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RECEIVED
 OFFICE OF PUBLIC ACCOUNTABILITY
 PROCUREMENT APPEALS

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 FILE NO OPA-PA: 12-018

Attorneys for the Government of Guam

**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.)
)
) Appellant.)

DOCKET NO. OPA-PA-12-018

**MOTION TO DECLINE TO PACIFIC
 DATA SYSTEM, INC.'S REQUEST
 FOR A SCHEDULING CONFERENCE**

Pursuant to 5 GCA §5703 and 2 GAR Div. 4 § 12103(b) the General Services Agency “GSA”, Government of Guam, by and through the undersigned counsel moves the Office of the Public Accountability to decline taking any action at this time due to Judicial involvement. There is an active case in the Guam Supreme Court (CVA 2014-012) involving IFB GSA-064-11, the procurement for the Government of Guam Telecommunication Services.

Attached is a copy of the Notice of Appeal filed in CVA2014-012 brought by Teleguam Holdings LLC “GTA”. At issue in this Supreme Court Appeal is OPA-PA-12-016, a proceeding which the OPA is listed as an Interested Party.

The law as set forth in 5 GCA §5703 and 2 GAR Div. 4 § 12103(b) does not give the OPA the prerogative to act if the bid at issue has commenced in court.

5 GCA §5703 states: “The Public Auditor shall have the power to review and determine de novo any matter properly submitted to her or him.”

2 GAR Div. 4 § 12103(b) “Effect of Judicial Proceeding. If an action concerning the procurement under Appeal has commenced in court, the Public Auditor shall not act on the Appeal except to notify the parties and decline due to the Judicial involvement. This section shall not apply where the court requests the decision of the Public Auditor...”

IFB GSA-064-11 is pending before the Supreme Court of Guam. The Supreme Court has not requested that the OPA render a decision regarding this case. In OPA-PA-14-006 following *Harbor Centre Guam Co. Ltd., et. Al v. Doris Flores Brooks as Public Auditor, Office of Accountability*, SP0226-10, April 20, 2011) (Superior Court of Guam) the Office of Public Accountability has declined jurisdiction where a matter is before the Courts of Guam. This case should be decline for the same reasons that the cases cited above were declined. A scheduling conference would be a waste of time and resources as this case cannot move forth until the Supreme Court either issues a final decision in CVA 2014-012 or Orders the OPA to hear this matter.

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Because this matter is not properly before the OPA, GSA respectfully request the OPA to notify the parties that the OPA has declined to take action in this appeal due to judicial involvement.

Respectively submitted this 5th day of September, 2014.

OFFICE OF THE ATTORNEY GENERAL
Leonardo Rapadas, Attorney General

By: 

FRED NISHIHIRA
Assistant Attorney General
Counsel for Purchasing Agency, GSA

7/29/14 Lm.

FILED

2014 JUL 28 PM 4:15



SC# 2014-80

SUPREME COURT OF GUAM

IN THE SUPREME COURT OF GUAM

TELEGUAM HOLDINGS, LLC, AND ITS WHOLLY OWNED SUBSIDIARIES,

) Supreme Court Case No. CVA14-012
) Superior Court Case No. CV0333-13

Plaintiff-Appellant(s),

NOTICE

vs.

TERRITORY OF GUAM; DEPARTMENT OF ADMINISTRATION, GENERAL SERVICE AGENCY, THE OFFICE OF PUBLIC ACCOUNTABILITY, PACIFIC DATA SYSTEMS, INC.,

Defendant - Appellee(s).

Notice is hereby given that, pursuant to Guam Rules of Appellate Procedure ("GRAP") Rule 17(c)(1), Defendants-Appellees Pacific Data Systems, Inc., and the Territory of Guam have been separately granted an extension of time in which to file their respective answering briefs, which were originally due July 30, 2014 for Pacific Data Systems, Inc., and July 31, 2014 for the Territory of Guam. GRAP 17 provides:

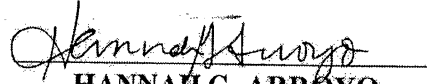
If good cause is shown, the Clerk or a designated deputy may grant an oral request for a single extension of time of no more than fourteen (14) days to file an opening, answering or reply brief. Such extensions may be applied for and granted or denied by telephone. The grant or denial of the extension shall be entered on the court docket. Application for such an extension shall be conditioned upon prior notice to the opposing party. The grant of an extension of time under this rule will bar any further motion to extend the brief's due date unless such a motion, which must be in writing, demonstrates extraordinary and compelling circumstances.

12. 0576 A FN

1 Guam R. App. P. 17(c)(1). Attorney Fred Nishihara, counsel for the Territory of Guam, made a
2 telephonic request for a 14-day extension on the ground that he is in discussions with a party to
3 this case, which may result in a settlement. Additionally, Attorney Bill Mann, counsel for
4 Pacific Data Systems, Inc., made a telephonic request for a 14-day extension on the grounds that
5 the interests of his client are aligned with that of the Territory of Guam, and that their respective
6 briefs would best be served and filed contemporaneously. Each of the requesting parties was
7 orally granted an extension of 14 days from the date on which its brief was originally due.

8 Therefore, pursuant to GRAP 17(c)(1), Pacific Data Systems, Inc.'s brief shall be filed
9 and served on or before August 13, 2014. The Territory of Guam's brief shall be filed and
10 served on or before August 14, 2014. All other briefing is subject to the timelines set forth in
11 GRAP 17(a).

12 DATED this 28th day of July, 2014.

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16 HANNAH G. ARROYO
17 Clerk of Court
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