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January 16, 2015

VIA E-MAIL [gbotha@gpagwa.com]; AND, REGULAR MAIL

D. Graham Botha, Esq.
Guam Power Authority
P.O. Box 10287
Tamuning, Guam 96931

Re: OPA-PA-14-013 and Other PDS Pending Protests

Dear Graham:

I will be entering my appearance on behalf of Pacific Data Systems, Inc ("PDS") in OPA-PA-14-013 today. I understand there is a Pre-Hearing Conference set for January 23 at 10:00 a.m. in this appeal. This appeal is based on the PDS protest filed on November 17, 2014, and denied by GPA on November 21, 2014.

I take this opportunity to remind you that PDS filed a second protest regarding this procurement on November 24, 2014. GPA has not responded to this protest. I encourage it to do so.

In addition, PDS filed a third protest on December 22, 2014. This third protest is a matter of immediate concern because it relates to a RFQ issued by GPA on December 19, 2014. As that protest sets out, this procurement is subject to the automatic stay as a result of either or both of PDS's previous protests. GPA may not avoid the automatic stay by issuing this or any other RFQ.

D:\Clients\BERMAN\33AGraham Botha\GPA 1162015.doc



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D. Graham Bolha, Esq.
 January 16, 2015
 Page 2

PDS is legitimately concerned that GPA is ignoring the automatic stay. I brought this problem to the attention of John Benavente by letters dated December 1, 2014, and December 6, 2014.

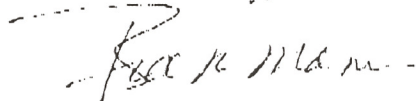
In addition, I am attaching an e-mail that PDS received from Rudolpho Manibusan dated December 16, 2015, which requested PDS to provide the scope of work and time frame to transfer PRI Line Services at the Eadian facility to the newly purchased GFA PRI Lines. PDS assumes this new procurement by GPA must have been done in the form of a RFQ, although PDS was not requested to bid. PDS will respond to this request as it is required by law to do. This is not a waiver of PDS' position that any RFQ issued to GFA is void.

Finally, PDS today received three more RFQs from GPA requesting quotes for services that are covered under the procurement that is subject to the PDS protest, and therefore subject to the automatic stay. See RFQ 27444, 27445, and 27446, which are attached. This will force PDS to file yet three more protests.

It is a serious matter that GPA is continuing to ignore the fact that this procurement is subject to the automatic stay. Any action taken by GPA in violation of the automatic stay is void since there has been no written determination that the award of the contract without delay is necessary. See 5 GCA § 5425(g).

I believe GPA is obligated to rescind all of its pending RFQs and void any contracts issued pursuant to those RFQs. Please advise if GPA will do so voluntarily. Otherwise, PDS will have no option except to make a Motion to Enforce Automatic Stay.

Sincerely,



Bill R. Mann

Attachments: As stated.

-----Original Message-----

From: Rudolpho C. Manibusan [mailto:rmanibusan@gpagwa.com]
 Sent: Friday, January 16, 2015 9:29 AM
 To: 'Pancho Madrid (pancho@pdsguam.com)'; 'jsm@pdsguam.com'; 'norma@pdsguam.com'
 Cc: Vince F. Taitingfong; 'John Day'; Victor Torres 2; Fly Torres
 Subject: Switch over of PRI Lines

Pancho,

Please provide scope of work and time frame to transfer PRI Line Services for PDS - GPA/GWA here at the Hadian Facility to the newly purchased GTA PRI Lines. I would also want to move all existing phone numbers currently in use by both Agencies (GPA and GWA PRI) as well.

v/r

Rudy Manibusan
 Computer Services Division
 Guam Power Authority
 1911 Army Drive
 Haggigada, Guam 96913

Ph: 671 648-3062



GUAM POWER AUTHORITY

ATURIDAI ILEKTRESEDAT GUAHAN
 P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Stephanie M. Tajeron email: smtajeron@gpagwa.com Tel: (671) 648-3054/3055 Fax: (671) 648-3165

Accountability Impartiality Competence Openness Value

Please respond as soon as possible, but no later than: **January 19, 2015**
 Request for Quotation (RFQ) No.: **27445**
 Today's Date: **January 15, 2015**

VENDOR: **PACIFIC DATA SYSTEMS**
 (P) 300-01200
 (F) 300-01205

Quoted by: (signature) _____
 Please furnish price quotation, delivery time and term based on CIF. Destination GPA for the items listed below. Please respond by the above date.
 Quote Date: _____ Telephone: _____

Delivery Date Required: **1 Week ARO After Notice to Proceed**
 Delivery Date Offered: _____
 Offering recyclable and/or biodegradable products. () YES () NO

Terms: **NET (30) THIRTY DAYS**
 Prices Good For: _____ days
 Please separate your offer of recyclable and/or biodegradable products from regular products

NOTICE: Restriction against Sex Offenders Employed by Service Provider to Government of Guam from Working on Government of Guam Property, SGCA Section 5253, enacted by P.L. 26-24 and amended by P.L. 28-9A:
 If a contract for services is awarded to the bidder or offeror, then the service provider must warrant that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 26 of Title 9 of the Guam Code Annotated or of an offense defined in Article 2 of Chapter 26 of Title 9 of the Guam Code Annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry, shall provide services on behalf of the service provider while on government of Guam Property, with the exception of public highway. If any employee of a service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

