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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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Attorneys for Teleguam Holdings, LLC and its wholly owned subsidiaries

IN THE OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEAL

IN THE APPEAL OF

TELEGUAM HOLDINGS LLC and its
WHOLLY OWNED SUBSIDIARIES, GTA
TELECOM LLC; GTA SERVICES LLC and
PULSE MOBILE LLC,

Appellants.

Docket No. OPA-PA-12-016

IN THE APPEAL OF

PACIFIC DATA SYSTEMS, INC.,

Appellant.

Docket No. OPA-PA-12-017

IN THE APPEAL OF

TELEGUAM HOLDINGS LLC and its
WHOLLY OWNED SUBSIDIARIES, GTA
TELECOM LLC; GTA SERVICES LLC and
PULSE MOBILE LLC,

Appellants.

Docket No. OPA-PA-12-018

**REQUEST FOR EXTENSION OF
HEARING**

I. INTRODUCTION

Appellant Teleguam Holdings, LLC and its wholly owned subsidiaries (collectively "GTA") respectfully request to extend the January 9, 2013 Hearing Date due to unforeseen medical emergencies that render two of GTA's crucial witnesses unavailable to testify as scheduled in OPA-PA-12-017 and OPA-PA-12-018. In the event the OPA grants Pacific Data Systems ("PDS") untimely request for hearing in OPA-PA-12-16,¹ GTA seeks an extension of that hearing as well.

II. REQUEST FOR EXTENSION OF HEARING DATE

There are currently three appeals before the OPA relative to GSA IFB 064-11 ("IFB"). First OPA-PA-12-16 relative to Bid Forms 2 and 3 of the IFB was appealed by GTA on October 8, 2012.² Second OPA-PA-12-17 relative to Bid Form 10 of the IFB was appealed by PDS on October 19, 2012.³ And, third OPA-PA-12-18 relative to Bid Form 11 of the IFB was appealed by GTA on November 5, 2012.⁴

On December 17, 2012, GTA filed its consolidated Witness List and identified GTA employees David Chase and Jennifer Sgambelluri. On the same day PDS submitted its Witness List and also identified Ms. Sgambelluri as a witness for OPA-PA-12-16. On December 26, 2012 GTA learned that its two crucial witnesses to OPA-PA-12-17 and OPA-PA-12-18 will not be available to provide testimony at the January 9, 2013 hearing due to unforeseen medical issues that require immediate attention.

Mr. Chase is required to fly off-island to seek medical care not available on Guam for his child and will not be available to testify at hearing until January 14, 2013. Mr. Chase is GTA's

¹ See Appellant GTA's Objection to Pacific Data Systems, Inc.'s Request for Hearing, November 26, 2012.

² Bid Form 2 - Non-Recurring and Monthly Recurring Cost (MRC) for Centrex Telephone Service
Bid Form 3 - Centrex Telephone Instruments

³ Bid Form 10 - ISDN PRI, ISDN BRI, SIP Trunks and DID's

⁴ Bid Form 11 - GovGuam Wide Area Network (1 and 10 Gbps)

Chief Technical Officer and will provide important testimony to the OPA to help in understanding the complicated issue of the Government of Guam Wide Area Network, the service procured in Bid Form 11. GTA's position in OPA-PA-12-018 is that GTA is the lowest responsible bidder. Mr. Chase's testimony will confirm how GTA can technically provide the services to the Government at a lower cost, which will demonstrate that GSA has unfairly disqualified GTA from providing this service. In the same week as the Hearing, GTA's second witness, Ms. Sgambelluri, will undergo an emergency medical procedure that will require a recovery period of at least two (2) weeks from when the procedure is performed. The procedure will render Ms. Sgambelluri unavailable to testify in person, and even if her testimony is done by phone, due to physical pain, she may be unable to testify fully and accurately. Ms. Sgambelluri will not be available to testify until after January 21, 2013. Ms. Sgambelluri was the Sales Director tasked with the coordinating GTA's overall bid to GSA IFB064-11 and will be providing crucial testimony in both OPA-PA-12-17 and OPA-PA-12-18.

The unavailability of both Ms. Sgambelluri and Mr. Chase were unanticipated at the November 20, 2012 Pretrial Conference. Given the importance of their testimony to the complicated issues before the OPA, GTA respectfully requests that the OPA allow both witnesses to testify in person when they have returned from their medical emergency situations. Due to the complexity of this procurement, a short delay to allow these witnesses to participate in the hearings will prove beneficial by allowing the OPA to gather testimony from those who were involved in responding to the IFB.

On December 26, 2012 GTA's counsel informed Attorney General Fred Nishihira and Attorney Robert Kono representing GSA, and Attorney Bill Mann representing PDS of the witnesses' unavailability. Counsels for GSA did not oppose an extension of the OPA Hearings

for OPA-PA-17 and OPA-PA-18 and Counsel for PDS conditionally agreed to rescheduling. *See* Exhibit A, Response from Attorney Mann to GTA's request for extension of hearing on OPA-PA-17 and OPA-PA-18.

Counsel for PDS Attorney Mann may not be available until January 29, 30, and 31. Based on the availability of counsel, Mr. Chase, and Ms. Sgambelluri GTA request for a hearing date no earlier than January 31, 2013.

III. CONCLUSION

Based on the reasons set forth above, GTA hereby requests an extension of the hearings in OPA-PA-12-17 and OPA-PA-12-18 considering the schedules set forth above as soon as practicable for all parties.

Submitted this 28 day of December, 2012.

CARLSMITH BALL LLP



VINCENT C. CAMACHO
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wholly owned subsidiaries

EXHIBIT

A

Vince C. Camacho

From: Jenny Quitugua <jquitugua@pacific-lawyers.com>
Sent: Wednesday, December 26, 2012 4:45 PM
To: Vince C. Camacho
Cc: Robert H. Kono; Fred Nishihira; 'Bill Mann'; 'Christine Pangelinan'
Subject: Procurement Appeals

On Behalf of Bill R. Mann:

Dear Counsel:

I have discussed this with John Day of PDS and he is agreeable to the rescheduling OPA-PA-12-018 and the merits in OPA-PA-016 (assuming the Hearing Officer grants PDS' request for a hearing in 016).

However, John advises me, and I agree, that expert witnesses are unnecessary in 017. I believe that will be resolved primarily on the legal arguments set out in Protest and briefs that have already been filed. Thus, we would like to use one of the three days currently assigned to the consolidated appeals for hearing on 017. PDS maintains its position that a favorable ruling in 017 will moot the other appeals. If everyone is agreeable with that, we can discuss the rescheduling of the 016 and 018.

I would not be available during the week of January 14 due to existing deadlines in other cases. I would be available for hearing during the week of January 21 but for a currently pending taxpayer case that PDS has brought against the Government of Guam and Claudia Acfalle. I am in settlement discussions with Fred regarding that case but cannot agree to schedule the procurement appeals during that week until we have a signed settlement agreement in the taxpayer case.

If the taxpayer case does not settle, then the first available time I would have for the hearing in 016 (assuming the Hearing Officer grants PDS' request for a hearing) and 018 would be January 29, 30 and 31.

PDS does reserve the right to separately request the Hearing Officer to hear oral argument on the pending Motion to Dismiss in 016 on January 9, 10, or 11. PDS believes a favorable ruling on that Motion would eliminate the need for a hearing on the merits in 016.

I look forward to hearing from you.

Sincerely,
Bill R. Mann