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5 *PACIFIC DATA SYSTEMS, INC.*

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

NOV 03 2010

TYPE: 336 BY: NAV  
FILE NO. OPA-PA: 10-01

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7 **OFFICE OF PUBLIC ACCOUNTABILITY**  
8 **PROCUREMENT APPEALS**

9  
10 In the Appeal of  
11 *PACIFIC DATA SYSTEMS, INC.*,  
12 Appellant.

} Docket No. OPA-PA-10-005

} **MOTION TO COMPEL GUAM  
COMMUNITY COLLEGE TO PROVIDE  
COMPLETE AGENCY REPORT**

13  
14 The Appellant Pacific Data Systems, Inc. ("PDS"), makes this Motion to compel  
15 Guam Community College to provide a complete Agency Report.

16 1. On October 26, 2010, Guam Community College ("GCC") provided the  
17 Agency Report in this matter pursuant to 2 GAR § 12105.

18 2. Section (b) of 2 GAR § 12105 requires that the Agency Report include:

19 (b) a copy of the bid or offer submitted by the Appellant and  
20 a copy of the bid or offer that is being considered for award  
or whose bid or offer is being protested ...

21  
22 3. In its Agency Report at paragraph (b), GCC referred back to the  
23 Procurement Record, which had been submitted by GCC to OPA on October 19, 2010.

24 4. However, GCC did not provide a full copy of the Teleguam Holdings LLC  
25 ("Teleguam") bid in this procurement.

26 5. In its cover letter to the OPA dated October 19, 2010, attached hereto as  
27 Exhibit "A", there is handwriting at the bottom of the letter referring to three copies of  
28

1  
2 "GTA proprietary information", and three copies of "PDS proprietary information".  
3 PDS assumes this means that these portions of both the Teleguam and PDS bids were  
4 provided to the Public Auditor as part of GCC's Procurement Record, but were under  
5 seal.

6         6. PDS was provided with a copy of the Procurement Record which included  
7 only a small portion of Teleguam's bid. The Procurement Record did include a  
8 document attached hereto as Exhibit "B". That document indicates that Teleguam  
9 designated the major portion of its bid as Confidential and Proprietary. The only  
10 portion of Teleguam's bid that was included in the Procurement Record provided to  
11 PDS was the first fifteen pages of Teleguam's bid, consisting primarily of completed  
12 forms. The essence of Teleguam's bid, including all information regarding prices, the  
13 items offered, and the terms of the bid, was not included.

14         7. 2 GAR § 3109(1)(2) requires that competitive sealed bids be opened  
15 publicly and that the opened bids shall be available for public inspection "... except to  
16 the extent the bidder designates trade secrets or other proprietary data to be  
17 confidential ..." That section goes on to provide that "... Prices and makes and models  
18 or category numbers of the items offered, deliveries, and terms of payment shall be  
19 publicly available at the time of bid opening regardless of any designation to the  
20 contrary." (emphasis added)

21         8. From the point of view of the public, the most important part of any bid  
22 relates to the price and terms of the bid offer. It is clearly not possible for a bidder to  
23 keep this information from the public by claiming it is a trade secret or proprietary. It is  
24 apparent that Teleguam has improperly designated as proprietary that information  
25 which must be available for public inspection and must be part of the Agency Report,  
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and that GCC has improperly accepted Teleguam's proprietary designation of this information.

9. Exhibit "A" also refers to PDS proprietary information. When submitting its bid, PDS did not designate any portion of its bid as proprietary. This came about later when PDS was contacted by GCC, and asked whether PDS claimed any portion of its bid to be proprietary. In response, PDS designated as proprietary certain information in section 4 of its bid relating to the names of its customers and PDS employee resumes, along with certain design diagrams contained in section 2 of its bid relating to the proposed installation. None of this information relates to pricing or terms of the PDS bid, and arguably may be considered proprietary. However, in order to avoid any debate as to whether or not the information designated by PDS may appropriately be considered to be proprietary, PDS has authorized GCC to release of all parts of its bid submission, and requests that its entire bid be made part of the Agency Report.


10. PDS has made demand on GCC to immediately release all portions of Teleguam's bid submission, but to date GCC has refused to comply with this request.

WHEREFORE, PDS requests that the Public Auditor issue an Order requiring the unsealing of any portion of the Teleguam or PDS bid that was provided by GCC to the Public Auditor under seal, or alternatively ordering GCC to now provide the complete Teleguam and PDS bids in this matter as part of the Agency Report.

DATED this 3<sup>rd</sup> day of November, 2010.

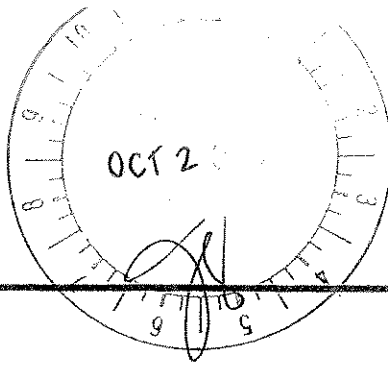
Respectfully submitted,

**BERMAN O'CONNOR & MANN**  
Attorneys for *PACIFIC DATA SYSTEMS, INC.*

By:   
**BILL R. MANN**



Kulehon Kumanidat Gudhan  
Accredited by the  
Western Association of  
Schools and Colleges



ACKNOWLEDGEMENT  
COPY

October 19, 2010

Doris Flores Brooks, CPA, CGFM  
Public Auditor

Lourdes R. Perez  
Audit Supervisor

Office of Public Accountability  
Suite 401, DNA Building  
238 Archbishop Flores Street  
Hagatna, GU 96910

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

OCT 19 2010

TIME: 4:32 PM BY: RJM  
FILE NO. OPA-PA: 10-005

VIA: HAND DELIVERY

Re: Procurement Record for IFB No: GCC-FB-10-015 Voice over-Internet Protocol (VoIP)  
Telephone System Project.

