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TeleGuam Holdings, LLC ("GTA")

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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OFFICE OF PUBLIC ACCOUNTABILITY

GUAM

IN THE APPEAL OF

TELEGUAM HOLDINGS, LLC AND ITS
WHOLLY OWNED SUBSIDIARIES, GTA
TELECOM, LLC; GTA SERVICES, LLC;
AND PULSE MOBILE LLC.

Appellant.

APPEAL NO. OPA-PA-12-018

**TELEGUAM HOLDINGS LLC'S
RESPONSE TO PACIFIC DATA
SYSTEMS, INC.'S OPPOSITION TO
MOTION TO COMPEL**

GTA has moved to compel the production of PDS' technical specifications, which will likely demonstrate that GSA did not prescribe objectively measurable criteria that placed bidders on an even understanding of the requirements to comply with providing the services solicited under Bid Form 11. To be clear, the bid submitted by GTA for the 10,000 Mbps service was nine times greater in price than the bid submitted by PDS. Only by disclosure of PDS' technical specifications can the OPA, the Government, the public, and the parties truly understand whether the government utilized and evaluated the bids based on objectively measurable criteria. In other words, this information is absolutely essential to the OPA's full understanding of this issue and GTA's protest.

PDS complains that the information sought is trade secret. Under sections 5251 and 5252 of Title 5, in allowing the inspection of any portion of the procurement record, the OPA must balance the interests of trade secret protection with providing the public with access to the procurement record and maintaining open and fair competition as well as the integrity of the procurement process. For these reasons, GTA asks the OPA to review the confidentially marked information submitted by PDS and determine if disclosure promotes the integrity of the procurement process. GTA contends that there is an overriding public interest in the disclosure of any alleged trade secret material in this instance because of the overwhelming indication, as evident by the price difference among other factors, that GSA did not provide bidders with objectively measurable criteria. On the other hand, if PDS' materials qualify as trade secret, the OPA should make a determination (or retain an expert to assist the OPA in making a determination) as to whether GSA utilized objectively measurable criteria. This would guarantee that the issue is not passed over, and the public interest suffer, just because of PDS' assertion of trade secret protection.

DATED: Hagåtña, Guam, 12 December 2012.

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Attorneys for Guardian of Radhi B. Hemlani

Marcelene C. Santos, Public Guardian

IN THE SUPERIOR COURT OF GUAM

In the Matter of the Guardianship of

RADHI B. HEMLANI,

An Adult,

by

KISHORE B. HEMLANI,

Petitioner,

VASUDEV B. HEMLANI,

Intervenor.

Special Proceedings Case No. SP0195-11

UNDER SEAL

**SUBMISSION OF REPLY FILED IN KAMLESH K. HEMLANI v. RADHI P.
HEMLANI, ET AL; CV0758-12**