



RECEIVED  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

DATE: 6/24/14

TIME: 10:50  AM  PM BY: AG

FILE NO OPA-PA: 14-00678

**Appendix A: Notice of Appeal Form**  
**PROCUREMENT APPEAL**

**PART I- To be completed by OPA**

In the Appeal of )

) **NOTICE OF APPEAL**

**Pacific Data Systems, Inc (PDS)** )

(Name of Company), APPELLANT )

) Docket No. OPA-PA \_\_\_\_\_

.....  
**PART II- Appellant Information**

Name: **Pacific Data Systems, Inc (PDS)**

Mailing Address: **185 Ilipog Drive, Suite 204A**

**Tamuning, GU 96913**

Business Address: **same as above**

Email Address: **John@pdsguam.com**

Daytime Contact No: **671-300-0202**

Fax No.: **671-300-0265**  
.....

**PART III- Appeal Information**

A) Purchasing Agency: **General Services Agency (GSA)**

B) Identification/Number of Procurement, Solicitation, or Contract: **PO146A01053,**  
**PO146A01072 issued under Procurement GSA-064-11**

C) Decision being appealed was made on June 9, 2014 (date) by:

GSA Acting Chief Procurement Officer \_ Director of Public Works \_ Head of Purchasing Agency

*Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.*

D) Appeal is made from:

*(Please select one and attach a copy of the Decision to this form)*

\_\_\_ Decision on Protest of Method, Solicitation or Award

\_\_\_ Decision on Debarment or Suspension

Decision on Contract or Breach of Contract Controversy

(Excluding claims of money owed to or by the government)

\_\_\_ Determination on Award not Stayed Pending Protest or Appeal

(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

- **Not Applicable**

*Appendix A: Notice of Appeal Form*  
**PROCUREMENT APPEAL**

---

**PART IV- FORM AND FILING**

This is a Procurement Appeal by Pacific Data Systems (PDS) of a contract controversy under §12301(a) related to a decision to terminate services made by General Services Agency (GSA) for two GSA Purchase Orders; 146A01053, 146A01072. It is the position of PDS that the termination of these services by GSA is unwarranted and not supported by the facts.

The following is a chronology of this contract controversy:

On May 3, 2012, PDS was awarded the voice services parts of a GSA Invitation For Bid (IFB) procurement done for Telecommunications Services; GSA-064-11. The award by GSA of these services to PDS via this procurement has been sustained through a protest and appeal to the OPA (OPA-PA-13-016), and subsequent appeal of the OPA decision to the Superior Court (CV0333-13).

The two GSA Purchase Order's at issue; 146A01053, 146A01072, were received by PDS on November 21, 2013 (see Exhibit A). These PO's covered the delivery of Voice Services to various offices and locations for the Guam Fire Department and Department of Public Health and Social Services. The delivery of these services were governed by the terms and conditions of the GSA IFB GSA-064-11 which specified that 50% of the services would be delivered in 90 days, 75% of the services would be delivered within 120 days, and 100% of all services would be delivered in 150 days of the receipt of the Purchase Order.

On December 13, 2013, Teleguam Holdings, LLC (GTA) filed a motion alleging contempt of court against PDS and GSA related to the issuance by GSA of these PO's (see Exhibit B). It was decided by PDS and GSA that during the pendency of this motion, that all work on the installation of the new voice services should be suspended.

On January 9, 2014, a hearing was held in the Superior Court of Guam on the GTA Motion for Contempt (see Exhibit C) and a decision was issued by the Superior Court dismissing the motion on March 10, 2014 (see Exhibit D). PDS resumed the installation of the services related to these Purchase Orders once receiving the decision dismissing the challenge filed by GTA.

On April 22, 2014, PDS provided an update to GSA regarding the status of the installations for all Government of Guam Agencies and Departments for which PDS had received PO's for new Voice Services (see Exhibit E). This letter requested that GSA confirm the revised delivery schedule for the new PDS services due to excusable delays associated with the GTA Contempt of Court Motion and PDS provided documentation supporting a delay of 87 days related to the resolution of this issue. PDS has yet to receive a decision from GSA regarding this request and on June 20, 2014 filed an Appeal under §12301(a) with the OPA related to this contract controversy (reference OPA-PA-14-005).

**Appendix A: Notice of Appeal Form**  
**PROCUREMENT APPEAL**

On May 30, 2014, GSA issued two Default Notices to PDS covering PO's 146A01053, 146A01072 (see Exhibit F). On June 2, 2014, GSA issued another Default Notice to PDS covering PO 146A01053 (see Exhibit G). PDS responded to these Default Notices in letters to GSA dated June 9, 2014 (see Exhibit H).

On June 10, 2014, GSA sent PDS a Memoranda Terminating GSA Purchase Orders 146A01053, 146A01072 (see Exhibit I). The GSA Memo stated that the PDS services were being terminated based on PDS's failure to timely deliver the Voice Services specified under these PO's.

On June 11, 2014, PDS sent GSA a letter (see Exhibit J) requesting that GSA reconsider its decision terminating services and provided GSA with a response showing that PDS had complied with the terms of the Purchase Orders and was scheduled to have all services delivered within the Default Notification period specified in the GSA Default Notice of June 2, 2014; though it was PDS' position that the deadline for the delivery of all of the services had not lapsed due to previously documented excusable delays that PDS had communicated to GSA (see Exhibit E).

On June 11, 2014, after 5pm PDS began the process of terminating the PDS services covered by GSA Purchase Orders 146A01053, 146A01072 based upon the termination memoranda received by PDS from GSA on June 9, 2014.

On June 11, 2014, PDS received a notice from GSA reallocating funds from PO 146A01072 (see Exhibit K).

On June 13, 2014, GSA sent PDS a letter reference GSA PO 146E00286) for which PDS had no matching PO for this PO number (see Exhibit L). However, the GSA letter contained attachments referring to GSA PO 146A01053, and PDS assumed that this letter was actually a partial response by GSA to the letter that PDS had written to GSA on June 10, 2014. No mention is made of the PO 146A01072 in this GSA letter.

**RULING REQUESTED BY THE OPA IN THIS APPEAL:**

- A. PDS seeks a *de novo* review of the contract controversy in this matter. Specifically, PDS requests that the OPA review the termination by GSA of Purchase Orders 146A01053, 146A01072. It is the position of PDS that the termination of these Purchase Orders and services by GSA was invalid, without justification, and an illegal act contrary to Guam Procurement Law and Regulations. The facts show that PDS was complying with the terms of the procurement related to the delivery of the Voice Services covered by these GSA Purchase Orders. Rather than being late, PDS was actually ahead of the delivery timeline allowed under the procurement.
- B. PDS requests an order from the OPA that rescinds the GSA termination of these services and requires reissuance of new Purchase Orders for PDS to reestablish the services. PDS

*Appendix A: Notice of Appeal Form*  
**PROCUREMENT APPEAL**

requests that such an order state that PDS shall have the original installation timelines (90 to 150 days) to re-install the services once GSA issues the new Purchase Orders as required.

- C. In order to determine the facts regarding the GSA's decision to terminate the PDS Voice Services, PDS requests that the OPA grant a period of time to allow PDS to conduct discovery and deposition of various Government Departments/Agencies and Personnel.
- D. PDS seeks a decision on the excusable delays that PDS has documented in this procurement. These delays were due to legal actions filed by the losing bidder, and were outside the control of PDS. GSA's decisions clearly have ignored these documented excusable delays and a clear decision on this issue needs to be made in order to prevent further confusion on this matter going forward.
- E. PDS requests reimbursement of any and all applicable costs as may be determined by the OPA in this matter including the cost for the reinstallation of all terminated services and any applicable costs, such as attorney fees, or damages that PDS may have incurred due to the invalid and unlawful termination of the PDS services by GSA.
- F. PDS requests that a hearing be held on this matter at the earliest opportunity.

**SUMMARY OF SUPPORTING EXHIBITS ATTACHED HERETO:**

- Exhibit A: November 21, 2013, GSA issued Purchase Orders for new PDS Voice Services: 146A01053 for Guam Fire Department, 146A01072 for Department of Public Health and Social Services
- Exhibit B: December 13, 2013, Teleguam Holdings, LLC (GTA) Motion alleging Contempt of Court against PDS and GSA related to the issuance by GSA of Purchase Orders to PDS under GSA IFB GSA-064-11
- Exhibit C: Evidence of January 9, 2014, Hearing at the Superior Court of Guam on the GTA Motion for Contempt
- Exhibit D: March 10, 2014, Decision issued by the Superior Court dismissing the GTA Motion
- Exhibit E: April 22, 2014, Letter from PDS to GSA providing an update to GSA regarding the status of the installations for all Government of Guam Agencies and Departments for which PDS had received PO's for new Voice Services and seeking GSA's decision regarding excusable delays caused by GTA Contempt of Court Motion.
- Exhibit F: May 30, 2014, GSA Default Notices to PDS covering PO's 146A01053, 146A01072

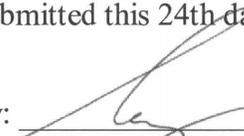
***Appendix A: Notice of Appeal Form***  
**PROCUREMENT APPEAL**

- Exhibit G: June 2, 2014, GSA Default Notice to PDS covering PO 146A01053
- Exhibit H: June 9, 2014, PDS response to GSA Default Notices
- Exhibit I: June 10, 2014, GSA Memoranda to PDS Terminating GSA Purchase Orders 146A01053, 146A01072
- Exhibit J: June 11, 2014, PDS letter to GSA regarding GSA Termination of PO's 146A01053, 146A01072
- Exhibit K: June 11, 2014, GSA Notice to PDS reallocating funds from PO 146A01072
- Exhibit L: June 13, 2014, GSA letter to PDS reference GSA PO 146E00286)

**PART V – DECLARATION REGARDING COURT ACTION**

The undersigned party does hereby confirm that to the best of his knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of Public Accountability within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 24th day of June, 2014.

By:   
APPELLANT – Pacific Data Systems  
by John Day, its President

## Exhibit A:

November 21, 2013 GSA issued Purchase Orders for new PDS Voice  
Services: 146A01053 for Guam Fire Department, 146A01072 for  
Department of Public Health and Social Services



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE**

THIS PURCHASE ORDER NUMBER  
**No. F146A01053**  
 MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

FOB.	* AIR FREIGHT TEL. CONTACT	SHIP VIA:	DATE 11/21/2018	JOB ORDER NO. 421014002363	OBJCL 353
PREPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE					

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b> P0078701	<b>SHIP TO</b>	CONSIGNEE, DESTINATION & MARKING
	PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265			GUAM FIRE DEPARTMENT (GFD) 621 EAST SUNSET BLVD. TIYAN,, GU 96913-0000  GFD ADMIN & OPERATIONS SUPPORT

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
1	GSA-064-11, PART A: IMMEDIATE CENTREX TELEPHONE SERVICES. 33 NOS. X \$16.24 = \$535.92/MO. NOS: (671)472-3422, (671) 642-3095, (671)642-3311, (671) 642-3321, (671)642-3325, (671) 642-3421, (671)642-3424, (671) 642-3440, (671)642-3454, (671) 642-3455, (671)646-8810, (671) 735-3352, (671)735-3423, (671) 472-5342, (671)472-8139, (671) 565-2700, (671)565-4118, (671) 532-5197, (671)633-6526, (671) 646-3755, (671)646-8801, (671) 646-8802, (671)646-8803, (671) 649-8805, (671)653-3473, (671) 734-2264, (671)734-2265, (671) 735-3435, (671)789-2231, (671) 789-3473, (671)828-8572, (671) 828-8177 NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the of Guam inclusive of but not limited to taxes, fees, and returned checks other damages, penalties, and Attorney's fees, after failure to pay To be coordinated between the agency and vendor ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 5101(9)(a) OF THE GAR.	10	NOS	535.920	5359.20	Q144210017	

<b>SPECIAL INSTRUCTIONS TO VENDOR:</b> B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.	<b>1 OF 4</b> <b>↑ TOTAL ↑</b>	A. <b>DO NOT</b> FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL. ← INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT.
--	-----------------------------------	--

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS. PAGE 1 OF 4	ADVANCE PAYMENT AUTHORIZATION PAYMENT ENCLOSED <input checked="" type="checkbox"/>	SIGNATURE:  Claudia S. Acfalle Chief Procurement Officer NAME TITLE
--	---	--

Control No.