THIS IS NOT AN ORDER

ITEM	QTY.	DESCRIPTION	Unit Price	Extended Price
1.	Lot	To provide the Guam Power Authority with 10Mbps Metro Ethernet WAN Connection for the following locations to Faldon Server Room - T&D Compound Dededo Cabras Compound Dededo Service Level Agreement (SLA): Provider must provide a SLA that will address guaranteed response time, escalation procedures and the terms for any refunds/credits. The terms of this Service Level Agreement shall minimally address: - Network Availability of 99.99% - Packet delivery rate of 99.99% - Network Latency of 10ms round trip - Mean Time to Repair (MTTR) 2 hours - Provider shall describe guaranteed level of bandwidth for the proposed data services. Provider shall provide a description of how the SLA is monitored with statistics charts and how these statistics are calculated - Provider must provide monthly bandwidth usage statistics and reports in pdf format via email by COB 3 rd work day of the following month NOTE TO VENDOR: 1.) All requests for delivery Extensions will be closely scrutinized as all items/services are crucial to new customer installations, maintenance, and on-going projects 2.) Please indicate "AS SPECIFIED" when offer and/or delivery is "AS SPECIFIED." 3.) If you are unable to provide a price quote please annotate "NO QUOTE" and return this Fax to Stephanie Tajeron.		

**BID AS ITEM A3
 IN GPA IFB
 GPA-072-014 WHICH
 IS UNDER PROTEST
 AND APPEAL.**

04/27/2015 12:47 PM From: 71540165

Page: 1



GUAM POWER AUTHORITY

ATURIDAT ILEKTRESEDAT GUAHAN
P.O. BOX 2977 • ARANA, GUAM U.S.A. 96932-2977

Vincent Jr. Barcinas vbarcinas@gpsgwa.com

Tel: (671) 640-3054/3055 Fax: (671) 644-3165
Openness: _____ Value: _____

Accountability	Impartiality	Competence	Openness	Value
Please respond as soon as possible, but no later than: 01/20/2015 C.O.B Tuesday			Request for Quotation (RFQ) No.: 27446	01/15/2015

VENDOR: <i>PACIFIC DATA SYSTEMS 2) 300 - 0200 1) 300 - 0205</i>	Please furnish price quotation, delivery time and term based on CIF. Destination GPA for the items listed below. Please respond by the above date. Quote Date: _____ Telephone: _____
Quoted by: (signature) _____	
Delivery Date Required: <u>1 week from notice to proceed (NTP)</u>	Offering recyclable and/or biodegradable products: () YES () NO
Delivery Date Offered: _____	Please separate your offer of recyclable and/or biodegradable products from regular products
Terms: <u>NTP (30) THIRTY DAYS</u>	
Prices Good For: _____ days	

NOTICE: Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property, SGCA Section 5250, enacted by P.L. 20-24 and amended by P.L. 28-98:

If a contract for services is awarded to the bidder or offeror, then the service provider must warrant that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry shall provide services on behalf of the service provider while on government of Guam Property, with the exception of public highway. If any employee of a service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

THIS IS NOT AN ORDER

ITEM	Qty.	Description	Extended Price
1.		<p>Other Contractual Services</p> <p>Telephone PRI Lines with 100 DID:</p> <p>a) 1 ea. T&D Compound</p> <p>b) 1 ea. Cabris Compound</p> <ul style="list-style-type: none"> • High capacity service carried on T1 trunk lines between Telco Central Offices and GPA/GWA Fadin Facility • T1 digital signal into 24 channels of 64 Kbps capacity telephone call each; the equivalent of having 20 separate telephone lines • Features to include Caller ID and Information Services • Direct Inbound Dialing (DID) for direct station calling <p>** OR APPROVED EQUAL TO OR BETTER:</p> <p>NOTE: All Requests for Delivery Extensions will be Closely Scrutinized as all items/services are crucial to new Customer installations, maintenance, and on-going projects.</p> <p style="text-align: center;">THANK YOU FOR YOUR RESPONSE Note: If you are unable to provide a price quote please annotate "NO QUOTE" and return this Fax: Vincent Barcinas</p>	<p><i>BID AS PART OF ITEM A8 IN GPA IFB GPA-072-14 WHICH IS UNDER PROTEST AND APPEAL.</i></p>

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Email: brmann@pacific-lawyers.com

March 25, 2015

VIA E-MAIL [gbotha@gpagwa.com]; AND, REGULAR MAIL

D. Graham Botha, Esq.
Guam Power Authority
1911 Army Drive, Suite 227
Tamuning, Guam 96913

Re: PDS Protest in GPA-IFB-072-14

Dear Graham:

Please note that the PDS protest dated November 24, 2014 raised two grounds for protest. I am attaching a copy of this protest for your ready reference. The first ground related to GPA's incorrect determination of the low bidder as stated in the protest.

The second ground related to the authority of Docomo Pacific to provide certain of the services in the procurement. That issue was resolved in the OPA's Decision of March 11, 2015. Nevertheless, the first ground for protest is still pending, and GPA has never ruled on this protest despite the passage of four months.

When an agency fails to timely rule on a protest, the OPA can order it to do so. I am attaching a copy of the Decision and Order in OPA-PA-12-012 for your information. PDS does not want to have to file a similar appeal to the OPA, but will do

C:\Users\BERMAN\Documents\Graham Botha\GPA (PDS)2015.doc

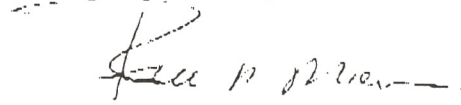


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D. Graham Botha, Esq
March 25, 2015
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so if GPA has not issued a determination on the pending PDS protest of November 24, 2014 by the close of work on Wednesday, April 1, 2015.

Sincerely,



Bill R. Mann

Attachments: As stated.

TRANSACTION REPORT

APR/27/2015/MON 12:50 PM

FAX (RX)

#	DATE	START T.	SENDER	COM.TIME	PAGE	TYPE/NOTE	FILE
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