Property
Procurement Bureau
33 West State Street
Trenton, NJ 08625-0230

RE: Inmate/Resident Telephone Control Service - GTL Best and Final Offer

Dear Mr. Karamali,

Pursuant to your instructions, GTL has provided the State of NJ, Department of Treasury, our "Best and Final Offer" (BAFO) for the RFP Inmate/Resident Telephone Control Service. Please find attached our BAFO schedules (C, J & K) with revisions that are better than GTL's original offer in GTL's original RFP response. If you have any questions or clarifications, please do hesitate to contact me immediately. Alternatively, you may contact your Account Executive, Tim Miller, at (732)-928-7600 or tmiller@gtl.net.

With a proven track record across the country and within your own facilities of innovation and value, our proposal will show you why we are the leading provider of integrated corrections technology, offering single-vendor simplicity and accountability. *We are ready to keep our team there working for you.*

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey B. Haidinger", written in a cursive style.

Jeffrey B. Haidinger
President and Chief Operating Officer

Cc: Kevin Moore, NJ Assist. Purchasing Director
Anthony Pellegrino, GTL VP Mid Atlantic Sales
Tim Miller, GTL Account Executive

**GTL BAFO
June 6, 2014**

**Inmate/Resident Telephone Control Service
14-X-22648**

Schedule C

BIDDER Global Tel*Link _____

3.2.5 Call Billing

Provide all charges to be applied to all inmate/resident calls per 15 second intervals. No service charge or additional fees above the rate indicated in this Schedule C shall be billed to any party.

All Calls Per 15 Second Interval	Rate \$ 0.00896
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Failure to comply with the requirements may result in the proposal being deemed non-responsive.

**GTL BAFO
June 6, 2014**

**Inmate/Resident Telephone Control Service
14-X-22648**

Schedule J

BIDDER Global Tel*Link

3.3.1.1 Voice Recognition Software

Provide the description and charges for the component parts to be applied to all inmate/resident calls per 15 second interval for the implementation of voice recognition software over and above the standard rate quoted on Schedule C.

All Calls Per 15 Second Interval	Rate \$ 0.00112
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Failure to comply with the requirements may result in the proposal being deemed non-responsive.

**GTL BAFO
June 6, 2014**

**Inmate/Resident Telephone Control Service
14-X-22648**

Schedule K

BIDDER Global Tel*Link _____

3.3.1.2 Text Analytics

Provide the description and charges for the component parts to be applied to all inmate/resident calls per 15 second interval for the implementation of text analytics software over and above the standard rate quoted on Schedule C.

All Calls Per 15 Second Interval	Rate \$ 0.00112
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Failure to comply with the requirements may result in the proposal being deemed non-responsive.

ATTACHMENT B



Ryan L. DiClemente
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rdiclemente@saul.com
www.saul.com

December 8, 2014

VIA HAND DELIVERY AND OVERNIGHT MAIL

Jignasa Desai-McCleary, Director
Department of the Treasury
Division of Purchase & Property
33 West State Street, Floor 8
Trenton, NJ 08625

**Re: Protest of Contract Award for Inmate Resident Telephone Control Services
Solicitation #: 14-x-22648
Contract Title: Inmate Resident Telephone Control Services**

Dear Director Desai-McCleary,

Saul Ewing LLP has been retained to represent CenturyLink Public Communications, Inc. ("CenturyLink") in connection with its protest of the contract awarded by the Division of Purchase and Property (the "Division") to Global Tel*Link ("GTL") for Inmate Resident Telephone Control Services, Solicitation #14-x-22648 (the "Contract"). Please accept this letter as CenturyLink's formal protest of the award of the Contract pursuant to N.J.A.C. 17:12-3.3.

