

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

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DATE: 05/19/14  
TIME: 1:30  AM  PM BY: u  
FILE NO OPA-PA: 14-003

Attorneys for Appellant:  
PACIFIC DATA SYSTEMS, INC.

**OFFICE OF PUBLIC ACCOUNTABILITY**

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

Docket No. OPA-PA 14-003

**DECLARATION OF JOHN DAY**

10 I, John Day, state the following of my own personal knowledge:

- 11 1. I am President of the Appellant Pacific Data Systems, Inc. ("PDS").
- 12 2. Attached to this Declaration as Exhibit 1 is a true copy of the PDS  
13 protest of March 24, 2012.
- 14 3. Attached to this Declaration as Exhibit 2 is a Freedom of  
15 Information Act request from PDS to GVB dated March 4, 2014.
- 16 4. Attached to this Declaration as Exhibit 3 is the GVB response dated  
17 March 10, 2014 to the PDS Freedom of Information Act request.
- 18 5. I did receive the GVB response on March 10, 2014, and documents  
19 provided by GVB did include communications between GVB and G4S as PDS had  
20 requested. However, those communications did not include any request from GVB to  
21 G4S for confirmation of the G4S bid.
- 22 6. PDS did file a protest with GVB on March 24, 2014.

23 I declare under penalty of perjury that the foregoing statements are true and  
24 correct to the best of my knowledge and belief.

25  
26 Dated: 5/19/2014

  
27 JOHN DAY  
28

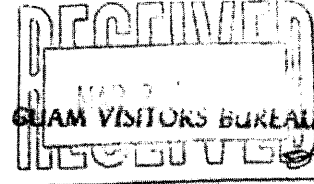
# Exhibit "1"



March 24, 2014

Via Hand Delivery

Mr. Karl Pangelinan  
General Manager  
Guam Visitors Bureau (GVB)  
401 Pale San Vitores Road  
Tumon, Guam 96913



Re: Protest by Pacific Data Systems of GVB's Award Decision to G4S Security Procurement GVB-2014-002MS

Dear Mr. Pangelinan:

This is a Protest by Pacific Data Systems ("PDS") reference 5 G.C.A. § 5425(a) to the award decision made by Guam Visitor's Bureau ("GVB") in the above referenced bid and evidenced by the GVB Notice of Award letter issued to G4S Security ("G4S") by GVB on February 27, 2014 (a copy of the Notice of Award is attached as Exhibit "A"). This GVB letter, along with other GVB documents related to this procurement, were provided to PDS by GVB on March 10, 2014 in response to a PDS Freedom of Information Act request. This timely protest by PDS of GVB's actions in this procurement is based upon the following grounds:

**I. GVB DID NOT UNDERTAKE A PROPER EVALUATION OF THE PDS AND G4S BIDS AS REQUIRED BY 5 G.C.A. § 5211(g).**

PDS's review of the evaluation performed by GVB of the G4S bid shows that GVB did nothing to confirm or clarify the bid of G4S to insure compliance with the GVB Technical requirements. 2 GAR § 3109(m)(3) states the following:

(3) **Confirmation of Bid.** When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer should request the bidder to confirm the bid. Situations in which confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn if the conditions set forth in Subsections 3109(m)(4) through 3109(m)(6) of this Section are met. (emphasis added)

In the case of the subject bid, a proper evaluation of the bids shows the following obvious indications of a mistake or failure to provide a compliant solution as required by the GVB technical requirements.

A. The G4S bid included a CCTV Camera that was 80% less than the camera recommended by PDS (\$837.50 vs. \$3900).

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Main: (671) 300-0200 | Fax: (671) 300-0265 | www.pdsguam.com

EXHIBIT 1

# **PDS**

Pacific Data Systems

- B. The amount bid by G4S for Task IV - Develop and perform Procedures to provide 24 hours a day, 7 days a week (24/7) CCTV System Monitoring Services, shows that the G4S will charge GVB less than the labor cost to provide this service to GVB, resulting in an annual loss of \$20,000 to \$40,000 a year to G4S to provide this service.
- C. The cost quoted by G4S to connect and install the CCTV cameras at existing Locations as listed on Bid Form B-14.2 is only \$156 per site versus the \$2,500 bid by PDS.
- D. The cost quoted by G4S to connect and install the New CCTV camera Locations as listed on Bid Form B-14.2 is only \$156 per site versus the \$21,000 bid by PDS.

An "apples to apples" comparison of the G4S and PDS bids should have called into question whether bidders were actually bidding on the same scope of work and a confirmation of what work was to be provided or included in the bids submitted as required by 2 GAR § 3109(m)(3) should have been done by GVB as part of its evaluation. Failure by GVB to perform these confirmations of the bidders submissions calls into question whether the evaluation used in the determination of the award was valid and in compliance with 5 G.C.A. § 5211(g).

