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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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Attorney for Appellee, Guam Community College

**BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEAL**

In the Matter of Appeal of)	Docket Number: OPA-PA-10-005
PACIFIC DATA SYSTEMS, INC,)	
)	
Appellant)	RESPONSE TO APPELLANT'S
)	MOTION TO COMPEL GCC TO
)	PROVIDE COMPLETE AGENCY
)	REPORT
)	
)	

Appellee Guam Community College, (hereinafter "GCC"), by and through its attorney, Sarah A. Strock, of Cabot Mantanona LLP, respectfully submits this Response to Appellant's Motion to Compel GCC to Provide Complete Agency Report.

After Appellant's Motion was filed, TeleGuam Holdings LLC released additional portions of its bid as not confidential or proprietary. GCC filed and served Appellant with the additional portions. To the extent that Appellant is not satisfied with the newly released portions of TeleGuam's bid, GCC proposes that the Hearings Officer or Public Auditor review the remaining confidential and proprietary portions of TeleGuam's bid in order to determine whether they should remain sealed or become public.

GCC agrees with Appellant's reliance on 2 G.A.R. § 3109(I)(2), requiring that all portions of sealed bids be available for public inspection after the bid opening, "except to the extent the bidder designates trade secrets or other proprietary data to be confidential..." In this procurement appeal, TeleGuam has designated a substantial

portion of its bid as confidential or proprietary. Accordingly, TeleGuam has the burden to explain why the remaining portions of its bid are indeed confidential or proprietary, and should therefore not be made public. The Public Auditor has previously conducted in camera reviews of sealed documents. In the Appeal of GCIF, OPA-PA-09-005 and In the Appeal of GEF, OPA-PA-09-007. Since TeleGuam maintains that the remaining sealed portions of its bid are proprietary and confidential, it would be appropriate for the Public Auditor or Hearings Officer to conduct an in camera review of these portions of TeleGuam's bid, in order to determine whether or not they should be made public or remain confidential. GCC will defer to the judgment of the Public Auditor regarding whether the remaining portions of TeleGuam's bid are confidential or not.

Respectfully submitted this 12th day of November, 2010.

CABOT MANTANONA LLP
Attorney for Guam Community College

By:



SARAH A. STROCK