ORIGINAL/VENDOR'S COPY



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE**

THIS PURCHASE ORDER NUMBER  
**No. P146AG1053**

MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

F.O.B.	* AIR FREIGHT TEL CONTACT	SHIP VIA:	DATE 11/21/2013	JOB ORDER NO. 421014002363	OBJCL 363
* PAID-SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE					

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b> P0076701	<b>SHIP TO</b>	<b>CONSIGNEE, DESTINATION &amp; MARKING</b>	
	PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265			GUAM FIRE DEPARTMENT (GFD) 621 EAST SUNSET BLVD. TIYAN,, GU 96913-0000  GFD ADMIN & OPERATIONS SUPPORT	

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
	POC: PAUL ROLINSKI 787-5470 SERVICE PERIOD: DECEMBER 2013 TO SEPTEMBER 2014					Q144210017	
2	LEASE OF CENTREX INSTRUMENT; GXP2100: 4 LINE DIGITAL W/DI- GITAL DISPLAY, HANDS FREE, HOLD, PROGRAMMABLE FEATURE KEYS AND WIRELESS HANDSET OPTION. 33 EA. X \$3.00/MO. = \$99.00/MOS	10	MOS	99.000	990.00		
	POC: PAUL ROLINSKI 787-5470 REF: GSA-064-11  SERVICE PERIOD: DECEMBER 2013 TO SEPTEMBER 2014						
3	GSA-064-11, PART G: 2MBPS-THE DSL OR CABLE INTERNET SERVICE NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the Government of Guam inclusive of but not limited to taxes, fees, and returned checks plus for other damages, penalties, and Attorney's fees, after failure to pay accordingly. To be coordinated between the agency and vendor ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 5101(9)(a) OF THE GAR.	10	MOS	70.000	700.00		

<b>SPECIAL INSTRUCTIONS TO VENDOR:</b> B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION; GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. ** THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.	<b>PSN</b> 2 OF 4 <b>↑ TOTAL ↑</b>	A. DO NOT FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL. ← INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT.
---	--	---

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS. PAGE 1 OF 4	ADVANCE PAYMENT AUTHORIZATION PAYMENT ENCLOSED <input checked="" type="checkbox"/>	SIGNATURE:  Claudia S. Acfalle Chief Procurement Officer NAME TITLE
--	---	--



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE**

THIS PURCHASE ORDER NUMBER

**No.** P146A01053

MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

F.O.B.	* AIR FREIGHT TEL. CONTACT	SHIP VIA:	DATE 11/21/2013	JOB ORDER NO. 421014002353	OBJCL 353
PREPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE					

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b> P0076701	<b>SHIP TO</b>	CONSIGNEE, DESTINATION & MARKING
	PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0266			GUAM FIRE DEPARTMENT (GFD) 621 EAST SUNSET BLVD, TITAN,, GU 96913-0000  GFD ADMIN & OPERATIONS SUPPORT

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
4	<p>must include 8 External IP Addresses,            NOS: (671)642-2012, (671) 642-3960            2EA. X \$35/MO.= \$70/MONTHLY            POC: PAUL ROLINSKI 787-3470            SERVICE PERIOD: DECEMBER 2013 TO SEPTEMBER 2014</p> <p>GSA-064-11, PART G: 7MBPS-THE DSL OR CABLE INTERNET SERVICE            must include 10 External IP Addresses;            NOS: (671) 642-3926, (671) 735-3435            2EA. X \$48/MO.= \$96/MONTHLY            POC: PAUL ROLINSKI 787-3470            NOTE:            THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES.            Note: Amounts due this Purchase Order may be off set for monies due the Government of Guam inclusive of but not limited to taxes, fees, and returned checks plus for other damages, penalties, and Attorney's fees, after failure to pay accordingly.            To be coordinated between the agency and vendor            ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 5101(9)(a) OF THE GAR.</p>	10	MO6	96.000	960.00		

<b>SPECIAL INSTRUCTIONS TO VENDOR:</b> B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM. IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.	<b>3 OF 4</b> <b>↑ TOTAL ↑</b>	A. DO NOT FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT
---	-----------------------------------	---

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS. PAGE 3 OF 4	ADVANCE PAYMENT AUTHORIZATION PAYMENT ENCLOSED <input type="checkbox"/>	SIGNATURE:  Claudia S. Acfalle Chief Procurement Officer NAME TITLE
--	--	--

Control No.

ORIGINAL/VENDOR'S COPY



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE**

THIS PURCHASE ORDER NUMBER

**No.** P145A01053

MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

FO.B	* AIR FREIGHT TEL. CONTACT	SHIP VIA:	DATE	JOB ORDER NO.	OBJCL
			11/21/2013	421014092363	363

PREPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b>	<b>SHIP TO</b>	CONSIGNEE, DESTINATION & MARKING
	PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265	P0075701		GUAM FIRE DEPARTMENT (GFD) 621 EAST SUNSET BLVD. TIYAN,, GU 96913-0000  GFD ADMIN & OPERATIONS SUPPORT

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
	SERVICE PERIOD: DECEMBER 2013 TO SEPTEMBER 30, 2014.						
<p>NOTE:          THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES.          Note: Amounts due this Purchase Order may be off set for monies due the Government plus for other damages, penalties, and Attorney's fees, after failure to pay accordingly.          To be coordinated between the agency and vendor          ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 6101(9)(a) OF THE GAR.</p>							

SPECIAL INSTRUCTIONS TO VENDOR: B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION; GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. ** THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.	8009.20  <b>PSN</b> <b>↑ TOTAL ↑</b>	A. <u>DO NOT</u> FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL. ← INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT
--	---	---

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS. PAGE 4 OF 4	ADVANCE PAYMENT AUTHORIZATION PAYMENT ENCLOSED <input checked="" type="checkbox"/>	SIGNATURE:  Claudia S. Acfalle NAME TITLE
--	---	--

Control No.

ORIGINAL/VENDOR'S COPY



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE** 1072

THIS PURCHASE ORDER NUMBER

**No.** P146A01072

MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

F.O.B.	*AIR FREIGHT TEL CONTACT	SHIP VIA:	DATE	JOB ORDER NO.	OBJCL
			11/21/2013	175414006353	363

PREPAID-SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b>	CONSIGNEE, DESTINATION & MARKING		
	PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265	P0076701	<b>SHIP TO</b>	DEPT OF PUBLIC HEALTH & SOCIAL SERVICES 123 CHALAN KARETA RTE. 10 MANGILAO, GU 96923-0000	
				FACILITIES & MAINTENANCE SECT	
AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
1	CENTREX TELEPHONE SERVICE (FULL FEATURED) \$16.24 x 651 phone lines = \$10,572.24 / month  REFERENCE PART A (BID FORM 2)	10	MOS	10572.240	105722.40	Q141754011	
2	LEASE OF 651 UNITS OF THE GNP2120: 6 LINE DIGITAL WITH Digital Display, Hands-Free, Hold, Programmable Feature Keys and Wireless Handset Option.  \$4.50 x 651 units = \$2,929.50  REFERENCE PART A (BID FORM 3)	10	MOS	2929.500	29295.00		
3	ANALOG PLAIN OLD TELEPHONE SERVICE (POTS) NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the of Guam inclusive of but not limited to taxes, fees, and returned checks other damages, penalties, and Attorney's fees, after failure to pay To be coordinated between the agency and vendor ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 5101(9)(a) OF THE GAR.	10	MOS	1678.520	16785.20		

SPECIAL INSTRUCTIONS TO VENDOR:  
 B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910.  
 C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION.  
 D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE.  
 E. \* \* THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.  
 F. \* \* ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.

page 1 of 4

↑ TOTAL ↑

A. DO NOT FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL.

← INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE.  
 SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.

ADVANCE PAYMENT AUTHORIZATION

PAYMENT ENCLOSED

SIGNATURE:

*Claudia S. Acfalle*

Claudia S. Acfalle  
NAME

Chief Procurement Officer  
TITLE



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE** 1072  
 THIS PURCHASE ORDER NUMBER  
**No.** P146A01072  
 MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L  
 CORRESPONDENCE ETC.

F.O.B.	* AIR FREIGHT TEL. CONTACT	SHIP VIA:	DATE 11/21/2015	JOB ORDER NO. 17541400633	OBJCL 363
PREPAID-SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE					

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b> F0076701	<b>SHIP TO</b>	CONSIGNEE, DESTINATION & MARKING	
	PACIFIC DATA SYSTEMS 186 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265			DEPT OF PUBLIC HEALTH & SOCIAL SERVICES 123 CHALAN KARETA RTE. 10 MANGILAO, GU 96923-0000 FACILITIES & MAINTENANCE SECT	

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
	\$28.94 X 58 UNITS = \$1,678.52 REFERENCE PART A (BID FORM 2)						
4	LEASE OF 58 UNITS OF THE 9116LP: SINGLE-LINE ANALOG Phone with call hold. \$3.00 x 58 units = \$174.00 REFERENCE PART A (BID FORM 3)	10	MOS	174.000	1740.00		
5	1,000 MBPS OR 1GBPS DEDICATED FOR GOV GUAM (100% CIR, RING TOPOLOGY, NMS) \$870 (MRC) X 4 LOCATIONS = \$1,740 PER MONTH REFERENCE PART E (BID FORM 11) NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the Government of Guam inclusive of but not limited to taxes, fees, and returned checks plus for other damages, penalties, and Attorney's fees, after failure to pay accordingly. To be coordinated between the agency and vendor. ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 6101(9)(a) OF THE GAR.	10	MOS	3480.000	34800.00		

SPECIAL INSTRUCTIONS TO VENDOR: B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.	<b>PAGE 2 OF 4</b>	A. DO NOT FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL. INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT
---	--------------------	--

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.	ADVANCE PAYMENT AUTHORIZATION PAYMENT ENCLOSED <input type="checkbox"/>	SIGNATURE: <i>C. Acfalle</i> 11/21/15 Claudia S. Acfalle NAME	Chief Procurement Officer TITLE
--	--	---	------------------------------------

Control No.

