



OFFICE OF PUBLIC ACCOUNTABILITY
Doris Flores Brooks, CPA, CGFM
Public Auditor

June 24, 2014

Claudia S. Acfalle
Chief Procurement Officer
General Services Agency
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915
VIA FACSIMILE: (671) 475-1727 / 472-4217

Re: Notice of Receipt of Appeal – OPA-PA-14-005

Dear Ms. Acfalle,

Please be advised that Pacific Data Systems, Inc. (PDS) filed an appeal with the Office of Public Accountability (OPA) on June 20, 2014 regarding the General Services Agency (GSA) procurement actions related to GSA-064-11 for Telephone Services for the Governor's Office and the Lieutenant Governor's Office. OPA has assigned this appeal case number OPA-PA-14-005.

Immediate action is required of GSA 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.guamopa.org. 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 appeals. 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. However, we recognize that the procurement record for IFB No. GSA-064-11 was previously submitted in procurement appeal case number OPA-PA-12-011 on May 24, 2012, and subsequently supplemented in OPA-PA-12-012, OPA-PA-12-016, OPA-PA-12-017, and OPA-PA-12-018. OPA understands that the procurement record is voluminous, and to increase efficiency, OPA will not require a duplicate copy of the record filed in OPA-PA-12-011. In order to ensure the completeness of the procurement record, OPA requires GSA to certify that the procurement record that was submitted for GSA-064-11 is complete in its

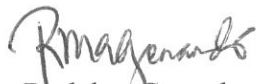
entirety, will be the same procurement record for OPA-PA-14-005, and to re-submit all supplements to the procurement record from May 24, 2012 to present by **Tuesday, July 1, 2014**, five work days following receipt of this notice of appeal.

We also require one copy of the Agency Report for the procurement solicitation cited above, as outlined in 2 GAR, Div. 4, Chap. 12, §§12104(c)(3) and 12105, by **Monday, July 14, 2014**, twenty days following receipt of this notice of appeal.

When filing all other required documents with our office, please provide one original and two copies to OPA, and serve a copy to Pacific Data Systems, Inc. OPA respectfully asks that GSA provide one original and two copies of the procurement record as the Guam Procurement Law and Regulations require only one copy. The three procurement record copies requested by OPA are distributed as follows: Copy-1: Master File; Copy-2: Public Auditor; and Copy-3: Hearing Officer.

Thank you for your prompt attention to this matter. Please contact me at 475-0390 ext. 204, or rgerardo@guamopa.org, should you have any questions regarding this notice.

Sincerely,



Rodalyn Gerardo
Audit Supervisor

Enclosure: Notice of Appeal – OPA-PA-14-005

Cc: John Day, President for Pacific Data Systems, Inc. (PDS)



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

Appendix A: Notice of Appeal
PROCUREMENT APPEAL

DATE: 6/20/14
TIME: 5:05 AM PM BY: AG

FILE NO OPA-PA: 005

PART I- To be completed by OPA

In the Appeal of)
)
Pacific Data Systems, Inc (PDS))
(Name of Company), APPELLANT)
)
_____)

NOTICE OF APPEAL

Docket No. OPA-PA _____

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

PART III- Appeal Information

A) Purchasing Agency: General Services Agency (GSA)

B) Identification/Number of Procurement, Solicitation, or Contract: Purchase Orders P146A01045, P146A01050, and P146A01052 issued under Procurement GSA-064-11

C) Decision being appealed was made on April 1, 2014 (date) by:
No decision has been rendered in this matter by GSA pending since April 21, 2014 by:
 GSA Chief Procurement Officer _ Director of Public Works _ 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:

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

- **Not Applicable**

PART IV- FORM AND FILING

This is a Procurement Appeal by Pacific Data Systems (PDS) of a contract controversy under §12301(a) related to a failure by General Services Agency (GSA) to render a decision within 60 days regarding Default Notices sent to PDS by GSA (see Exhibit A) for three GSA Purchase Orders; 146A01045, 146A01050, 146A01052 (see Exhibit B). These Purchase Orders were each issued according to the terms of GSA Invitation to Bid GSA-064-11. PDS addressed issues related to the delivery of the services ordered under these Purchase Orders in letters to GSA dated April 21, 2014 (see Exhibit C). PDS also provided additional justification for excusable delays regarding the delivery of these services on April 22, 2014 (see Exhibit D).

