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FILE NO OPA-PA: H-003

6 **OFFICE OF PUBLIC ACCOUNTABILITY**

7 In the Appeal of
8 PACIFIC DATA SYSTEMS, INC.,
9 Appellant.

Docket No. OPA-PA 14-003

**RESPONSE OF PACIFIC DATA
SYSTEMS, INC. TO GVB'S REPORT
PURSUANT TO OPA'S JUNE 27, 2014
ORDER**

11 The Appellant Pacific Data Systems, Inc. ("PDS") responds as follows to GVB's
12 Report Pursuant to OPA's June 27, 2014 Order. The GVB Report failed to comply with
13 the OPA's Order of April 16, 2014 in multiple respects as set forth below.

14
15 **1. All Materials Subject to Disclosure Have Not Been Provided to
PDS**

16 In the Agency Report filed by GVB in OPA-PA-14-007, GVB revealed that there
17 were communications between GVB and G4S to clarify or amend the G4S Technical bid.
18 One example involves the location of where the 24x7 Surveillance Monitoring would be
19 performed under the G4S Bid. The 24x7 Surveillance Monitoring was one of the issues
20 that PDS raised in its first protest and again in its second protest (now appealed to the
21 OPA under OPA-PA-14-007). GVB now admits that there were communications
22 between GVB and G4S regarding this issue and as a result GVB says that the G4S bid
23 was amended with supplemental information according to 2 GAR §3109(t)(5).
24 However, GVB has not provided any documentation that G4S ever submitted such
25 supplemental information to amend their Technical Proposal. There is also no
26 documentation provided in either the Agency Report or the Procurement Record which
27 shows GVB either raised this question or sought clarification/confirmation from G4S on
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2 this issue. Assuming there is such documentation, which should exist, it is being
3 improperly withheld by GVB.

4 Another example involves the 120 day delivery requirement specified by GVB
5 for the bid. In the GVB response to the second PDS protest, GVB reveals that the GVB
6 evaluation committee accepted G4S's delivery timeline of 132 days, although the G4S
7 Technical Bid specifies a project schedule of 182 days. No documents are provided in
8 the GVB Procurement record or the GVB Agency Report that support a change in the
9 delivery requirements of the bid or any supplemental information provided by G4S that
10 would modify or amend the 182 day timeline. Assuming there is such documentation,
11 which should exist, it is being improperly withheld by GVB.

12 The above two examples reflect issues regarding the lack of critical information
13 and documentation in the GVB Procurement Record and Agency Report. Obviously, if
14 no such documents exist, the G4S bid, as submitted and unaltered, clearly does not
15 meet the GVB bid specifications and therefore should have been rejected as non-
16 compliant. If the documents do exist, the dates of the documents will be critical since
17 no amendments can be made to a non-priced technical proposal once Phase I of the
18 multi-step process has ended. It is critical to the resolution of this Appeal for the OPA
19 to determine both the existence and the validity of these documents.

20 **2. Confirmation of G4S Bid**

21 The OPA Order required that GVB "... confirm G4S's bid with respect to price
22 and compliance with the IFB specifications no later than July 11, 2014 and to Report to
23 the Public Auditor the result of such confirmation no later than July 18, 2014." In the
24 context of the substantial allegations of non-compliance of the G4S bid with the IFB
25 specifications made by PDS in this protest, it is submitted the only reasonable
26 interpretation of the Order is that GVB and G4S must specifically address those issues
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2 of alleged non-compliance. However, GVB basically ignored the Order and wrote a
3 two sentence request to G4S requesting confirmation without detailing any of the
4 specification or pricing issues in this appeal. G4S responded with what is basically a
5 non-response "parroting" back to GVB the same language. PDS assumes it was not the
6 intention of the OPA to require only a worthless response. GVB has therefore failed to
7 comply with the Order.

8 **3. Misleading Statement Regarding Source of Specifications**

9 GVB in its Report provided communications between GVB and a Mr. Muth in
10 order to "... refute PDS' allegation that the specifications for Multi-Step Bid No. GVB-
11 2014-002MS were created for GVB by G4S." However, PDS has already demonstrated
12 in its Reply filed on May 21, 2014 that a large portion of the specifications were taken
13 directly from a G4S document. GVB ignores that fact and tries to create the misleading
14 impression that G4S had no input into the development of the specifications. In fact, a
15 large portion of the specifications came verbatim from G4S. The fact that GVB is
16 attempting to obscure this fact raises basic questions about its handling of this
17 procurement.

18 In conclusion, GVB has not only failed to comply with the OPA Order, but has
19 affirmatively attempted to obscure important facts regarding the source of the
20 specifications for the procurement. GVB should be ordered, until penalty of contempt,
21 to fully comply with the OPA Order.

22 DATED this 25th day of July, 2014.

23 Respectfully submitted,

24 **BERMAN O'CONNOR & MANN**
25 Attorneys for Appellant
26 ~~PACIFIC DATA SYSTEMS, INC.~~

27 By: 

28 **BILL R. MANN**