As set forth in detail below, the award of the Contract to GTL must be vacated because its bid did not comply with the requirements of the Request for Proposal ("RFP") as interpreted by the Division's Evaluation Committee (the "Evaluation Committee"). The Evaluation Committee declared CenturyLink's bid to be "non-responsive" based on CenturyLink's alleged failure to comply with the RFP's purported requirement that "a piece of equipment must be

located at each DOC/JJC facility to store electronic copies of the calls made by inmates.” See *Exhibit A, Evaluation Committee Report, 14-x-22648, Report Date November 24, 2014* (“*Evaluation Committee Report*”), pg. 6, (*emphasis added*). While CenturyLink disagrees with the Evaluation Committee’s interpretation of this “requirement,” a review of GTL’s allegedly successful bid demonstrates that GTL’s proposal suffers from the same claimed deficiency. As described in detail below, GTL’s proposal **did not** provide for the placement of on-site call storage technology at each DOC/JJC facility, which was clearly stated as a requirement for the first time in the Evaluation Committee Report. Thus, the Evaluation Committee erred in finding GTL’s bid to be responsive and awarding GTL the Contract. As such, CenturyLink respectfully requests that GTL’s bid be deemed “non-responsive” and the Contract be re-bid or, in the alternative, CenturyLink’s bid be accepted and properly evaluated by the Division. CenturyLink respectfully requests the opportunity for an in-person presentation so that it can address the highly technical aspects of this protest and respond to any technical questions or issues that may arise in the Director’s review of this matter.

A. Statement of Material Facts

On or about November 26, 2013, the RFP for Inmate/Resident Telephone Control System was issued by the Division on behalf of the Department of Corrections (DOC) and the Juvenile Justice Commission (JJC).¹ The RFP indicated that each proposal will be evaluated on a total proposal score which is made up of a technical evaluation score (based on the personnel, experience, and the ability of the firm to complete the scope of the work) and its cost proposal

¹ RFP Addendums 1 through 4 were subsequently released by the Division extending the response due date to April 4, 2014 and providing for certain Additions, Deletions, Clarifications and Modifications to the RFP. These subsequent Addendums do not materially impact this protest or the relevant language in the RFP.

score based on the total costs of the service. See *Exhibit B, RFP*, ¶6.7, pg. 56; *Exhibit A, Evaluation Committee Report*, pg. 4. For the purposes of this protest, the relevant portion of the RFP stated that:

The DOC/JJC locations require monitoring and recording of all individual Inmate calls. **Monitoring equipment shall be provided by the Contractor in each correctional facility. On site storage of these recorded calls shall be maintained for the life of the contract.** Electronic storage media such as discs used for investigations or legal action marked as evidence shall be maintained and transferred to the State at the termination of the contract.

See *Exhibit B, RFP*, ¶3.3.1, pg. 22 (*emphasis added*).

On April 4, 2012, four (4) proposals for the Contract were officially opened and reviewed by the Evaluation Committee. See *Exhibit A, Evaluation Committee Report*, pg. 3. These proposals were submitted by CenturyLink, GTL, Securus Technologies, Inc. (“Securus”), and JLG Technologies (“JLG”)(collectively, the “Bidders”). *Id.* During the Evaluation Committee’s review of JLG’s proposal, it was determined that JLG failed to submit a properly completed Ownership Disclosure form and signatory page which resulted in Notice of Proposal Rejection from the Division on April 8, 2014. *Id.* On May 30, 2014, GTL was invited by the Evaluation Committee to submit a best and final offer (BAFO) and it responded on June 6, 2014. *Id.*, at pg. 4. On July 1, 2014, CenturyLink was invited to submit a BAFO by the Evaluation Committee and it responded on July 9, 2014. *Id.*

On July 28, 2014, the Evaluation Committee sent clarification letters to CenturyLink, GTL, and Securus requesting detailed formal statements identifying those sections of their proposals that they claim are exempt from production. *Id.* at pg. 4. The Bidders complied with the State’s request for clarification. *Id.*

On October 21, 2014, the Evaluation Committee requested CenturyLink clarify its response to RFP Section 3.3.1 and specifically how its proposal will meet the requirement to maintain on-site storage of recorded inmate telephone calls and specifically, what equipment will be utilized to store and replay recordings. *Id. at pg. 4.* CenturyLink responded on October 28, 2014 and stated, in part:

“Like all modern inmate telephone systems, CenturyLink’s proposed solution utilizes a centralized architecture as its primary method of processing and recording inmate telephone calls. The on-site equipment is comprised of inmate telephones and monitoring workstations, as well as networking equipment that connect these devices to the centralized platform for call completion and operation. As a significant further benefit, CenturyLink’s proposed solution also includes a secondary, geographically separate data center with a full back-up of the database and call recordings.