As of this date, GSA has not issued a decision on the matters related to these Purchase Orders and PDS is still being denied the ability to deliver the services that have been ordered and to perform against these Purchase Orders. PDS now seeks resolution of this controversy via the OPA Appeal process.

RULING REQUESTED BY THE OPA IN THIS APPEAL:

- A. PDS seeks a *de novo* review of the contract controversy in this matter. Specifically, PDS requests that the OPA validate the Purchase Orders that have been issued to PDS, order the Government of Guam to allow PDS the required time and access to deliver the services that have been ordered, and adjust the time allowed for PDS to deliver these services based on the delays caused by the Government.
- B. PDS also seeks a decision on the excusable delays that PDS has documented in this procurement. These delays were due to legal actions filed by the losing bidder, and were outside the control of PDS.
- C. PDS requests reimbursement of any and all applicable costs as may be determined by the OPA in this matter.

SUMMARY OF SUPPORTING EXHIBITS ATTACHED HERETO:

- Exhibit A: Government of Guam Purchase Order P146A01045/P146A01050/P146A01052
- Exhibit B: GSA Notice of Default regarding P146A01045/P146A01050/P146A01052
- Exhibit C: April 21, 2014 PDS letter re issues related to P146A01045/P146A01050/P146A01052

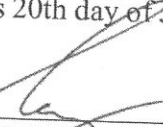
Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

Exhibit D: PDS Letter of April 22, 2014 regarding Excusable Delays in GSA-064-11 PO's

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 20th day of June, 2014.

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

TRANSACTION REPORT

JUN/24/2014/TUE 03:33 PM

BROADCAST

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	JUN/24	03:26PM	4751727	0:01:22	6	MEMORY OK	SG3 1176
002		03:28PM	4724217	0:01:06	6	MEMORY OK	SG3 1176
003		03:30PM	3000265	0:02:52	6	MEMORY OK	G3 1176
TOTAL				0:05:20	18		

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



FAX

To:	Claudia S. Acfalle Chief Procurement Officer General Services Agency	From:	Doris Flores Brooks Guam Public Auditor Office of Public Accountability
Phone:	(671) 475-1707	Pages:	6 (including cover page)
Fax:	(671) 475-1727 / 472-4217		
CC:	John Day President Pacific Data Systems, Inc.	Date:	June 24, 2014
Phone:	(671) 300-0200	Phone:	475-0390 x. 204
Fax:	(671) 300-0265	Fax:	472-7951

Re: OPA-PA-14-005 Notice of Receipt of Appeal

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Thank you,
Rodalyn Gerardo
Audit Supervisor
rgerardo@guamopa.org

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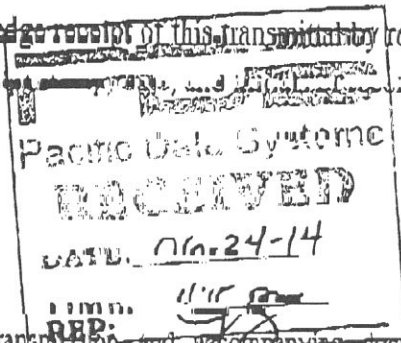
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Thank you,

Rodolyn Gerardo

Audit Supervisor

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JUN/25/2014/WED 10:12 AM

FAX (RX)

#	DATE	START T.	SENDER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	JUN/25	10:10AM	6713000265	0:01:23	1	OK	G3 1183

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