## **II. GVB HAS VIOLATED 2 GAR § 3131 AND § 3132 FOR FAILING TO PROVIDE PDS WITH COPIES OF ALL OF THE G4S BID DOCUMENTS.**

As noted earlier, PDS had requested from GVB all of the G4S bid documents. The release of these procurement documents are governed by 2 GAR § 3132 which states as follows:

**§3132. Rules for Procurement Records.** As required by 5 GCA §5252, these rules are declared by the Policy Office to:

- 1. protect the integrity of the bidding process;**
  - 2. protect the confidentiality of trade secrets;**
  - 3. establish reasonable charges for copying papers;**
  - 4. provide for and establish reasonable charges for transcription of sound recordings;**
  - 5. require public access to the record at the earliest possible time; and**
  - 6. not require that the record be complete or that the procurement award be made before inspection and copying are permitted.**
- (emphasis added)**

PDS believes that a review of these documents will also reveal further issues with the procurement process or award decision made by GVB. Failure by GVB to release these

# PDS

Pacific Data Systems

documents in clear violation of the above referenced 2 GAR regulations casts further doubt on the integrity of this procurement and the award decisions made by GVB. GVB is reminded that PDS has made this timely Protest according to 5 G.C.A. § 5245(g) and that any further action in this procurement by GVB is stayed until this Protest is resolved. PDS welcomes the opportunity to meet with you in an effort to negotiate a mutually acceptable resolution of these issues as provided for in 5 G.C.A. § 5245(b).

Sincerely,



John Day  
President

Xc: Bill R. Mann - Attorney for Pacific Data Systems

Attachments: As stated.

# Exhibit "2"

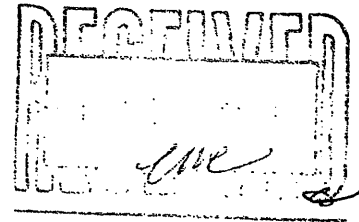
# PDS

Pacific Data Systems

March 4, 2014

Via Hand Delivery

Mr. Karl Pangelinan  
General Manager  
Guam Visitors Bureau (GVB)  
401 Pale San Vitores Road  
Tumon, Guam 96913



**RE:** Freedom of Information Act

Dear Mr. Pangelinan:

Reference the process for Freedom of Information Act (Section 10103 of Title 5 Guam Code Annotated), Pacific Data Systems request copies of the following information:

1. The bid package submitted by G4S for GVB-2014-00MS.
2. All communications (emails, letters, faxes, documents, billings, etc.) between GVB and G4S, between December 30, 2013 and March 4, 2014.
3. Documentation related to any meetings between the Guam Visitor Bureau and G4S between December 30, 2013 and March 4, 2014 related to GVB-2014-002MS. Including who attended these meeting(s), meeting notes or documents, presentations, or any electronic recordings of the meeting(s).
4. Any and all technical evaluations that were performed by GVB regarding procurement GVB-2014-002MS.

Please call me at 300-0229 or email me at [jsm@pdsguam.com](mailto:jsm@pdsguam.com) when this information is available for pickup.

Respectfully Submitted,

John Mantanona  
Government Account Manager

EXHIBIT 2

# Exhibit "3"





March 10, 2014

Mr. John Mantanona  
Pacific Data System (PDS)  
185 Ilipog Drive  
HBC Suite 204A  
Tamuning, Guam 969113

Subject: GVB Response to PDS FOIA dated March 4, 2014

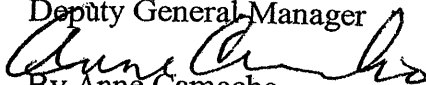
*Håfa Adai* Mr. Mantanona,

Attached please find the requested information relative to PDS' request to GVB referenced above. This response is timely pursuant to FOIA requirements.

Please note this transmittal is provided without charge. Standard FOIA requests are billable at the rate of 10 cents for the first page and 2 cents for each page thereafter. Any future requests will be at the rates mandated by law.

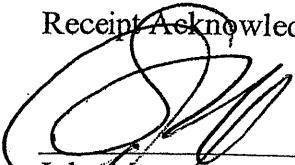
*Senseramente*,

For Nathan Denight  
Deputy General Manager

  
By Anne Camacho  
Management Analyst

Enclosure:  
49 pages re: GVB-G4S  
Bid No. GVB-2014-002MS

Receipt Acknowledgement:

  
John Mantanona  
Pacific Data Systems

Date: 3/10/2014

GUAM VISITORS BUREAU

EXHIBIT 3