ORIGINAL/VENDOR'S COPY



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE** 1072

THIS PURCHASE ORDER NUMBER

**No.** P145A01072

MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

F.O.B.	*AIR FREIGHT TEL. CONTACT	SHIP VIA:	DATE	JOB ORDER NO.	OBJCL
			11/21/2018	175414006383	363

PREPAID-SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b>	<b>SHIP TO</b>	CONSIGNEE, DESTINATION & MARKING	
	PACIFIC DATA SYSTEMS 186 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265	P0076701		DEPT OF PUBLIC HEALTH & SOCIAL SERVICES 123 CHALAN KARETA RTE. 10 MANGILAO, GU 96923-0000 FACILITIES & MAINTENANCE SECT	

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS:
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
6	10,000 MBPS OR 10 GBPS DEDICATED FOR GOV GUAM (100% CIR, RING TOPOLOGY, NMS)  \$1,500 (MRC) X 1 LOCATION = \$1,500 PER MONTH  REFERENCE PART E (BID FORM 11)	10	MOS	1500.000	15000.00		
7	2 MBPS DSL OR CABLE INTERNET SERVICE MUST INCLUDE 8 EXTERNAL IP ADDRESSES.  \$35 (MRC) X 22 LOCATIONS = \$770 PER MONTH  REFERENCE PART E (BID FORM 11) PLEASE SEE ATTACH FOR ALL LISTING OF NUMBERS & LOCATION. NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the Government of Guam inclusive of but not limited to taxes, fees, and returned checks plus for other damages, penalties, and Attorney's fees, after failure to pay accordingly. To be coordinated between the agency and vendor ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 6101(9)(a) OF THE GAR.	10	MOS	770.000	7700.00		

SPECIAL INSTRUCTIONS TO VENDOR:		<b>PAGE 3 OF 4</b> <b>↑ TOTAL ↑</b>	A. DO NOT FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL. INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT
B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. * THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. * ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.			

CONTRACTOR, PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.	ADVANCE PAYMENT AUTHORIZATION	SIGNATURE:  Claudia S. Acfalle NAME	Chief Procurement Officer TITLE
	<input type="checkbox"/> PAYMENT ENCLOSED		

Control No.

ORIGINAL/VENDOR'S COPY



**PURCHASE ORDER**  
 GENERAL SERVICES AGENCY  
 DEPARTMENT OF ADMINISTRATION  
 GOVERNMENT OF GUAM

148 Route 1  
 Marine Drive  
 Piti, Guam 96925

**TRAN CODE** 1072  
 THIS PURCHASE ORDER NUMBER

**No.** P146A01072

MUST APPEAR ON ALL INVOICES  
 PACKING SLIPS, PACKAGES, B/L,  
 CORRESPONDENCE ETC.

F.O.B.	*AIR FREIGHT TEL. CONTACT	SHIP VIA:	DATE 11/21/2013	JOB ORDER NO. 175414006343	OBJCL 353
PREPAID SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE.					

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b> P0076701	<b>SHIP TO</b>	<b>CONSIGNEE, DESTINATION &amp; MARKING</b>	
	PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE STE 204A TAMUNING, GU 96913 Telephone: 671 300-0200 Fax: 671 300-0265			DEPT OF PUBLIC HEALTH & SOCIAL SERVICES 123 CHALAN KARETA RTE. 10 MANGILAO, GU 96923-0000 FACILITIES & MAINTENANCE SECT	

AUTHORITY 3109	** INVITATION NO. GSA-064-11	** CONTRACT NO.	TIME FOR DELIVERY SEE BELOW	EXPIRING	DISCOUNT TERMS.
-------------------	---------------------------------	-----------------	--------------------------------	----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
	DELIVERY; CONVERSION PLAN "PLAN REQUIRES THAT ALL GOVT OFFICES CONVERT" 50% WITHIN 90 DAYS 75% WITHIN 120 DAYS 100% WITHIN 150 DAYS OF CONTRACT EXECUTION REF: P136A03255  PERIOD COVERED: DECEMBER 2014 THRU SEPTEMBER 2014.  POC: TOMMY TAITAGUI 735-7107  NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR 'UNAUTHORIZED' PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the Government of Guam inclusive of but not limited to taxes, fees, and returned checks plus for other damages, penalties, and Attorney's fees, after failure to pay accordingly. To be coordinated between the agency and vendor ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 6101(9)(a) OF THE GAR.						

<b>SPECIAL INSTRUCTIONS TO VENDOR:</b> B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION; GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910. C. PAYMENT IN THIRTY (30) DAYS UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION. D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE. E. ** THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. F. ** ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.		211042.60	<b>A. DO NOT FILL THIS ORDER          IF YOUR TOTAL COST          EXCEEDS THIS TOTAL.</b>  INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT
--	--	-----------	--

CONTRACTOR: PLEASE SUPPLY PROMPTLY THE ABOVE ARTICLES OR SERVICES. ALL CORRESPONDENCE PERTAINING TO THIS ORDER INCLUDING INVOICES, SHIPPING DOCUMENTS AND PACKAGES MUST BEAR THE PURCHASE ORDER NUMBER SHOWN ABOVE. SEE REVERSE SIDE FOR PURCHASE ORDER TERMS AND CONDITIONS.	ADVANCE PAYMENT AUTHORIZATION  PAYMENT ENCLOSED	SIGNATURE:  Claudia S. Aufalla Chief Procurement Officer NAME TITLE
---	---	--

Control No.

ORIGINAL/VENDOR'S COPY

## Exhibit B:

December 13, 2013, Teleguam Holdings, LLC (GTA) Motion alleging  
Contempt of Court against PDS and GSA related to the issuance by  
GSA of Purchase Orders to PDS under GSA IFB GSA-064-11

12-13-13 h'

RECEIVED  
DEC 13 2013 5:52  
CLERK OF COURT

CARLSMITH BALL LLP

ELYZE M. IRIARTE  
eiriarte@carlsmith.com  
VINCENT C. CAMACHO  
vcamacho@carlsmith.com  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue  
Hagåtña, Guam 96932-5027  
Telephone No. 671.472.6813  
Facsimile No. 671.477.4375

Attorneys for Appellant  
Teleguam Holdings, LLC and its wholly owned subsidiaries

IN THE SUPERIOR COURT OF GUAM

TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,

Plaintiff,

vs.

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

Defendants.

CIVIL CASE NO. CV0333-13

**EX PARTE APPLICATION TO HEAR  
MOTION FOR CONTEMPT; MOTION  
FOR CONTEMPT; MEMORANDUM  
OF POINTS AND AUTHORITIES**

**EX PARTE APPLICATION TO HEAR MOTION FOR CONTEMPT**

Plaintiff Teleguam Holdings LLC hereby applies to the Court to hear the attached Motion for Contempt *Ex Parte* and on an expedited basis. The basis for this application is that Defendants have violated the Court's Temporary Restraining Order by issuing Purchase Orders, to the detriment of Teleguam, as this Court has already found. The issue is time-critical and should be addressed without delay.

Dated this 13th day of December 2013.



CARLSMITH BALL LLP

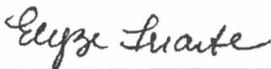
  
\_\_\_\_\_  
ELYZE M. IRIARTE  
VINCENT C. CAMACHO  
Attorneys for Plaintiff  
Teleguam Holdings, LLC and its wholly  
owned subsidiaries

**MOTION FOR CONTEMPT**

Teleguam moves that the Court hold Defendants General Services Agency and PDS in contempt for violating the Court's Temporary Restraining Order. This Motion is supported by the attached Memorandum, the Declaration of Elyze Iriarte filed concurrently with this Motion, and the records and files for this case.

Dated this 13th day of December 2013.

CARLSMITH BALL LLP

  
\_\_\_\_\_  
ELYZE M. IRIARTE  
VINCENT C. CAMACHO  
Attorneys for Plaintiff  
Teleguam Holdings, LLC and its wholly  
owned subsidiaries

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Teleguam moves this Court to hold GSA in contempt of court for awarding Purchase Orders under IFB GSA 064-11 Bid Forms 2 & 3 in violation of both Guam Procurement Law and the Court's Temporary Restraining Order ("TRO") issued on May 3, 2013, and to hold PDS in contempt for any Purchase Orders that they have filled. Teleguam asks for an order compelling PDS and GSA to cancel and void all purchase orders that were issued in violation of the TRO. Teleguam also requests that GSA and PDS pay Teleguam's reasonable attorneys' fees and costs incurred as a result of the Defendants' disregard of the TRO.

## II. BACKGROUND

On May 3, 2013, the Court found that GSA needed to be restrained from illegally issuing Purchase Orders pertaining to Bid Forms 2 & 3. Teleguam based its Motion for a Temporary Restraining Order on 5 GCA § 5425(g), which stays any award pending a final resolution of the protest. The Court ordered that "GSA shall not award any more purchase orders under IFB GSA 064-11 Bid Forms 2 & 3, **until further Order of the Court permitting it to do so.**" *See* Order Granting TRO, at 1-2 (May 3, 2013) (emphasis added). PDS was also ordered to "**take no action on purchase orders previously issued by GSA to PDS . . . pending further Order of this Court.**" *Id.* at 2 (emphasis added).

On October 31, 2013, the Court issued its Findings of Fact and Conclusions of Law and found in Defendants' favor. The Court, however, never issued an order allowing GSA to issue purchase orders under the IFB to PDS. The Court has also not entered a final judgment in this case, and the time for Teleguam's to appeal this Court's decision has not begun to run.

Notwithstanding the stay under Guam law and the absence of a Court order allowing the Government to issue further purchase orders, in November 2013, GSA issued 29 purchase orders for Bid Forms 2 & 3 to PDS. *See* Iriarte Decl., Exs. A, B. The documents evidencing GSA's violations were obtained from a response to a recent Freedom of Information Act request.

## III. ARGUMENT

### A. GSA & PDS' ACTIONS ARE IN VIOLATION OF THE COURT'S TEMPORARY RESTRAINING ORDER

To prove civil contempt, there must be clear and convincing evidence that: (1) there was a valid court order; (2) the defendant had knowledge of the order; and (3) the defendant disobeyed the order. *John T. v. Delaware County Intermediate Unit*, 318 F.3d 545, 552 (3d Cir. 2003). Willfulness is not a necessary element of civil contempt. *Id.*; *see also Verizon Cal. Inc.*

v. *OnlineNIC, Inc.*, 647 F. Supp. 2d 1110, 1115 (N.D. Cal. 2009) (“In civil contempt proceedings[,] the contempt need not be willful.”) (quoting *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949)).

In this case, the Court issued the TRO on May 3, 2013, directing GSA to not award any more purchase orders under IFB GSA 064-11 Bid Forms 2 & 3, until further Order of the Court permitting it to do so. Despite having knowledge of the May 3rd TRO, GSA and PDS failed to adhere to the Court's order by awarding more purchase orders under IFB GSA 064-11 Bid Forms 2 & 3. Accordingly, the Court should find GSA and PDS in contempt of court. Such an order of the Court should void all purchase orders that were issued in violation of the TRO and Guam law.

In addition, the Court should award Teleguam its reasonable attorneys' fees and costs as sanctions for GSA and PDS' failure to comply with the TRO.

In a civil contempt proceeding, a monetary sanction, assessed for the purpose of compensating the complainant for losses sustained by reason of the contemnor's acts, is within the universe of permissible sanctions. Thus, **make-whole relief is a commonplace sanction for civil contempt. So too are normal embellishments such as attorney's fees and costs.**

*Goya Foods v. Wallack Mgmt. Co.*, 290 F.3d 63, 78 (citations omitted) (emphases added).

Therefore, it is appropriate for the Court to award Teleguam its attorneys' fees and costs against GSA and PDS.

B. GSA & PDS' ACTIONS ARE IN VIOLATION OF GUAM PROCUREMENT LAW

Guam law provides that "[i]n the event of a timely protest . . . under Subsection (a) of §5480 of this Chapter, the Territory **shall not proceed further** with the solicitation or with the award of the contract **prior to final resolution** of such protest, and any such further action is void." 5 GCA § 5425(g) (emphasis added). Prior to filing this motion, Teleguam asked GSA to

void and rescind all improperly issued Purchase Orders, but GSA ignored those requests.