Given the State’s unique requirement for “on-site storage of recorded calls for the life of the contract”, CenturyLink offered a third site on NJ DOC premises with a Network Attached Storage (NAS) solution as referenced in the State’s clarification letter...This high availability configuration provides maximum redundancy of the call records and call recordings. Additionally, this on-site solution will ensure uninterrupted access to the recordings even in a catastrophic situation where connectivity is severed to the centralized platform.”

Exhibit C, CenturyLink’s October 28, 2014 Response, pg. 1.

On November 25, 2014, the Division provided an Intent to Award letter (“the Intent to Award”) to CenturyLink stating that it intended to award the Contract to GTL and indicating that CenturyLink had until the close of business on December 9, 2014 to file any protest. *See Exhibit D, Intent to Award.* On November 25, 2014, CenturyLink emailed a public record request to the Division and was subsequently provided with the Evaluation Committee Report and the initial financial and technical responses for Securus and GTL.

The Evaluation Committee Report identified GTL's proposal as the only "responsive" bid and did not score CenturyLink's and Securus's proposals.² See *Exhibit A, Evaluation Committee Report*. Specifically, the Evaluation Committee found CenturyLink's proposal to be "non-responsive" based on its alleged failure to address the on-site storage equipment that would be installed at the DOJ/JJC locations. *Id. at pg. 6*. For the first time the Evaluation Committee interpreted the key phrase in RFP ¶3.3.1 - i.e. the "on-site storage of these recorded calls" - to mean that "a piece of equipment must be located at each DOC/JJC facility to store electronic copies of the calls made by inmates."³ *Id.* The Evaluation Committee determined that CenturyLink's proposal to install call storage equipment at three locations, including an on-site storage facility at one of the DOC/JJC's facilities, was materially non-compliant. *Id.*

The Evaluation Committee failed to consider any aspect of CenturyLink's bid because of CenturyLink's claimed "non-responsiveness." A review of GTL's proposal reveals that the total cost of CenturyLink's bid was significantly less than GTL's proposal even though the technological components of each bid were substantially similar. See *Exhibit E, Comparison Table of Costs Associated with CenturyLink and GTL's bids*.

² The Division stated that Securus's proposal was materially non-responsive as a result of its failure to include an Implementation Plan. *Exhibit A, Evaluation Committee Report, pg. 6*.

³ Neither the RFP nor the October 21, 2014 letter seeking clarification explained that the "on-site storage" requirement meant that recorded calls must be stored at each facility. Contrast this requirement with the preceding sentence in the RFP, which stated that that "monitoring equipment [was required]...in each correctional facility." See *Exhibit B, RFP, ¶3.3.1, pg. 22 (emphasis added)*. CenturyLink's proposal complied with the RFP's requirement for on-site storage of recorded calls.

The Evaluation Committee found GTL's bid was responsive and required no exceptions to the RFP documents. *Id. at pg. 5.* Specifically, the Evaluation Committee found that GTL's proposal:

Its network is based on local call processing and recording at DOC facility with 7x24x365 network management via redundant Network Operations Centers located in Mobile, Alabama and Houston, Texas with a back-up site in Dallas, Texas. Call data is stored on 4 redundant synchronized databases, two (2) at each local facility as well as two (2) at GTL Data Centers. The network design allows for local facilities to continue to operate even in the rare event of an entire GTL network failure.

Id. at pg. 4.

As described below, GTL's proposal did not provide for call storage technology to be located at each facility as the Evaluation Committee concluded.

