

Suite 401 DNA Building
 238 Archbishop Flores St.
 Hagåtña, Guam 96910



FAX

To:	Mr. Raymond Topasna Executive Director Guam Housing and Urban Renewal Authority 117 Bien Venida Avenue Sinajana, Guam 96910 Phone: (671) 477-9851 Fax: (671) 300-7565 Email: rstopasna@ghura.org	From:	Benjamin J.F. Cruz Guam Public Auditor Office of Public Accountability
		Pages:	6 (including cover page)
CC:	Mr. John Day President Pacific Data Systems, Inc. 185 Ilipog Drive, Suite 204A Tamuning, Guam 96913 Phone: (671) 300-0202 Fax: (671) 300-0265 Email: John@pdsguam.com	Date:	May 20, 2021
		Phone: Fax:	(671) 475-0390 x. 204 (671) 472-7951

Re: OPA-PA-21-001 Notice of Receipt of Appeal

For Review
 Please Comment
 Please Reply
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Comments:

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,
 Jerrick Hernandez, Auditor
jhernandez@guamopa.com

This facsimile transmission and accompanying documents may contain confidential or privileged information. If you are not the intended recipient of this fax transmission, please call our office and notify us immediately. Do not distribute or disclose the contents to anyone. Thank you.



OFFICE OF PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910
Phone: (671) 475-0390 / FAX: (671) 472-7951

May 20, 2021

Mr. Raymond Topasna
Executive Director
Guam Housing and Urban Renewal Authority (GHURA)
117 Bien Venida Avenue
Sinajana, Guam 96910

VIA FACSIMILE: (671) 300-7565

Re: Notice of Receipt of Appeal – OPA-PA-21-001

Dear Mr. Topasna,

Please be advised that Pacific Data Systems, Inc. (hereinafter referred to as “PDS”) filed an appeal with the Office of Public Accountability (OPA) on May 19, 2021, regarding GHURA’s denial of PDS’s protest related to the procurement for Metrolan – Connectivity/Internet/Telecom Bundled Services (IFB# GHURA-COCC-021-003). OPA has assigned this appeal case number OPA-PA-21-001.

Immediate action is required of GHURA pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA’s office and on its website at www.opaguam.org. The first three pages of the notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeal. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Thursday, May 27, 2021**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Division 4, Chapter 12, §12105, by **Friday, June 4, 2021**, ten work days following receipt of this notice.

When filing all other required documents with our office, please provide one original and one copy to OPA (electronic filings will be acceptable), and serve a copy to PDS. Although the Guam Procurement Law and Regulations require only one copy of the procurement record, OPA respectfully asks that GSA provide one original and one electronic file of the said record, which

will be distributed as follows: Copy-1: Master File; and Copy-2: Public Auditor and/or Hearing Officer.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at 475-0390 ext. 204 or jhernandez@guamopa.com should you have any questions regarding this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Benjamin J.F. Cruz', with a stylized flourish at the end.

Benjamin J.F. Cruz
Public Auditor

Enclosure: First Three Pages of the Notice of Appeal – OPA-PA-21-001

Cc: John Day, President of Appellant PDS



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 5/19/2021

TIME: 4:04 AM PM BY: JMP

FILE NO OPA-PA: 21-001

**Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL**

PART I- To be completed by OPA

In the Appeal of _____)
) **NOTICE OF APPEAL**
)
Pacific Data Systems, Inc (PDS))
(Name of Company), APPELLANT) Docket No. OPA-PA _____
)
)
)

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PART II- Appellant Information

Name: Pacific Data Systems, Inc (PDS)
Mailing Address: 185 Ilipog Drive, Suite 204A
Tamuning, GU 96913
Business Address: same as above
Email Address: John@pdsguam.com
Daytime Contact No: 671-300-0202
Fax No.: 671-300-0265

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PART III- Appeal Information

A) Purchasing Agency: Guam Housing and Urban Renewal Authority (GHURA)

B) Identification/Number of Procurement, Solicitation, or Contract: **IFB#GHURA-COCC-21-003**

C) Decision being appealed was made on **5/5/2021** (date) by:
GSA Chief Procurement Officer Director of Public Works **X** **Head of Purchasing Agency**

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

D) Appeal is made from:
(Please select one and attach a copy of the Decision to this form)
 Decision on Protest of Method, Solicitation or Award
 Decision on Debarment or Suspension
 Decision on Contract or Breach of Contract Controversy
(Excluding claims of money owed to or by the government)
 Determination on Award not Stayed Pending Protest or Appeal
(Agency decision that award pending protest or appeal was necessary to protect the
substantial interests of the government of Guam)

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

- **Docomo Pacific, Inc.**
- **PTI Pacifica (DBA – IT&E)**

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

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PART IV- FORM AND FILING In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;

PDS seeks a *de novo* review of this procurement and the award decision made by GHURA in this matter. PDS believes, as defined in its original protest (copy attached as Exhibit 1) that the IT&E bid should have been rejected by GHURA due to material deficiencies and a failure to meet documentation requirements and service specifications. GHURA in its Protest Decision (copy attached as Exhibit 2) admits that it allowed IT&E to make late submissions correcting deficiencies in bid submissions and making modifications to the services to be provided GHURA. PDS believes these late submissions are not allowed under procurement law and regulations and this award by GHURA violates applicable law and regulations while also jeopardizing the integrity of the procurement process.

PDS also believes that GHURA has misconstrued the applicable timelines allowed for PDS to make a procurement protest and requests that the OPA provide a ruling clarifying this matter and dismissing the basis which GHURA has used to deny the PDS protest due to timeliness.

2. A statement specifying the ruling requested;

PDS requests that the OPA order GHURA to:

- rescind the planned award of this bid to IT&E,
 - reject the IT&E bid for the reasons stated in the PDS protest and this appeal,
 - perform a new evaluation of the remaining bids and to select the lowest responsive and responsible bidder based on the procurement specifications/requirements and applicable Guam procurement law and regulations.
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.
 - See the attached **EXHIBIT 1**, copy of the PDS Protest and supporting documents filed with GHURA on March 26, 2021.
 - See the attached **EXHIBIT 2**, copy of the Protest Decision made by GHURA on May 5, 2021.
 - PDS expects to file additional supporting documents once the full Procurement Record is made available as part of the Appeal process.

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

.PART V – DECLARATION REGARDING COURT ACTION

The undersigned party does hereby confirm that to the best of his knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of Public Accountability within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 19th day of May, 2021.

By: 
APPELLANT – Pacific Data Systems
by John Day, its President



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-21-001 Notice of Receipt of Appeal

Jerrick Hernandez <jhernandez@guamopa.com>
To: Ray Topasna <rstopasna@ghura.org>, john@pdsquam.com
Cc: gbalmeo@ghura.org

Thu, May 20, 2021 at 10:24 AM

Hafa Adai,

Please see attached Notice of Receipt of Appeal for OPA-PA-21-001. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

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Regards,

Jerrick J.J.G. Hernandez, MA, CGAP, CICA
Auditor
Office of Public Accountability – Guam
www.opaguam.org
Tel. (671) 475-0390 ext. 204
Fax (671) 472-7951

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21-001 Notice of Receipt of Appeal.pdf
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