A final judgment has not been entered and Teleguam still has the right to appeal its protest to the Supreme Court. Accordingly, there has not been a "final resolution" of this matter. Based on Section 5425(g), GSA is not allowed to issue purchase orders from the date of the Court's decision because the Court has yet to enter a final judgment of this protest and Teleguam still has the remedy of appeal. On this basis, the Court must issue an order precluding the government of Guam, GSA, and PDS from executing and further issuing purchase orders for Bid Forms 2 & 3 of IFB GSA064-11 prior this Court's final resolution of this case.

Policy and economic reasons also support restraining the Government from proceeding with a procurement that remains in dispute in the legal system. Allowing the Government to issue purchase orders for products and services still in dispute would effectively nullify Teleguam's request for relief. Teleguam actively disputes the decision of GSA to award Bid Forms 2 & 3 to PDS. If GSA is allowed to proceed, it would be wasteful if the award was reversed after the Government paid PDS for the procured instruments. If Teleguam prevails in this case on appeal, its ability to provide the procured products and services must be preserved, particularly in the environment in which the Government has extremely finite resources. This Court should not allow the Government to make hasty and premature expenditures before a final resolution of this matter.

As stated above, GSA is precluded from proceeding further with the award of any of the contracts (or issuance of purchase orders) for Bid Forms 2 & 3 in IFB GSA 064-11. *See* 5 GCA § 5425(g) (awarding of a contract prior to final resolution is void). Thus, the Court is required to void any purchase order issued in violation of the Court's TRO.

#### IV. CONCLUSION

For the foregoing reasons, Teleguam respectfully requests that this Court grant

Teleguam's Motion for Contempt and order PDS and GSA to cancel and void all purchase orders that were issued in violation of the TRO and Guam Procurement Law. Teleguam also requests that GSA and PDS pay Teleguam's reasonable attorneys' fees and costs incurred as a result of the Defendants failure to obey the May 3rd TRO and Guam law.

DATED: Hagåtña, Guam, December 13, 2013.

CARLSMITH BALL LLP

*Elyse Iriarte*

---

ELYSE M. IRIARTE  
VINCENT C. CAMACHO  
Attorneys for Plaintiff  
Teleguam Holdings, LLC and its wholly  
owned subsidiaries

## Exhibit C:

Evidence of January 9, 2014 Hearing at the Superior Court of Guam on  
the GTA Motion for Contempt

12.13.13 *h*

RECEIVED

CARLSMITH BALL LLP

ELYZE M. IRIARTE  
*eiriarte@carlsmith.com*  
VINCENT C. CAMACHO  
*vcamacho@carlsmith.com*  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue  
Hagåtña, Guam 96932-5027  
Telephone No. 671.472.6813  
Facsimile No. 671.477.4375

DEC 13 2013

SUPERIOR COURT  
OF GUAM  
CLERK'S OFFICE

Attorneys for Plaintiff  
Teleguam Holdings, LLC and its wholly owned subsidiaries

IN THE SUPERIOR COURT OF GUAM

TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,

Plaintiff,

vs.

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

Defendants.

CIVIL CASE NO. CV0333-13

**ORDER GRANTING EX PARTE  
MOTION FOR CONTEMPT**

This matter having come before this Court upon Plaintiff Teleguam Holdings, LLC and its wholly owned subsidiaries' ("GTA") Ex Parte Application to Hear Motion for Contempt; Motion for Contempt; Memorandum of Points and Authorities on December 13, 2013, and the Court having considered the Motion,

And it appearing to the Court that Defendant General Services Agency ("GSA") and Defendant Pacific Data Systems, Inc. ("PDS") have violated the Court's Temporary Restraining Order ("TRO") issued on May 3, 2013 by executing 29 purchase orders for Bid Forms 2 & 3 to

ATTORNEY GEN  
RECEIVED  
DEC 13 2013  
*h*

PDS; and the issuance of those purchase orders violates 5 GCA § 5425(g) of Guam's Procurement Law because a final resolution of this case has yet to be reached.

And the Court finds that notice to the Defendants have been given and due to the exigencies of the case and to the Defendant's failure to comply with the Court's TRO and Guam's Procurement Law; it is therefore ORDERED that GTA's Motion for Contempt is hereby GRANTED and that GSA and PDS shall not execute any purchase orders under IFB GSA 064-11 Bid Forms 2 & 3, until further Order of the Court permitting it to do so.

IT IS FURTHER ORDERED that this Order shall take effect immediately and shall continue in effect until a final resolution of this action, including any appeal that each party may wish to pursue.

IT IS FURTHER ORDERED that all purchase orders issued by GSA to PDS under IFB GSA 064-11 Bid Forms 2 & 3 is hereby null and void pursuant to 5 GCA § 5425(g).

IT IS FURTHER ORDERED that GTA is awarded reasonable attorneys' fees and costs incurred as a result of the Defendants failure to obey the May 3rd TRO and Guam law. GSA and PDS shall be held jointly and severally liable for the attorneys' fees and costs.

DATED: Hagåtña, Guam, \_\_\_\_\_, 2013.

---

HONORABLE ANITA A. SUKOLA  
JUDGE, SUPERIOR COURT OF GUAM

**Exhibit D:**

March 10, 2014 Decision issued by the Superior Court dismissing the  
GTA Motion

BERMAN O'CONNOR & MANN  
RECEIVED

FILED  
SUPERIOR COURT  
OF GUAM

MAR 10 2014

Time: 4:51p  
By: [Signature]

2014 MAR 10 AM 11:40

IN THE SUPERIOR COURT OF GUAM

CLERK OF COURT  
BY: [Signature]

1  
2  
3  
4  
5 **TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,**

6 **Plaintiffs,**

7  
8 **vs.**

9  
10 **TERRITORY OF GUAM; DEPARTMENT  
OF ADMINISTRATION, GENERAL  
11 SERVICES AGENCY; THE OFFICE OF  
12 PUBLIC ACCOUNTABILITY; PACIFIC  
DATA SYSTEMS, INC.,**

13 **Defendants.**

Case No. CV 0333-13

**DECISION AND ORDER**

**PLAINTIFF'S MOTION FOR  
CONTEMPT AND PARTIES'  
REQUESTS FOR BOND**

14  
15  
16  
17 **INTRODUCTION**

18 This matter came before the Honorable Anita A. Sukola on December 24, 2013 and  
19 January 9, 2014 on Plaintiff Teleguam's Ex Parte Application to Hear Motion for Contempt and  
20 Motion for Contempt, as well as on the parties' briefs regarding return of the bond posted by  
21 Plaintiff. Attorneys Elyze M. Iriarte and Vincent Camacho represent Plaintiff Teleguam,  
22 Assistant Attorney General Fred Nishihira represents Defendant Government of Guam, and  
23 Attorney Bill R. Mann represents Defendant Pacific Data Systems (PDS). Following the  
24 hearings, the Court took the matters under advisement. Having considered the parties'  
25 arguments and the applicable law, the Court now issues its Decision and Order DENYING  
26 Plaintiff's Motion for Contempt, DENYING Plaintiff's request for return of the bond, and  
27 GRANTING Defendants' request for return of the bond.  
28

Page 1

CV 0333-13: Teleguam v. Guam, et al  
Plaintiff's Motion for Contempt and Parties' Requests for Bond

## Exhibit E:

April 22, 2014 Letter from PDS to GSA providing an update to GSA regarding the status of the installations for all Government of Guam Agencies and Departments for which PDS had received PO's for new Voice Services and seeking GSA's decision regarding excusable delays caused by GTA Contempt of Court Motion.



April 22, 2014

via fax 472-4217

Ms. Claudia S. Acfalle  
Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, GU 96913

**RE: Installation Status of GSA Purchase Orders**

Dear Ms. Acfalle:

I wanted to take this opportunity to give you an update on the status of the GSA Purchase Orders that have been issued to PDS under the GSA-064-11 Telecom procurement for Parts 2 and 3. I have attached a schedule that shows the status of each Purchase Order for your reference and also notes any exceptions or issues that have occurred doing the service installation that may be the cause for delays in the installation of PDS' services.

The procurement called for an installation timeline of 150 days from the date of the current batch of Purchase Orders; which were all issued on November 22, 2013. However, there have been excusable delays in the installation of these services that I wanted to call to your attention. Some of these delays have had to do with individual sites and these are noted on the attached. Of greater concern to PDS are delays that have occurred that have extended the time required to install all of the services. The most significant delay of this type was the Motion for Contempt that was filed by Teleguam Holdings LLC (GTA) on December 13, 2013 (see attached partial copies of the Superior Court filings on this matter).

Due to the potential for severe penalties if GTA were to prevail in this Motion it was decided by the Government and PDS legal counsels that the installation of the PDS services should be suspended for the duration of the case. As the attached copies show, a hearing on the Motion was held on Jan 9, 2014 with a final Decision and Order issued by the Superior Court on March 10, 2014.

Based on the attached information regarding the delays associated in the installation of the PDS services, PDS has made the following calculations to arrive at a revised installation timeline for this procurement:

- GSA PO's issued on 11/22/2013, PDS starts work on installation of the services



- GTA Motion for Contempt filed 12/13/2013, PDS suspended work on installation of services
- Court issues Decision and Order on March 10, 2014, PDS resumes work on installation of new services. PDS Installation work suspended a total of 87 days.

Based on the above excusable delay, the revised installation timeline would be recalculated as follows:

- 50% of the Purchase Orders installed within 90 days or by May 19, 2014
- 75% of the Purchase Orders installed within 120 days or June 18, 2014
- 100% of the Purchase Orders installed within 150 days or July 18, 2014

As the attached schedule shows, PDS currently has completed installation for more than 75% of the Purchase Orders and we estimate that services for all Purchase Orders will be completed by the end of May 2014 (please note exceptions for some sites that are preventing PDS from service installation).

I would appreciate your confirmation of the excusable delays that we have defined herein, as well as, the revised installation timeline as expressed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Day', is written over a white background. The signature is fluid and cursive, with a long horizontal stroke extending to the left.

