



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

PROCUREMENT APPEALS

IN THE APPEAL OF,

PACIFIC DATA SYSTEMS, INC.

Appellant

APPEAL NO: OPA-PA-14-006

**DECISION RE PURCHASING
AGENCY'S MOTION TO DECLINE**

To: **Purchasing Agency:**
General Services Agency, Government of Guam
C/O Fred S. Nishihara, Esq.
Office of the Attorney General
590 South Marine Corps Drive
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Facsimile: 472-2493

Appellant:
Pacific Data Systems, Inc.
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THIS MATTER came before the Public Auditor on July 22, 2014 pursuant to the General Services Agency, Government of Guam's (GSA) July 14, 2014 Motion to Decline. The Public Auditor hereby considers the record on file in this matter to decide this motion to include but not limited to Pacific Data Systems, Inc.'s (PDS) Opposition to GSA's Motion to Decline Appeal filed on July 17, 2014, and GSAs Reply to Opposition July 18, 2014. After considering the aforementioned record and the arguments of the parties at the hearing, the Public Auditor hereby FINDS and ORDERS the following:

1 1. The underlying procurement action at issue in this matter concerns GSA's Invitation
2 for Bid No. GSA-064-11 for Telecommunications Services, Mobile Telephone Services,
3 Integrated Services Digital Networking, Primary Rate of Interface, Basic Rate Interface, Session
4 Initiation Protocol Trunks, Government of Guam Wide Area Network (GGWAN) Data
5 Communications Services, Broadband Internet Access, DSL/Cable or Wireless Internet Services,
6 Television Services, Routers, Managed Services, and Network Equipment and Direct Inward
7 Dialing numbers (Hereafter Referred to as the "IFB"). The Public Auditor finds that *Teleguam*
8 *Holdings, LLC., v. Office of Public Accountability, Pacific Data Systems, The Government of the*
9 *Territory of Guam, Department of Administration, Government of Guam, CVA2014-012*
10 *(Supreme Court of Guam), and Teleguam Holdings LLC., and its wholly owned Subsidiaries v.*
11 *Territory of Guam, Department of Administration, General Services Agency, The Office of*
12 *Public Accountability, and Pacific Data Systems, Inc., CV0334-13 (Superior Court of Guam)*
13 concern the IFB which is the procurement that is the subject of this appeal. Further, neither
14 court matter has reached its final resolution. In CVA2014-012, the Appellees have until July 30,
15 2014 to file their opening briefs.¹ Further, as stated by GSA at the July 22, 2014 hearing on its
16 motion, the bench trial in CV0334-13 is currently set for August 18, 2014. Hence, the Public
17 Auditor finds that neither CVA2014-012 nor CV0334-13 has reached final resolution in the
18 Courts of Guam.

19 2. The Public Auditor shall not take any further action on this appeal. Generally, if an
20 action concerning the procurement under appeal has commenced in court, the Public Auditor
21 shall not act on the appeal except to notify the parties and decline the matter due to judicial
22 involvement. 2 G.A.R., Div. 4, Chap. 12, §12103(b). This procurement regulation specifically
23 prohibits the Public Auditor from taking any action upon notification of pending judicial
24 proceedings concerning the procurement under appeal. *Harbor Centre Guam Co., Ltd., et. al. v.*
25 *Doris Flores Brooks as Public Auditor, Office of Public Accountability, SP0226-10, line 2, page*
26 *4, Decision and Order dated April 20, 2011 (Superior Court of Guam).* Here, as stated above,
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¹ Clerk's Notice Re Briefing Schedule filed on May 20, 2014 in CVA-2014-012, unmarked Exhibit attached to GSA's Motion to Decline filed on July 14, 2014

1 both CVA2014-012 and CV0334-13 concern the procurement under appeal in this matter. Thus,
2 the parties are hereby ON NOTICE of the aforementioned civil actions and the Public Auditor
3 shall not take any further action on this appeal and hereby declines taking any further action due
4 to the aforementioned judicial involvement.

5 3. Based on the foregoing, GSA's Motion to Decline is hereby GRANTED, and the
6 Public Auditor shall take no further action in this matter until CVA2014-012 and CV0334-13
7 reach their final resolutions in the Courts of Guam.

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9 **SO ORDERED** this 29th day of July, 2014 by:

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13 _____
14 DORIS FLORES BROOKS, CPA, CGFM
15 Public Auditor
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