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8 *PACIFIC DATA SYSTEMS, INC.*

9 **OFFICE OF PUBLIC ACCOUNTABILITY**
10 **PROCUREMENT APPEALS**

11 IN THE APPEAL OF
12 **TELEGUAM HOLDINGS LLC and its**
13 **WHOLLY OWNED SUBSIDIARIES,**
14 **GTA TELECOM LLC; GTA SERVICES**
15 **LLC and PULSE MOBILE LLC,**

16 Appellants.

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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 12/5/12
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FILE NO OPA-PA: 12-018

OPA Docket No. OPA PA 12-018

**OPPOSITION OF PACIFIC DATA
SYSTEMS, INC. TO MOTION TO
COMPEL**

17 Interested Party Pacific Data Systems, Inc. ("PDS") opposes the Motion to
18 Compel filed by Appellant Teleguam Holdings, LLC ("GTA"). In that Motion, GTA
19 requests that the General Services Agency ("GSA") and PDS be required to produce a
20 copy of the PDS technical specifications supporting Bid Form 11. Those specifications
21 were submitted by PDS in its bid in a separate envelope marked confidential. See
22 Declaration of John Day, attached hereto. The technical specifications are highly
23 proprietary because they define the network design/architecture and project plan
24 developed by PDS to deliver these services in full compliance with the IFB
25 requirements. See Day Declaration.

26 The Procurement Regulations at 2 G.A.R. § 3109(1)(3) provides that "The
27 Procurement Officer shall examine the bids to determine the validity of any request for
28 nondisclosure of trade secrets and other proprietary data identified in writing ..." In its
Motion to Compel, GTA states that it submitted a Freedom of Information Act on May
4, 2012, but did not receive the technical specifications PDS submitted in relation to Bid
Form 11. However, GTA did nothing further based upon its now alleged need to see

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the PDS technical specifications. The Public Auditor should rule that it is too late for GTA to raise this issue, which could result in a delay in the processing of this appeal.

In any event, GTA's alleged need to review the PDS technical specifications is motivated by GTA's desire to understand the proprietary PDS design that allowed PDS to offer a significantly lower bid for these services than the bid made by GTA. See Day Declaration.

In conclusion, GTA's Motion to Compel should be denied.

DATED this 5th day of December, 2012.

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

By: 
BILL R. MANN

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11 **TELEGUAM HOLDINGS LLC and its**
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12 **GTA TELECOM LLC; GTA SERVICES**
LLC and PULSE MOBILE LLC,

OPA Docket No. OPA PA 12-018

DECLARATION OF JOHN DAY

13 Appellants.
14

15 I, John Day, state the following based on my own personal knowledge:

- 16 1. I am the President of Pacific Data Systems, Inc. ("PDS").
- 17 2. The PDS technical specifications supporting Bid Form 11 in the
18 subject procurement were submitted by PDS in a separate envelope marked
19 confidential.
- 20 3. The technical specifications are highly proprietary because they
21 define the network design/architecture and project plan developed by PDS to deliver
22 those services in full compliance with the IFB requirements.
- 23 4. I believe that GTA's alleged need to review the PDS technical
24 specifications is motivated by GTA's desire to understand the proprietary PDS design
25 that allowed PDS to offer a significantly lower bid for these services than the bid made
26 by GTA.
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I declare under penalty of perjury under the laws of Guam that the foregoing statements are true and correct to the best of my knowledge and belief.

Dated: 12/04/2012



JOHN DAY