John Day  
President

Attachments as indicated

# GSA 064-11: PDS IMPLEMENTATION UPDATE

Department/Agency	PO No.	PO Date	INSTALLATION STATUS April 22, 2014	COMMENT
AGENCY FOR HUMAN RESOURCES DEV-WIA ADULT PROG - PY2012/FY2013	P146A01073	11/22/2013	Service has been installed	
AGENCY FOR HUMAN RESOURCES DEV-WIA DISLOC WORKER - PY11/FY12	P146A01076	11/22/2013	Service has been installed	
AGENCY FOR HUMAN RESOURCES DEV-WIA YOUTH PROGRAM-PY2011	P146A01077	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-ADMINISTRATION	P146A01080	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-COOPERATIVE AGREEMENT WPCFIN	P146A01079	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-EDWARD BYRNE JUSTICE ASSISTANCE	P146A01082	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-GUAM COASTAL MGMT PROG 306	P146A01083	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-PROJ SAFE NEIGHBORHOODS (PSN)	P146A01081	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS / OSH	P146A01065	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS ONE STOP WORKFORCE INFO	P146A01061	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS ONE STOP WORKFORCE INFO	P146A01063	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS-ONE STOP	P146A01071	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01066	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01067	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01070	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-FISCAL & SUPPORT	P146A01068	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-GUAM EMPLOYMENT SERVICES 90%	P146A01069	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-OSHA ON-SITE CONSULTATION PRG	P146A01062	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-SERVE-GUAM	P146A01060	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-WAGE AND HOUR DIVISION	P146A01064	11/22/2013	Service has been installed	
GUAM FIRE DEPARTMENT-E911 COMMUNICATIONS BUREAU	P146A01055	11/22/2013	Service CANNOT be Installed	Service on PO not compatible with E911 Sys
GUAM FIRE DEPARTMENT	P146A01053	11/22/2013	Partially Installed	see individual status for various locations
DNA Building Locations			Service has been installed	
FIRE STATION 3 BARIGADA			Partially Installed	installation progress, est complete 4-30
FIRE STATION 8 UMATAC			Partially Installed	installation progress, est complete 4-30
FIRE STATION 4 DEDEDO			Partially Installed	installation progress, est complete 4-30
FIRE STATION 9 YONA			Partially Installed	installation progress, est complete 4-30
FIRE STATION 5 AGAT			Partially Installed	installation progress, est complete 4-30
FIRE STATION 10 YIGO			Partially Installed	installation progress, est complete 4-30
FIRE STATION 6 INARAJAN			Partially Installed	installation progress, est complete 4-30
FIRE STATION 11 TALOFOFO			Partially Installed	installation progress, est complete 4-30
FIRE STATION 1 TAMUNING			Partially Installed	installation progress, est complete 4-30
FIRE STATION 2 SINAJANA			Partially Installed	installation progress, est complete 4-30
FIRE STATION 7 PITI			Partially Installed	installation progress, est complete 4-30
FIRE STATION 12 ASTUMBO			Partially Installed	installation progress, est complete 4-30
MAINTENANCE SHOP UPPER TUMON			Partially Installed	installation progress, est complete 4-30
DEPT OF PUBLIC HEALTH-FACILITIES & MAINTENANCE SECT	P146A01072	11/22/2013	Partially Installed	see individual status for various locations
DPHSS - Central Main			Installation in process	installation progress, est complete 5-31
DPHSS - Mangilao Legacy Building Location			Service has been installed	
DPHSS - Senior Citizens (Mangilao, Castle Building Location)			Partially Installed	installation progress, est complete 4-30
DPHSS - Immunization (Mangilao Castle Building Location)			Partially Installed	Some PO services not compatible w/existing Phone System, waiting on amendment
DPHSS - Southern Clinic			Service has been installed	
DPHSS - Northern Clinic			Service has been installed	
DPHSS - WIC Tiyan Location			Service has been installed	
DPHSS - Karimu Office			Partially Installed	Some PO services not compatible w/existing Phone System, waiting on amendment
DPHSS - BOSSA	Service has been installed			
DEPARTMENT OF ADMINISTRATION-DIRECTOR'S OFFICE	P146A01108	11/22/2013	Service has been installed	
DEPARTMENT OF AGRICULTURE-GUAM PLANT INSPECTION PERMIT	P146A01084	11/22/2013	Partially Installed	installation progress, est complete 4-30
GOVERNORS OFFICE-EXECUTIVE DIRECTION	P146A01045	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services
GOVERNORS OFFICE-GOVERNMENT HOUSE	P146A01050	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services
LT. GOVERNORS OFFICE-J SEGUNDU NA MAGA'LAHEN GUAHAN	P146A01052	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services

CARLSMITH BALL LLP

ELYZE M. IRIARTE  
*eiriarte@carlsmith.com*  
VINCENT C. CAMACHO  
*vcamacho@carlsmith.com*  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue  
Hagåtña, Guam 96932-5027  
Telephone No. 671.472.6813  
Facsimile No. 671.477.4375

Attorneys for Appellant  
Teleguam Holdings, LLC and its wholly owned subsidiaries

BERMAN O'CONNOR & MANN  
RECEIVED

DEC 13 2013

Time: 11:24AM  
By: 

IN THE SUPERIOR COURT OF GUAM

TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,

Plaintiff,

vs.

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

Defendants.

CIVIL CASE NO. CV0333-13

**EX PARTE APPLICATION TO HEAR  
MOTION FOR CONTEMPT; MOTION  
FOR CONTEMPT; MEMORANDUM  
OF POINTS AND AUTHORITIES**

**EX PARTE APPLICATION TO HEAR MOTION FOR CONTEMPT**

Plaintiff Teleguam Holdings LLC hereby applies to the Court to hear the attached Motion for Contempt *Ex Parte* and on an expedited basis. The basis for this application is that Defendants have violated the Court's Temporary Restraining Order by issuing Purchase Orders, to the detriment of Teleguam, as this Court has already found. The issue is time-critical and should be addressed without delay.

Dated this 13th day of December 2013.



IN THE SUPERIOR COURT OF GUAM



2014-2-11-10:01

CASE NO.: CV0333-13 CLERK OF COURT

NOTICE OF HEARING

FEDMAN, CHRISTOPHER P. MANN  
RECEIVED

JAN 02 2014  
Time: 4:30 PM  
By: [Signature]

TELEGUAM HOLDINGS, LLC,

Plaintiff(s),

vs.

PACIFIC DATA SYSTEMS  
OFFICE OF PUBLIC ACCOUNTABILITY  
GOV'T OF GUAM, TERRITORY OF GUAM

Defendant(s).

To: Carlsmith Ball Llp

To: Attorney BILL R MANN

To: ATTORNEY FRED NISHIHARA

You are hereby notified that the above-captioned case is scheduled before the Honorable JUDGE ANITA A SUKOLA on:

TIME: DATE: PURPOSE OF HEARING:  
10:30 a.m. January 9, 2014 Motion Hearing re Bond Posting

Location of Hearing: Guam Judicial Center, Hagatna, Guam

REMARKS:

DATE: December 31, 2013

DANIELLE ROSETE  
Clerk, Superior Court of Guam

By:

[Signature]  
Dolores Manibusan,  
Courtroom/Chamber Clerk

BERMAN O'CONNOR & MANN  
RECEIVED

FILED  
SUPERIOR COURT

MAR 10 2014

Time: 4:51p  
By: [Signature]

2014 MAR 10 AM 11:40

IN THE SUPERIOR COURT OF GUAM

CLERK OF COURT  
BY: [Signature]

TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,

Plaintiffs,

vs.

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

Defendants.

Case No. CV 0333-13

**DECISION AND ORDER**

**PLAINTIFF'S MOTION FOR  
CONTEMPT AND PARTIES'  
REQUESTS FOR BOND**

**INTRODUCTION**

This matter came before the Honorable Anita A. Sukola on December 24, 2013 and January 9, 2014 on Plaintiff Teleguam's Ex Parte Application to Hear Motion for Contempt and Motion for Contempt, as well as on the parties' briefs regarding return of the bond posted by Plaintiff. Attorneys Elyze M. Iriarte and Vincent Camacho represent Plaintiff Teleguam, Assistant Attorney General Fred Nishihira represents Defendant Government of Guam, and Attorney Bill R. Mann represents Defendant Pacific Data Systems (PDS). Following the hearings, the Court took the matters under advisement. Having considered the parties' arguments and the applicable law, the Court now issues its Decision and Order DENYING Plaintiff's Motion for Contempt, DENYING Plaintiff's request for return of the bond, and GRANTING Defendants' request for return of the bond.

# Message Confirmation Report

22-APR-2014 18:48 TUE

## WorkCentre M20 Series

Machine ID : Pacific Data Systems  
Serial Number : RYU412612  
Fax Number : 6713000265

Name/Number : 94751727  
Page : 6  
Start Time : 22-APR-2014 18:46 TUE  
Elapsed Time : 02' 34"  
Mode : STD G3  
Results : O.K

---

**Exhibit F:**

May 30, 2014, GSA Default Notices to PDS covering  
PO's 146A01053, 146A01072

Eddie Baza Calvo  
Governor



Benita Manglona  
Director, Dept. of Administration

**GENERAL SERVICES AGENCY**  
**(Ahensian Setbision Hinirat)**  
**Government of Guam**  
**P.O. Box FG, Agana, Guam 96910**  
Telephone: (671) 475-1707 Fax: 475-1727 / 472-4217

Ray Tenorio  
Lt. Governor

Anthony Blaz  
Deputy Director

Date : May 30, 2014

PACIFIC DATA SYSTEMS  
185 ILIPOG DRIVE.  
HBC 204A  
TAMUNING, GUAM 96913-0185

VENDOR NO. : P0076701  
Telephone: (671)300-0200  
Facsimile: (671)300-0265

**Dear Sir / Madam**  
**Hafa Adai !**

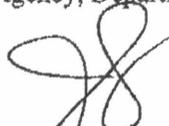
**PLEASE TAKE NOTICE** that you are in default of the referenced Purchase Order No. **P146A01053** for Guam Fire Department, E-911 award by reason of your failure to perform by **February 22, 2014**.

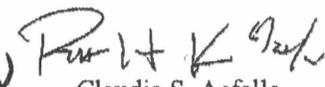
You **ARE HEREBY NOTIFIED** that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services from other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

  
Josephine Choy  
5/30/14

  
PSN  
Claudia S. Acfalle  
Chief Procurement Officer

cc: Division of Accounts, DOA

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**  
**(Ahensian Setbision Hinirat)**  
**Government of Guam**  
**P.O. Box FG, Agana, Guam 96910**  
Telephone: (671) 475-1707 Fax: 475-1727 / 472-4217

Ray Tenorio  
Lt. Governor

Benita Manglona  
Director, Dept. of Administration

Anthony Blaz  
Deputy Director

Date : May 30, 2014

PACIFIC DATA SYSTEMS  
185 ILIPOG DRIVE.  
HBC 204A  
TAMUNING, GUAM 96913-0185

VENDOR NO. : P0076701  
Telephone: (671)300-0200  
Facsimile: (671)300-0265

**Dear Sir / Madam**

**Hafa Adai !**

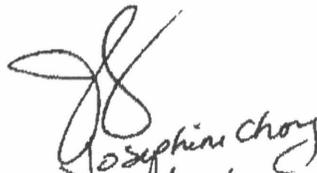
**PLEASE TAKE NOTICE** that you are in default of the referenced Purchase Order No. P146A01072 for Dept. of Public Health and Social Services award by reason of your failure to perform by March 22, 2014.

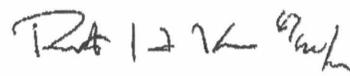
You **ARE HEREBY NOTIFIED** that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services from other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

  
Josephine Choy  
5/30/14

  
Claudia S. Acfalle  
Chief Procurement Officer

cc: Division of Accounts, DOA

## Exhibit G:

June 2, 2014, GSA Default Notice to PDS covering PO 146A01053

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**

(Ahensian Setblsion Hinirat)  
Department of Administration

Ray Tenorio  
Lieutenant Governor

Benita A. Manglona  
Director

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Anthony C. Blaz  
Deputy Director

DATE: 6/02/2014

PACIFIC DATA SYSTEMS  
185 ILIPOG DRIVE  
STE 204A  
TAMUNING, GU 96913

VENDOR NO.: P0076701

Dear Sir/Madam

Hafa Adai!

**PLEASE TAKE NOTICE** that you are in default of the referenced Purchase Order No. P146A01053 award by reason of your failure to perform by 2/22/2014.