B. To the Extent On-Site Storage Devices Are Required At Each Facility, GTL's Allegedly Successful Bid Was Non-Compliant And The Award Of The Contract Must Be Vacated.

If the Evaluation Committee interprets the RFP to require on-site storage equipment to be located at each facility, an interpretation CenturyLink contends is not required by the RFP, GTL's proposal must be deemed "non-responsive." A review of GTL's technology proposal reveals that it **did not** propose call storage technology at each DOC/JJC facility as the Evaluation Committee suggests, and as a result, the Evaluation Committee erred in awarding the contract to GTL.

The network diagram provided in GTL's proposal identifies two types of facilities within the DOC/JJC's network: "Large Phone Count Facilities" and "Small Phone Count Facilities." *Exhibit F, Relevant Portions of GTL's Proposal ("GTL Proposal"), pgs 51-52.* Nowhere in its proposal does GTL identify which facilities are "Large Phone Count Facilities" or "Small Phone

Count Facilities,” nor did it state the number of large or small facilities within the DOC/JJC’s network. Therefore, GTL’s proposal provides it with the sole discretion to determine which facilities are “Large” or “Small Phone Count Facilities” after the Contract is awarded.

The distinction between facility types is a critical component of GTL’s proposal because the type of equipment GTL proposes for the “Large” and “Small Phone Count Facilities” varies significantly. For the “Large Phone Count Facilities,” a schematic cylindrical representation labeled “On-site Call Processors/Databases/Recordings/CDRs” is identified in its proposal. *Exhibit F, Relevant Portions of GTL’s Proposal (“GTL Proposal”), pgs 51-52.* For the “Small Phone Count Facilities,” a schematic representation labeled only “Recordings” is identified. *Id.* While the diagram clearly explains that call processors and databases would only be included at the “Large Phone Count Facilities,” it fails to identify whether data storage devices would be provided at every site. Notwithstanding the vague and incomplete nature of the diagram, GTL’s proposal later clarifies that the “Recordings” representation at the “Small Phone Count Facilities” **refers only to the facility personnel’s access to recordings that are stored remotely, not on-site.**

For example, GTL’s proposal does not identify any stand-alone “recording” devices that will be included at the “Small Phone Count Facilities.” *See Exhibit F, GTL: Proposal, Schedule A, pgs. 379 to 391.* Instead, GTL’s proposal states that “[f]or smaller NJDOC/JJC facilities GTL uses the Viking K-1900-5 Auto-dialer to operate for ring down lines which serve to send inmate phone signals to the main processor.” *Id. at pg. 391.* This description means that GTL is providing equipment which sends phone signals and calls to the remotely located main processor for processing and storage - **meaning they are not being retained in some type of device**

residing on the premises of the “smaller NJDOC/JJC facilities.” GTL’s proposal further states that “[e]ach agency will have a primary data base located either at each correctional facility or strategically within the State of New Jersey, depending upon site size and number of phones.” *Id. at pg. 96*. Thus, GTL’s proposal does not provide for on-site storage equipment at each facility as the Evaluation Committee concluded in its report.

Further, GTL’s proposal identifies the *Focus* call processor, with the *Focus solution* (including network connectivity between *Focus* call processing systems), as the “on-site” equipment it intends to use in its proposal. *Exhibit F, GTL Proposal, pg. 380*. GTL states the on-site *Focus* hardware “will include” a Dell PowerEdge T620 Tower Server and such *Focus* call application processing, storage, and network interface functions are performed by telecom-grade commercial services. *Id. at pg. 388*. GTL claims these *Focus* servers host the disk storage units that constitute “the RAID-5 array for call record, recording, and other critical data storage.” *Id.* This equipment is described as an all-in-one processor, database, recording and storage device that GTL intends to utilize at the unidentified “Large Phone Count Facilities” only. *Id. at pgs. 51-52*.

