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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: 1/9/13
TIME: 2:07 AM PM BY: Z-L
FILE NO OPA-PA: 12-016

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

**REPLY TO PACIFIC DATA SYSTEMS,
INC.'S RESPONSE TO GTA'S REQUEST
FOR EXTENSION OF HEARING**

Teleguam Holdings LLC, and its wholly owned subsidiaries (collectively "GTA") objects

in part to Pacific Data Systems, Inc.'s ("PDS") response to GTA's Request for Extension of Hearing filed on December 31, 2012. GTA sets forth its objection below.

I. OPA-PA-12-016.

A. Objection to PDS' Request for Motion to Dismiss.

GTA objects to PDS' request for oral arguments on its Motion to Dismiss. The issue of timeliness is not within the scope of the issues raised or decided upon by GSA and thus is not rightfully before the OPA. *See In re Town House Dept. Stores, Inc. dba Island Business Sys. & Supplies*, OPA-PA-11-02 (Dec. and Order re Mot. to Disclose Procurement Record etc., filed July 5, 2012) at 4 ("if an issue on appeal was not raised in IBSS' protest or DOE's decision denying the protest, the issue is not properly before the Public Auditor because it is appearing for the first time on appeal and there is no decision from DOE concerning such issues for the [OPA] to review"). For these reasons and the reasons stated in GTA's *Opposition to PDS' Objection to Appeal and Motion for Dismissal*, October 31, 2012, GTA objects to PDS' request for oral arguments for its Motion for Dismissal. In the event the OPA grants PDS' request for Oral Arguments on the Motion for Dismissal, GTA request that such oral arguments be scheduled before January 18, 2013,

B. Objection to PDS' Untimely Request for Hearing.

GTA objects to PDS' request for hearing on the merits in OPA-PA-12-016. A request for hearing shall be made prior to the expiration of the time period allowed from filing comments on the agency report..." 2 G.A.R. Div. 4 § 12108(a). Requests for a hearing after the expiration of the time period allowed for filing of the Comments to the Agency Report will not be honored except in unusual circumstances. *Id* (emphasis added). Thus, the deadline to request a hearing in this appeal was November 5, 2012, the deadline for Comments.

PDS' counsel now requests the OPA to overlook section 12108(a) and grant its untimely

request for a hearing. In this Appeal, PDS submitted its Request for Notice and Inclusion as an Interested Party on October 15, 2012, some 21 days before the Comments on the Agency Report was due. PDS had ample time to submit its request prior to the deadline and failed to file such request during the 21 days prior to the November 5th deadline. Further, PDS' untimely request must be denied because it fails to provide the requisite "unusual circumstances" to warrant the granting of its untimely request. For these reasons and the reasons stated in GTA's *Objection to Pacific Data Systems, Inc.'s Request for Hearing*, November 26, 2012, GTA objects to PDS' untimely request for a hearing. In the event the OPA grants PDS' request for hearing, GTA request an extension to file its Hearing Brief until January 18, 2013.

II. OPA-PA-12-017.

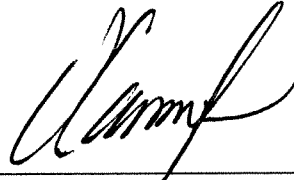
GTA objects to PDS' erroneous conclusion that a favorable decision in OPA-PA-12-017 is dispositive to OPA-PA-12-016 and OPA-PA-12-018. The OPA's jurisdiction is limited to reviewing and determining any matter properly submitted to the OPA. 5 G.C.A. § 5703; 2 G.A.R. § 12103(a). Appeals to the OPA are limited to decisions rendered by the Chief Procurement Officer as a result of a procurement protest. 5 G.C.A. § 5425(e).¹ The Procurement Record is clear that PDS' protest in OPA-PA-12-017 is limited to the award for Bid Form 10 of GSA064-11. On October 5, 2011, GSA denied PDS' Protest on Bid Form 10. PDS cannot now assert the OPA's jurisdiction over OPA-PA-12-016 and OPA-PA-12-018 because any issues raised in OPA-PA-12-017 were not brought forward by PDS in either OPA-PA-12-016 or OPA-PA-12-018. GTA hereby objects to PDS' assertions that OPA-PA-12-017 is dispositive of OPA-PA-12-016 and OPA-PA-12-018.

¹ See also, Guam Administrative Rules and Regulations, with states that " [t]he [OPA] shall have the power to review and determine de novo any matter properly submitted to the [OPA]. 2 G.A.R. § 12103(a).

I. CONCLUSION

Based on the issues set forth above, GTA hereby requests that PDS' requests for oral arguments and hearing on the merits in OPA-PA-12-016 be denied and to clarify that PDS' Appeal in OPA-PA-12-017 is limited to its protest and GSA's decision in Bid Form 10 of GSA IFB064-11.

DATED: Hagåtña, Guam, January 9, 2013.



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