You **ARE HEREBY NOTIFIED** that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services from other contractors in accordance with the procurement laws and regulations of Guam. After the time to cure has lapsed, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8)(d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulations apply. Excusable nonperformance must be preceded by notice of the delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

**CMTEDTADTAQ**

Claudia S. Acfalle  
Chief Procurement Officer

cc: Division of Accounts, DOA

Please Print
ACKNOWLEDGEMENT COPY (Re-fax to GSA)
Received By: <u>[Signature] Amber Larson</u>
Date: <u>6/13/14</u>
Vendor Name: <u>PDS</u>
Fax #: 472-4217

COMMITTED TO EXCELLENCE

Message Confirmation Report

03-JUN-2014 12:50 TUE

WorkCentre M20 Series

Machine ID : Pacific Data Systems  
Serial Number : RYU412612  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 1  
Start Time : 03-JUN-2014 12:50 TUE  
Elapsed Time : 00' 30"  
Mode : STD G3  
Results : O.K

03 JUN 14 07:40AM

071 472 4217

Eddie Beza Calvo  
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbiston Hinfrat)  
Department of Administration

Ray Tenorio  
Lieutenant Governor

Benita A. Mangiona  
Director

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Anthony C. Biaz  
Deputy Director

DATE: 6/02/2014

PACIFIC DATA SYSTEMS  
185 ILIPOS DRIVE  
STN 204A  
TAMUNING, GU 96913

VENDOR NO.: P0076701

Dear Sir/Madam

Hafa Adai!

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01093 awarded by reason of your failure to perform by 2/22/2014.

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services from other contractors in accordance with the procurement laws and regulations of Guam. After the time to cure has lapsed, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(B)(d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulations apply. Excusable nonperformance must be preceded by notice of the delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707

Si Yu'os Mal'age.

GMTEBTAOTAG

Claudia S. Acfalle  
Chief Procurement Officer

cc: Division of Accounts, DOA

Please Print  
ACKNOWLEDGEMENT COPY (Re-fax to GSA)  
Received By: [Signature]  
Date: 6/3/14  
Vendor Name: PDS  
Fax #: 472-4217

COMMITTED TO EXCELLENCE

## Exhibit H:

June 9, 2014, PDS response to GSA Default Notices



June 6, 2014

Via Fax: 472-4217

Ms. Claudia S. Acfalle  
Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, Guam 96913

**RE: GSA Default Notice Reference PO P146A01053 Dated 6/02/2014**

Dear Ms. Acfalle:

PDS received the above referenced Default Notice on June 3, 2014 (copy attached for your reference). PDS does not understand why GSA has issued this Default Notice for this PO since all the Centrex Telephone Lines indicated have been installed for this PO. The only services that were not installed were the 2Mb & 7Mb DSL Internet Services. These services are subject to an order in Superior Court CV03334-13, which prevents installation of these services.

For the above reasons the attached Default Notice is invalid and should be rescinded by GSA. We would welcome the opportunity to meet with you to discuss and clarify our installation of these services with GSA in order to address any issues or questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Day', is written over the word 'Sincerely,'.

John Day  
President  
Attachments as noted

## **Pacific Data Systems**

185 Ilipog Drive, HBC Suite 204A, Tamuning, GU 96913  
Main: (671) 648-4361 | Service/Support: (671) 300-0200 | Fax: (671) 300-0265  
[www.pdsguam.com](http://www.pdsguam.com)

1053

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat)  
Department of Administration

Ray Tenorio  
Lieutenant Governor

Benita A. Manglona  
Director

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Anthony C. Blaz  
Deputy Director

DATE: 6/02/2014

PACIFIC DATA SYSTEMS  
185 ILIPOG DRIVE  
STE 204A  
TAMUNING, GU 96913

VENDOR NO.: P0076701

Dear Sir/Madam

Hafa Adai!

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01053 award by reason of your failure to perform by 2/22/2014.

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services from other contractors in accordance with the procurement laws and regulations of Guam. After the time to cure has lapsed, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8)(d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulations apply. Excusable nonperformance must be preceded by notice of the delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

**CMTEDTAOTAO**

Claudia S. Acfalle  
Chief Procurement Officer

cc: Division of Accounts, DOA

Please Print
ACKNOWLEDGEMENT COPY (Re-fax to GSA)
Received By: <u>Amber Ladson</u>
Date: <u>6/13/14</u>
Vendor Name: <u>PDS</u>
Fax #: 472-4217

COMMITTED TO EXCELLENCE

Message Confirmation Report

09-JUN-2014 16:45 MON

WorkCentre M20 Series

Machine ID : Pacific Data Systems  
Serial Number : RYU412612  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 2  
Start Time : 09-JUN-2014 16:44 MON  
Elapsed Time : 00' 44"  
Mode : STD G3  
Results : O.K

---



June 6, 2014

Via Fax: 472-4217

Ms. Claudia S. Acfalle  
Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, Guam 96913

**RE: GSA Default Notice Reference PO P146A01053 Dated 6/02/2014**

Dear Ms. Acfalle:

PDS received the above referenced Default Notice on June 3, 2014 (copy attached for your reference). PDS does not understand why GSA has issued this Default Notice for this PO since all the Centrex Telephone Lines indicated have been installed for this PO. The only services that were not installed were the 2Mb & 7Mb DSL Internet Services. These services are subject to an order in Superior Court CV03334-13, which prevents installation of these services.

For the above reasons the attached Default Notice is invalid and should be rescinded by GSA. We would welcome the opportunity to meet with you to discuss and clarify our installation of these services with GSA in order to address any issues or questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Day', written over a white background.

John Day  
President  
Attachments as noted

**Pacific Data Systems**

185 Nipog Drive, HBC Suite 204A, Tamuning, GU 96913  
Main: (671) 648-4361 | Service/Support: (671) 300-0200 | Fax: (671) 300-0265  
[www.pdsguam.com](http://www.pdsguam.com)



June 9, 2014

Via Fax: 472-4217

Ms. Claudia S. Acfalle  
Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, Guam 96913

**RE: GSA Default Notice Reference PO P146A01072**

Dear Ms. Acfalle:

PDS received the above referenced Default Notice on May 30, 2014 (copy attached for your reference). PDS does not understand why GSA has issued this Default Notice for this PO since we are still within the time period allowed for the delivery of these services, as defined in the procurement.

I would like to take this opportunity to give you an update regarding the delivery of the services covered by this Purchase Order. We are currently finishing up our last scheduled DPHSS site installations at Karinu, DPHSS Satellite Office located in the DPW Compound in Tamuning and the DPHSS Santa Rita WIC Office. The following locations covered by this PO have been completed:

1. Main Branch Mangilao
2. Southern Clinic
3. Northern Clinic
4. Legacy Building Location
5. Castle Bldg. Location
6. BOSSA – Hagтана
7. Licensure – Hagтана
8. WIC Tiyan
9. Immunization - Mangilao

For the above reasons the attached Default Notice is invalid and should be rescinded by GSA. We would welcome the opportunity to meet with you to discuss and clarify our installation of these services with GSA in order to address any issues or questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'JD', written over a white background.

John Day  
President

Attachments as noted

## **Pacific Data Systems**

185 Ilipog Drive, HBC Suite 204A, Tamuning, GU 96913  
Main: (671) 648-4361 | Service/Support: (671) 300-0200 | Fax: (671) 300-0265  
[www.pdsguam.com](http://www.pdsguam.com)

Eddie Baza Calvo  
Governor



Benita Manglona  
Director, Dept. of Administration

**GENERAL SERVICES AGENCY**  
**(Ahensian Setbision Hinirat)**  
**Government of Guam**  
**P.O. Box FG, Agana, Guam 96910**  
Telephone: (671) 475-1707 Fax: 475-1727 / 472-4217

Ray Tenorio  
Lt. Governor

Anthony Blaz  
Deputy Director

Date : May 30, 2014

PACIFIC DATA SYSTEMS  
185 ILIPOG DRIVE.  
HBC 204A  
TAMUNING, GUAM 96913-0185

VENDOR NO. : P0076701  
Telephone: (671)300-0200  
Facsimile: (671)300-0265

**Dear Sir / Madam**

**Hafa Adai !**

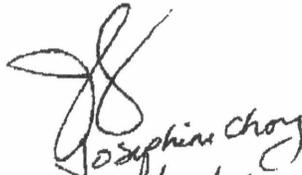
**PLEASE TAKE NOTICE** that you are in default of the referenced Purchase Order No. P146A01072 for Dept. of Public Health and Social Services award by reason of your failure to perform by March 22, 2014.

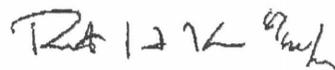
You **ARE HEREBY NOTIFIED** that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services from other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

  
Josephine Choy  
5/30/14

  
Claudia S. Acfalle  
Chief Procurement Officer

cc: Division of Accounts, DOA

# Message Confirmation Report

09-JUN-2014 16:43 MON

## WorkCentre M20 Series

Machine ID : Pacific Data Systems  
Serial Number : RYU412612  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 2  
Start Time : 09-JUN-2014 16:42 MON  
Elapsed Time : 00' 46"  
Mode : STD G3  
Results : O.K



June 9, 2014

Via Fax: 472-4217

Ms. Claudia S. Acfalle  
Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, Guam 96913

**RE: GSA Default Notice Reference PO P146A01072**

Dear Ms. Acfalle:

PDS received the above referenced Default Notice on May 30, 2014 (copy attached for your reference). PDS does not understand why GSA has issued this Default Notice for this PO since we are still within the time period allowed for the delivery of these services, as defined in the procurement.

I would like to take this opportunity to give you an update regarding the delivery of the services covered by this Purchase Order. We are currently finishing up our last scheduled DPHSS site installations at Karinu, DPHSS Satellite Office located in the DPW Compound in Tamuning and the DPHSS Santa Rita WIC Office. The following locations covered by this PO have been completed:

1. Main Branch Mangilao
2. Southern Clinic
3. Northern Clinic
4. Legacy Building Location
5. Castle Bldg. Location
6. BOSSA - Hagтана
7. Licensure - Hagтана
8. WIC Tiyan
9. Immunization - Mangilao

For the above reasons the attached Default Notice is invalid and should be rescinded by GSA. We would welcome the opportunity to meet with you to discuss and clarify our installation of these services with GSA in order to address any issues or questions.

Sincerely,

A handwritten signature in black ink, appearing to be 'JD', written over a horizontal line.

John Day  
President

Attachments as noted

## Pacific Data Systems

185 Ilipog Drive, IIBC Suite 204A, Tamuning, GU 96913  
Main: (671) 648-4361 | Service/Support: (671) 300-0200 | Fax: (671) 300-0265  
[www.pdsguam.com](http://www.pdsguam.com)

## Exhibit I:

June 10, 2014, GSA Memoranda to PDS Terminating GSA  
Purchase Orders 146A01053, 146A01072

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat)  
Department of Administration  
148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

Ray Tenorio  
Lieutenant Governor

Benita A. Manglona  
Director

Anthony C. Blaz  
Deputy Director

June 10, 2014

Memorandum

Mr. John Day  
Pacific Data Systems  
185 Iliog Drive  
Suite 204A

Re: Termination of Services

Dear Mr. Day:

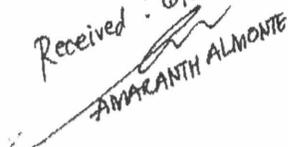
On June 3, 2014, the General Services Agency wrote to you in regards to purchase order numbers P146A01053 and P146A01072 issued for GSA Bid No. 064-11, We informed you that pursuant to the bid terms and conditions, you were required to fully transfer the wire lines "telephone services" from Teleguam Holdings, also known as "GTA" to your company within ten (10) days of receipt of this notice..