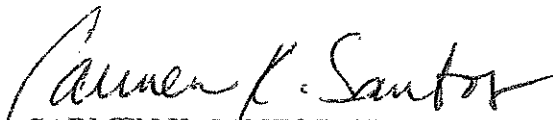
Master File No: OPA-PA-10-005

Dear Mrs. Doris Flores Brooks and Ms. Lourdes Perez,

As per your request, I am submitting a complete copy of the procurement record within the five working days following the receipt of the notice of appeal.

Should you need further information or have additional questions, please feel free to contact Carmen K. Santos, VP of Finance & Administration at 735-5548.

Sincerely,

  
CARMEN K. SANTOS, CPA  
Acting President  
Guam Community College

3 copies (OTA Proprietary Information)

3 copies PDS Proprietary Information



## Guam Community College

Reference: GCC FB-10-15

## Voice Over-Internet Protocol (VoIP) Telephone System Project

The following is listing of documents and companion pages including inserts that were submitted to Guam Community College for GCC FB-10-15 on June 10, 2010. These particular documents are marked with the words "Confidential and Proprietary" as it is the intention of GTA's that any information contained on these documents should not be provided to any person(s) other than Guam Community College personnel.

Section 6 of GTA Bid Binder "GTA Response" and companion pages including inserts

GTA Executive Summary

Section 7 of GTA Bid Binder "Avaya Solution" and companion pages including inserts

### Table of Contents

	Document Title	Pages
1	Table of Contents	1 - 2
2	Statement of Requirements and Commitments (Document is not marked on footer as "Confidential & Proprietary")	3 - 15
3	Professional Services	16
4	Project Management	16
5	Quality Control	17
6	Lead Times	17
7	Project Plan	18
8	Installation	19
9	Proposed Equipment Installation	20
10	Integration, End-to-End Test Activities & Solution validation	23
11	User Acceptance Test (UAT)	23
12	Training	23
13	Launch Support & Operationa Handover	23
14	Technical Support and Maintenance Services	23
15	Pricing, Terms and Conditions	25
16	Tax	27
17	Commerical Terms	27
18	Service Level Agreement	28
19	References	32
20	GTA TeleGuam	32
21	Service Experience	32

**EXHIBIT " B "**



Section 8 of GTA Bid Binder "Avaya Diagrams"

	<b>Document Title</b>	<b>PG</b>
1	Proposed Avaya VoIP Solution for GCC Mangilao Campus	1
2	Proposed Geographical Location for: Media Gateways, Servers and POE Switches	2
3	GCC Existing Fiber Network with Proposed VoIP Solution	3
4	Proposed Logical Network Layout and Technical Approach: Primary sites for VoIP Infrastructure	4
5	Proposed Logical Network Layout and Technical Approach: NORTH-COM	5
6	Proposed Logical Network Layout and Technical Approach: WEST-COM	6
7	Proposed Logical Network Layout and Technical Approach: SOUTH-COM	7
8	Proposed Logical Network Layout and Technical Approach: WEST-COM	8
9	Proposed Equipment - Tech Center	9



Section 10 of GTA Bid Binder "Cisco Solution" and companion pages including inserts

1	Table of Contents	1 -	3
2	Statement of Requirements and Commitments (Document is not marked on footer as "Confidential & Proprietary")	4 -	5
3	Solution Overview		5
4	Key Components		6
5	Specifications		6
6	Base System configuration, Reliability, Survivability and Support	7 -	8
7	Fail Over		9
8	Voice Quality, QoS and VLANS		10
9	Codec Support		10
10	Support for Open Systems Standards, Interoperability, Gateways		10
11	Telephone Instruments and Unified Messaging/Communications		11
12	Messaging/Voicemail	11 -	12
13	Traffic Control, Bandwidth, CAC (Call Admission Control)		13
14	Extensibility and Application Integraton		14
15	Mobility Feature Package		14
16	Free-Desking, Hoteling		15
17	Multimedia and Presence Support		15
18	PC Based CallManager and Operator		17
19	Remote Offices		18
20	3/4 Digit Dialing Plan and other features		18
21	Language Support		18
22	Inside Wiring		19
23	System Administration		19
24	Capacity and Scalability		20
25	Basic Features and Subsystems		20
26	Security		20
27	Additional or Optional Features for Future Expansion		21
28	Professional Servcies		22
29	Project Management		22
30	Quality Control		23
31	Project Plan		24



Section 10 of GTA Bid Binder "Cisco Solution "and companion pages including inserts

	<b>Document Title</b>	<b>PG</b>
32	Installation	25
33	Proposed Equipment Installation	26 - 28
34	Integration, End-to-End Test Activities & Solution Validation	28
35	User Acceptance Test (UAT)	28
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42	VoIP Detail Cost Breakdown	30
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47	GTA TeleGuam	36
48	Service Experience	36
49	Prosis Network Solutions	37
50	Applicable Projects/References	38

Section 11 of GTA Bid Binder "Cisco Diagrams" and companion pages including inserts

	<b>Document Title</b>	<b>PG</b>
1	Media Gateways, Servers and POE Switches	1
2	GCC Existing Fiber Network with Proposed VoIP Solution	2
3	Proposed Logical Network Layout and Technical Approach: Primary sites for VoIP Infrastructure	3
4	Proposed Logical Network Layout and Technical Approach: NORTH-COM	4
5	Proposed Logical Network Layout and Technical Approach: WEST-COM	5
6	Proposed Logical Network Layout and Technical Approach: SOUTH-COM	6
7	Proposed Logical Network Layout and Technical Approach: WEST-COM	7