Therefore, the only on-site storage devices in GTL’s proposal are the Dell PowerEdge T620 all-in-one call processor/database/recording/storage units. Unlike the other equipment which GTL clearly identified as being installed at each facility, GTL’s proposal **does not** state that the Dell PowerEdge T620 Tower Servers will be installed at each facility. *See Id. at pg. 389* (“GTL will provide commercial-grade Adtran and Cisco routers for each facility”). This is because the call processing and database devices, and therefore the storage devices, will only

reside at those select facilities later to be determined by GTL as “Large Phone Count Facilities,” and not all facilities.

GTL’s proposal fails to meet the Evaluation Committee’s newly formed interpretation that “on-site storage of these recorded calls” requires “a piece of equipment must be located at each DOC/JJC facility to store electronic copies of the calls made by inmates.” Instead, GTL’s proposal permits it to unilaterally determine whether an on-site database will be used for call storage at a particular facility depending on the size of the facility. GTL’s proposal fails for the same reason that CenturyLink was held to have failed. It is well-accepted that “[a]warding the contract to one who failed to submit bids on all terms necessarily created an inequality in the bidding and an opportunity for favoritism.” L. Pucillo & Sons, Inc. v. Mayor & Council of Borough of New Milford, 73 N.J. 349, 356 (1977)(recognizing the long-standing judicial policy in construing cases governed by the Local Public Contracts Law...to curtail the discretion of local authorities by demanding strict compliance with public bidding guidelines [and] guard against favoritism, improvidence, extravagance and corruption.”). As such, CenturyLink respectfully requests the Director declare GTL’s bid “non-responsive” and re-bid the Contract.

C. In the Alternative, CenturyLink’s Allegedly “Non-Responsive” Bid Must Be Accepted And Properly Evaluated By The Division.

Unlike the clearly stated requirement for call monitoring equipment, the RFP did not state with any specificity that the “on-site storage” of recorded calls required such storage **at each facility**. Like GTL’s proposal, CenturyLink complied with the RFP by suggesting on-site storage at one or more of the DOC/JJC facilities, while providing for separate redundant storage locations for backup and disaster recovery. *Exhibit C, CenturyLink’s October 28, 2014*

Response, pg. 1. In sum, the Division erred in declaring CenturyLink's bid "non-responsive" and failing to consider the technical or cost aspects of its proposal.

Both CenturyLink and GTL's proposals provided for on-site equipment, comprised of inmate telephones and monitoring workstations, as well as networking equipment, which connect these devices to the centralized platform for call completion and operation. *See Exhibit F, GTL: Proposal, Schedule A, pgs. 51, 149-150, Exhibit G, CenturyLink's Response pgs. 19, 63-64 and Exhibit C, CenturyLink's October 28, 2014 Response, pg. 1.* CenturyLink and GTL's proposals also included redundant, geographically separate locations containing backups of the database and call recordings. *See Exhibit F, GTL: Proposal, Schedule A, pg. 96, and Exhibit G, CenturyLink's Response pg. 38.* CenturyLink's proposal also provided for additional call storage at an NJ DOC site. *Exhibit G, CenturyLink's Response pgs. 63-64, and Exhibit C, CenturyLink's October 28, 2014 Response, pg. 1.* CenturyLink's centralized storage system also anticipated inmates moving from facility to facility and allowed for the tracking of calls regardless of where the inmate is located. *Exhibit G, CenturyLink's Response pg. 138.* CenturyLink's proposal ensured that the database provided call control parameters, matching call detail records, and other data are simultaneously synchronized across every DOC/JJC facility in such a manner that the State's required security rules are maintained. As a result, CenturyLink's proposal did not deviate from the requirements or goals of the RFP. In addition, since GTL's similar "on-site" technology proposal was accepted and evaluated by the Division, the purported requirement of "on-site" storage technology at each facility must be non-material and deemed waivable by the Division.