As of this date, you have failed to fully transfer all of the telephone services to your control. Your memorandum dated June 9<sup>th</sup> for the issues related to the Guam Fire Department does not address the fact that your company failed to transfer the telephone services at the E911 location from GTA to your company. Your memorandum indicates internet services which is not telephone services.

As for the Guam Department of Public Health and Social Services, we have been informed that you have failed to transfer a number of telephone lines. In a separate memorandum also dated on June 9<sup>th</sup>, you indicated that you have only failed to transfer the telephone lines from the Karinu unit of Public Health. There was no exception or extension for this unit in the bid. As such, the General Services Agency has determined that you are in violation of the bid award and as such, terminating your award as to both the Department of Public Health and Social Services as well as to the Guam Fire Department effective on June 11, 2014 at 5pm.

Therefore, you are not allowed onto the premises of either the Department of Public Health and Social Services and the Guam Fire Department to move forward with this purchase order.

  
ROBERT H. KONO  
Chief Procurement Officer, Acting

Received: 6/16/14  
  
AMARANTH ALMONTE

## Exhibit J:

June 11, 2014, PDS letter to GSA regarding GSA Termination of  
PO's 146A01053, 146A01072



June 10, 2014

RECEIVED  
Director's Office  
Division Of General Administration

via hand delivery

Mr. Robert H. Kono  
Acting Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, Guam 96913

JUN 11 2014

DPH&SS  
Time: 11:38 am Locator#:

GOV'T OF GUAM  
G.S.A.  
2014 JUN 11 AM 10:51  
RECEIVED  
PF

**RE: GSA June 10, 2014 Memorandum - Termination of Services**

Dear Mr. Kono:

Today I got the above referenced memorandum (copy attached for you reference) related to the Telephone services that PDS is providing to the Government of Guam under Purchase Orders P146A01053 and P146A01072. After reviewing this GSA memorandum, I am confused by many of the false statements made in this document and most especially the claim and decision by GSA that PDS has failed to deliver the Telephone services covered by the terms of these Purchase Orders. I hope this letter will clarify these issues and hopefully allow GSA to reconsider the validity of the claims made, its decision in this matter, and the actions that GSA is planning on taking as a consequence.

You correctly state that the PDS Telephone services are being provided according to the bid terms and conditions for the applicable procurement; GSA-064-11. As PDS has written to GSA before (PDS letter of April 22, 2014, a copy of which is attached), this procurement requires delivery of the services to ordering agencies over a period of 90 to 150 days. In the same April 22nd letter, PDS documented a legal challenge that was made by Teleguam Holdings (GTA) soon after GSA issued the PO's to PDS for these Telephone services (see attachment of December 13, 2013 EX PARTE APPLICATION TO HEAR MOTION FOR CONTEMPT). This legal challenge resulted in a halt to all installation work until the Court issued a decision in the matter (Decision was issued on March 10, 2014), resulting in a delay of 88 days in the in the installation schedule. After the Court's order was issued clearing the way for the installation work to continue, PDS began installing Telephone Services for all of the GSA PO's received. As noted in our letter of April 22, 2014, PDS provided a recalculation of the time remaining for the installation of the Telephone Services according to the terms of the procurement (IFB GSA-064-11) considering the delays caused by GTA's legal challenge. The revised dates worked out as follows:

- 50% of installations due to be completed by May 19, 2014
- 75% of installations due to be completed by June 18, 2014
- 100% of installation due to be completed by July 18, 2014

As of this date, PDS is ahead of this schedule and has largely completed the installation for all Agencies for which we have received PO's except for cases where PDS was denied access to the



Government Site or never received the required documentation to install or transfer the new Telephone services.

When I read in your memorandum, and in previous GSA Notices that you reference, that PDS has not completed the installation of the Telephone services in the time allowed under the procurement, I cannot understand how GSA can make this determination. This claim ignores the clear delivery timelines of this procurement and the excusable delays that have occurred due to legal challenges made by GTA and other factors that are outside of PDS' control but effect PDS's ability to install the subject Telephone services.

PDS does not agree with the claim by GSA that PDS has not installed the Telephone services in the time allowed under the procurement. PDS has communicated the revised delivery timelines to GSA and has been moving ahead with the installations without delay. Contrary to GSA's claims, PDS has largely completed installation at all sites, and, rather than being behind on these installations, is actually well ahead of the timelines allowed under the procurement.

Your memorandum states that on June 3, 2014 GSA wrote to PDS requiring PDS to fully transfer the telephone lines for the Agencies covered by these two PO's (P146A01053 and P146A01072) within 10 days of the receipt of the GSA June 3, 2014 notice. Though, as stated previously, PDS does not agree that the timeline to deliver these services has expired, it is clear that the 10 day period that GSA has provided for PDS to install these services **has also not yet expired**. According to GSA's own notice this expiration should not occur **until June 13, 2014, not June 10, 2014** when your memorandum states that GSA determined that "you are in violation of the bid award". GSA also goes on to forbid PDS from taking any further action to deliver these services even though the time provided by GSA for PDS to cure this situation has not yet passed.

For the record and to address other inaccuracies of your June 10, 2014 memorandum and decision, PDS provides the following clarifications for your information as we hope you will consider these facts as you further review this matter:

- The Telephone line transfers for the remaining Dept of Public Health and Social Services (DPH&SS) offices is already scheduled to occur this week on June 13, 2014. This schedule had been established prior to receiving your memorandum today, and would have allowed PDS to complete all services within the timeline noted in your GSA's June 3<sup>rd</sup> notice.
- **As PDS has stated previously, ALL of the Telephone lines covered by P146A01053 have already been installed** (except for the lines that were associated with DSL service. As noted previously by PDS, these lines cannot be transferred without disrupting the DSL service in violation of an existing Order in CV0334-13). All of these lines for GFD were installed by the end of April as indicated in our Installation Status report provided with our letter of April 22. **There are no lines on this PO that are related to E-911.**



- Regarding E-911 lines, these lines are part of another PO (P146A01055). When PDS did the survey of these sites in preparation for provisioning these services, it was determined at that time that the existing E-911 system is incompatible with the Telephone services that were bid under IFB GSA-064-11. The GSA procurement only covered Analog Telephone Services (POTS lines) or Digital Centrex services. Neither of these services will provide the highly specialized interface required by the existing Motorola 911 system. PDS communicated this information to the Bureau of Information Technology (BIT) and also GFD. This fact is also noted on the installation status report provided to GSA with our letter of April 22, 2014.
- GSA provides no citation to law or regulation that empowers it to take the termination action defined and as such any action would be a violation of law or regulation denying PDS of its due process rights.
- Proceeding with termination of these already installed Telephone services will create a service disruption and outage for these two Agencies; Dept of Public Health and Social Services and Guam Fire Department. These service disruptions could be significant resulting in a loss of phone service for several hours or even days creating a potential threat to public health and safety.

I encourage GSA to pause and reconsider its decision to terminate the award to PDS for Purchase Orders P146A01053 and P146A01072. It is clear by the facts provided by PDS in this letter that PDS has performed according to the terms of this procurement and that GSA's decision is a mistake. Proceeding with this decision may cause PDS irreparable harm and subject the Government to monetary damage claims. Please be advised that if GSA decides to go forward with its decision to terminate these Telephone services, particularly in the light of the facts that PDS has provided in this letter, then PDS will have no other choice than to vigorously contest GSA's decision and exercise all of its due process rights in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Day', is written over a light blue horizontal line.

John Day  
President

XC: Bill R. Mann - Attorney/Pacific Data Systems  
Fred Nishihira - Attorney/Office of the Attorney General of Guam  
James W. Gillian - Director/Department of Public Health and Social Services  
Joey San Nicolas - Fire Chief/Guam Fire Department

Attachments as noted.

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat)  
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

Ray Tenorio  
Lieutenant Governor

Benita A. Manglona  
Director

Anthony C. Blaz  
Deputy Director

June 10, 2014

Memorandum

Mr. John Day  
Pacific Data Systems  
185 Iliog Drive  
Suite 204A

Re: Termination of Services

Dear Mr. Day:

On June 3, 2014, the General Services Agency wrote to you in regards to purchase order numbers P146A01053 and P146A01072 issued for GSA Bid No. 064-11, We informed you that pursuant to the bid terms and conditions, you were required to fully transfer the wire lines "telephone services" from Teleguam Holdings, also known as "GTA" to your company within ten (10) days of receipt of this notice..

As of this date, you have failed to fully transfer all of the telephone services to your control. Your memorandum dated June 9<sup>th</sup> for the issues related to the Guam Fire Department does not address the fact that your company failed to transfer the telephone services at the E911 location from GTA to your company. Your memorandum indicates internet services which is not telephone services.

As for the Guam Department of Public Health and Social Services, we have been informed that you have failed to transfer a number of telephone lines. In a separate memorandum also dated on June 9<sup>th</sup>, you indicated that you have only failed to transfer the telephone lines from the Karinu unit of Public Health. There was no exception or extension for this unit in the bid. As such, the General Services Agency has determined that you are in violation of the bid award and as such, terminating your award as to both the Department of Public Health and Social Services as well as to the Guam Fire Department effective on June 11, 2014 at 5pm.

Therefore, you are not allowed onto the premises of either the Department of Public Health and Social Services and the Guam Fire Department to move forward with this purchase order.

  
ROBERT H. KONO  
Chief Procurement Officer, Acting

Received: 6/10/14  
AMARANTH ALMONTE



April 22, 2014

via fax 472-4217

Ms. Claudia S. Acfalle  
Chief Procurement Officer  
General Services Agency (GSA)  
Government of Guam  
Piti, GU 96913

**RE: Installation Status of GSA Purchase Orders**

Dear Ms. Acfalle:

I wanted to take this opportunity to give you an update on the status of the GSA Purchase Orders that have been issued to PDS under the GSA-064-11 Telecom procurement for Parts 2 and 3. I have attached a schedule that shows the status of each Purchase Order for your reference and also notes any exceptions or issues that have occurred doing the service installation that may be the cause for delays in the installation of PDS' services.

The procurement called for an installation timeline of 150 days from the date of the current batch of Purchase Orders; which were all issued on November 22, 2013. However, there have been excusable delays in the installation of these services that I wanted to call to your attention. Some of these delays have had to do with individual sites and these are noted on the attached. Of greater concern to PDS are delays that have occurred that have extended the time required to install all of the services. The most significant delay of this type was the Motion for Contempt that was filed by Teleguam Holdings LLC (GTA) on December 13, 2013 (see attached partial copies of the Superior Court filings on this matter).

Due to the potential for severe penalties if GTA were to prevail in this Motion it was decided by the Government and PDS legal counsels that the installation of the PDS services should be suspended for the duration of the case. As the attached copies show, a hearing on the Motion was held on Jan 9, 2014 with a final Decision and Order issued by the Superior Court on March 10, 2014.

Based on the attached information regarding the delays associated in the installation of the PDS services, PDS has made the following calculations to arrive at a revised installation timeline for this procurement:

- GSA PO's issued on 11/22/2013, PDS starts work on installation of the services



- GTA Motion for Contempt filed 12/13/2013, PDS suspended work on installation of services
- Court issues Decision and Order on March 10, 2014, PDS resumes work on installation of new services. PDS Installation work suspended a total of 87 days.