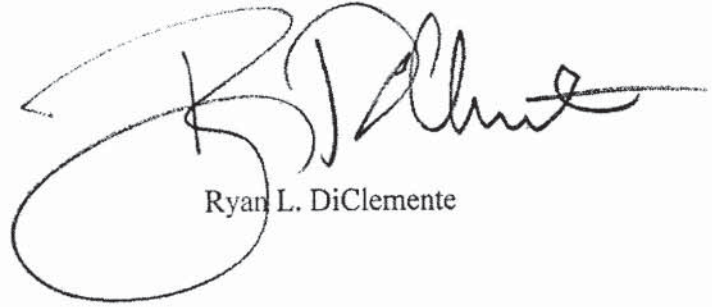
If properly evaluated, CenturyLink's bid would result in significant cost savings for New Jersey inmates and their friends and family members over the term of the Contract. A review of GTL's cost proposal demonstrates that the overall cost of GTL's proposal is substantially more than the proposal being offered by CenturyLink. See *Exhibit E, Comparison Table of Costs Associated with CenturyLink and GTL's bids*. If properly evaluated, CenturyLink's proposal could result in a savings of two million dollars (\$2,000,000.00) or greater over the life of the Contract.⁴ *Id.* As such, there exists a significant public interest in properly considering CenturyLink's bid and the substantial cost savings it offers.

D. Conclusion

Based on the foregoing, CenturyLink respectfully requests that the award of the Contract to GTL be vacated because its bid did not comply with the Evaluation Committee's delayed interpretation of the RFP's requirements or, in the alternative, CenturyLink seeks a determination that the Evaluation Committee erred in declaring its bid "non-responsive" and a finding that CenturyLink's bid will be reopened and properly evaluated. CenturyLink also requests the opportunity for an in-person presentation to address the highly technical issues which will arise in the review of this protest.

⁴ A comparison of CenturyLink's and GTL's BAFO shows that GTL's proposed cost per minute was over 50% higher than CenturyLink's, and would therefore cost New Jersey constituents millions of dollars over the course of the Contract. The 50% premium is consistent not only for the firms' "base" offers in Schedule C, but also for the optional price services found in Schedules J and K. See *Exhibit E, Comparison Table of Costs Associated with CenturyLink and GTL's bids*.

Respectfully Submitted,



Ryan L. DiClemente

Attachments

Exhibit E

ATTACHMENT A
CenturyLink vs. GTL cost comparison

A summary comparison of CenturyLink's Best and Final Offer (BAFO) submitted July 9, 2014 and GTL's BAFO submitted June 6, 2014 is provided below. The total cost comparison uses the total number of minutes from DOC/JJC facilities provided in RFP Addendum #3, equal to 24,562,647 for full-year 2013.

Schedule	BAFO Offers and Cost Differences				Annual Minutes 2013 Minutes Provided in RFP Addendum #3	GTL Estimated Annual Cost vs. CenturyLink		
	CenturyLink (15 second increments)	GTL (15 second increments)	CenturyLink Cost per 15- seconds Difference	CenturyLink Cost per Full Minute Difference		CenturyLink Cost Per Year	GTL Cost Per Year	CenturyLink Total Cost Savings Per Year
C - Basic Phone System	\$0.005875	\$0.008960	-\$0.003085	-\$0.01234	24,562,647	\$577,222	\$880,325	(\$303,103)
J - Additional Cost for Voice Print (incremental to Schedule C cost)	\$0.000700	\$0.001120	-\$0.000420	-\$0.00168	24,562,647	\$68,775	\$110,041	(\$41,265)
K - Additional for Text Analytics (incremental to Schedule C cost)	\$0.000650	\$0.001120	-\$0.000470	-\$0.00188	24,562,647	\$63,863	\$110,041	(\$46,178)
TOTAL	\$0.007225	\$0.011200	-\$0.003975	-\$0.01590	24,562,647	\$709,860	\$1,100,407	(\$390,546)

If the "baseline functionality" option in Schedule C was chosen, New Jersey constituents would pay approximately \$303,000.00 per year more vs. CenturyLink's offer and over \$2,000,000.00 more over the seven (7) year base contract period. This difference becomes even greater, approximately \$390 thousand per year, if the offerings requested in Schedules J and K (Voice Print and Text Analytics, respectively) are accepted by the State.