Based on the above excusable delay, the revised installation timeline would be recalculated as follows:

- 50% of the Purchase Orders installed within 90 days or by May 19, 2014
- 75% of the Purchase Orders installed within 120 days or June 18, 2014
- 100% of the Purchase Orders installed within 150 days or July 18, 2014

As the attached schedule shows, PDS currently has completed installation for more than 75% of the Purchase Orders and we estimate that services for all Purchase Orders will be completed by the end of May 2014 (please note exceptions for some sites that are preventing PDS from service installation).

I would appreciate your confirmation of the excusable delays that we have defined herein, as well as, the revised installation timeline as expressed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Day', is written over a horizontal line.

John Day  
President

Attachments as indicated

## GSA 064-11: PDS IMPLEMENTATION UPDATE

Department/Agency	PO No.	PO Date	INSTALLATION STATUS April 22, 2014	COMMENT		
AGENCY FOR HUMAN RESOURCES DEV-WIA ADULT PROG - PY2012/FY2013	P146A01073	11/22/2013	Service has been installed			
AGENCY FOR HUMAN RESOURCES DEV-WIA DISLOG WORKER - PY11/FY12	P146A01076	11/22/2013	Service has been installed			
AGENCY FOR HUMAN RESOURCES DEV-WIA YOUTH PROGRAM-PY2011	P146A01077	11/22/2013	Service has been installed			
BUREAU OF STATISTICS AND PLANS-ADMINISTRATION	P146A01080	11/22/2013	Service has been installed			
BUREAU OF STATISTICS AND PLANS-COOPERATIVE AGREEMENT WPCFIN	P146A01079	11/22/2013	Service has been installed			
BUREAU OF STATISTICS AND PLANS-EDWARD BYRNE JUSTICE ASSISTANCE	P146A01082	11/22/2013	Service has been installed			
BUREAU OF STATISTICS AND PLANS-GUAM COASTAL MGMT PROG 306	P146A01083	11/22/2013	Service has been installed			
BUREAU OF STATISTICS AND PLANS-PROJ SAFE NEIGHBORHOODS (PSN)	P146A01081	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-BLS / OSH	P146A01065	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-BLS ONE STOP WORKFORCE INFO	P146A01061	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-BLS ONE STOP WORKFORCE INFO	P146A01063	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-BLS-ONE STOP	P146A01071	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01066	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01067	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01070	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-FISCAL & SUPPORT	P146A01068	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-GUAM EMPLOYMENT SERVICES 90%	P146A01069	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-OSHA ON-SITE CONSULTATION PRG	P146A01062	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-SERVE-GUAM	P146A01060	11/22/2013	Service has been installed			
DEPARTMENT OF LABOR-WAGE AND HOUR DIVISION	P146A01064	11/22/2013	Service has been installed			
GUAM FIRE DEPARTMENT-E911 COMMUNICATIONS BUREAU	P146A01055	11/22/2013	Service CANNOT be installed	Service on PO not compatible with E911 Sys		
GUAM FIRE DEPARTMENT	P146A01053	11/22/2013	Partially installed	see individual status for various locations		
DNA Building Locations			Service has been installed			
FIRE STATION 3 BARIGADA			Partially installed	installation progress, est complete 4-30		
FIRE STATION 8 UMATAK			Partially installed	installation progress, est complete 4-30		
FIRE STATION 4 DEDEDO			Partially installed	installation progress, est complete 4-30		
FIRE STATION 9 YONA			Partially installed	installation progress, est complete 4-30		
FIRE STATION 5 AGAT			Partially installed	installation progress, est complete 4-30		
FIRE STATION 10 YIGO			Partially installed	installation progress, est complete 4-30		
FIRE STATION 6 INARAJAN			Partially installed	installation progress, est complete 4-30		
FIRE STATION 11 TALOFOFO			Partially installed	installation progress, est complete 4-30		
FIRE STATION 1 TAMUNING			Partially installed	installation progress, est complete 4-30		
FIRE STATION 2 SINAJANA			Partially installed	installation progress, est complete 4-30		
FIRE STATION 7 PITI			Partially installed	installation progress, est complete 4-30		
FIRE STATION 12 ASTUMBO			Partially installed	installation progress, est complete 4-30		
MAINTENANCE SHOP UPPER TUMON			Partially installed	installation progress, est complete 4-30		
DEPT OF PUBLIC HEALTH-FACILITIES & MAINTENANCE SECT			P146A01072	11/22/2013	Partially installed	see individual status for various locations
DPHSS - Central Main					Installation in process	installation progress, est complete 5-31
DPHSS - Mangilao Legacy Building Location	Service has been installed					
DPHSS - Senior Citizens (Mangilao, Castle Building Location)	Partially installed	installation progress, est complete 4-30				
DPHSS - Immunization (Mangilao Castle Building Location)	Partially installed	Some PO services not compatible w/existing Phone System, waiting on amendment				
DPHSS - Southern Clinic	Service has been installed					
DPHSS - Northern Clinic	Service has been installed					
DPHSS - WIC Tiyan Location	Service has been installed					
DPHSS - Karlms Office	Partially installed	Some PO services not compatible w/existing Phone System, waiting on amendment				
DPHSS - BOSSA	Service has been installed					
DEPARTMENT OF ADMINISTRATION-DIRECTOR'S OFFICE	P146A01108	11/22/2013	Service has been installed			
DEPARTMENT OF AGRICULTURE-GUAM PLANT INSPECTION PERMIT	P146A01084	11/22/2013	Partially installed	installation progress, est complete 4-30		
GOVERNORS OFFICE-EXECUTIVE DIRECTION	P146A01045	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services		
GOVERNORS OFFICE-GOVERNMENT HOUSE	P146A01050	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services		
LT. GOVERNORS OFFICE-1 SEGUNDO NA MAGA'LAHEN GUAHAN	P146A01052	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services		

CARLSMITH BALL LLP

ELYZE M. IRIARTE  
*eiriarte@carlsmith.com*  
VINCENT C. CAMACHO  
*vcamacho@carlsmith.com*  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue  
Hagåtña, Guam 96932-5027  
Telephone No. 671.472.6813  
Facsimile No. 671.477.4375

Attorneys for Appellant  
Teleguam Holdings, LLC and its wholly owned subsidiaries

BERMAN O'CONNOR & MANN  
RECEIVED

DEC 13 2013  
Time: 11:24 AM  
By: [Signature]

IN THE SUPERIOR COURT OF GUAM

TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,

Plaintiff,

vs.

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

Defendants.

CIVIL CASE NO. CV0333-13

**EX PARTE APPLICATION TO HEAR  
MOTION FOR CONTEMPT; MOTION  
FOR CONTEMPT; MEMORANDUM  
OF POINTS AND AUTHORITIES**

**EX PARTE APPLICATION TO HEAR MOTION FOR CONTEMPT**

Plaintiff Teleguam Holdings LLC hereby applies to the Court to hear the attached Motion for Contempt *Ex Parte* and on an expedited basis. The basis for this application is that Defendants have violated the Court's Temporary Restraining Order by issuing Purchase Orders, to the detriment of Teleguam, as this Court has already found. The issue is time-critical and should be addressed without delay.

Dated this 13th day of December 2013.



IN THE SUPERIOR COURT OF GUAM



TELEGUAM HOLDINGS, LLC,

Plaintiff(s),

vs.

PACIFIC DATA SYSTEMS  
OFFICE OF PUBLIC ACCOUNTABILITY  
GOV'T OF GUAM, TERRITORY OF GUAM

Defendant(s).

CASE NO.: CV0333-13 CLERK OF COURT

NOTICE OF HEARING

FORWARDED TO THE HONORABLE JUDGE ANITA A SUKOLA

JAN 02 2014  
Time: 4:30 PM  
By: [Signature]

To: Carlsmith Ball Llp

To: Attorney BILL R MANN

To: ATTORNEY FRED NISHIHIRA

You are hereby notified that the above-captioned case is scheduled before the Honorable JUDGE ANITA A SUKOLA on:

<b>TIME:</b>	<b>DATE:</b>	<b>PURPOSE OF HEARING:</b>
10:30 a.m.	January 9, 2014	Motion Hearing re Bond Posting

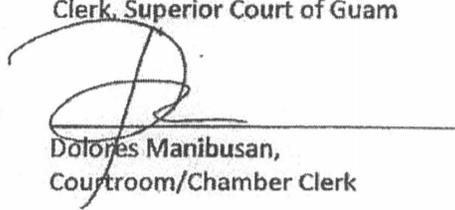
Location of Hearing: Guam Judicial Center, Hagatna, Guam

REMARKS:

DATE: December 31, 2013

DANIELLE ROSETE  
Clerk, Superior Court of Guam

By:

  
Dolores Manibusan,  
Courtroom/Chamber Clerk

BERMAN O'CONNOR & MANN  
RECEIVED

MAR 10 2014

Time: 4:51p  
By: [Signature]

FILED  
SUPERIOR COURT  
OF GUAM

2014 MAR 10 AM 11:40

IN THE SUPERIOR COURT OF GUAM

CLERK OF COURT  
BY: [Signature]

TELEGUAM HOLDINGS LLC AND ITS  
WHOLLY OWNED SUBSIDIARIES,

Plaintiffs,

vs.

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

Defendants.

Case No. CV 0333-13

DECISION AND ORDER

PLAINTIFF'S MOTION FOR  
CONTEMPT AND PARTIES'  
REQUESTS FOR BOND

#### INTRODUCTION

This matter came before the Honorable Anita A. Sukola on December 24, 2013 and January 9, 2014 on Plaintiff Teleguam's Ex Parte Application to Hear Motion for Contempt and Motion for Contempt, as well as on the parties' briefs regarding return of the bond posted by Plaintiff. Attorneys Elyze M. Iriarte and Vincent Camacho represent Plaintiff Teleguam, Assistant Attorney General Fred Nishihira represents Defendant Government of Guam, and Attorney Bill R. Mann represents Defendant Pacific Data Systems (PDS). Following the hearings, the Court took the matters under advisement. Having considered the parties' arguments and the applicable law, the Court now issues its Decision and Order DENYING Plaintiff's Motion for Contempt, DENYING Plaintiff's request for return of the bond, and GRANTING Defendants' request for return of the bond.

Message Confirmation Report

22-APR-2014 18:48 TUE

WorkCentre M20 Series

Machine ID : Pacific Data Systems  
Serial Number : RYU412612  
Fax Number : 6713000265

Name/Number : 94751727  
Page : 6  
Start Time : 22-APR-2014 18:46 TUE  
Elapsed Time : 02' 34"  
Mode : STD G3  
Results : O.K

---

## Exhibit K:

June 11, 2014, GSA Notice to PDS reallocating funds from  
PO 146A01072

COMMITTED TO EXCELLENCE

Eddie Baza Calvo  
Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)  
Department of Administration

Ray Tenorio  
Lieutenant Governor

Benita A. Manglona  
Director

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

Anthony C. Blaz  
Deputy Director

6/11/2014  
ISSUE DATE

VENDOR: PACIFIC DATA SYSTEMS  
185 ILIPOG DRIVE  
STE 204A  
TAMUNING, GU 96913

Amendment No.: 2014000001

VENDOR NO.: P0076701 PHONE: 671 300-0200 FAX: 671 300-0265  
EMAIL: MARTINA@PDSGUAM.COM

SUBJECT: Purchase Order No. P146A01072 Dated 11/21/2013 Document No. Q141754011

In reference to the above subject matter, please take the following action(s) upon receipt of this Pro Forma letter. (X) marked in the box opposite the action, is/are the actions to be taken:

- ( ) Cancel in its entirety
- ( ) The substitute item(s) is/are acceptable, proceed with the shipment
- ( ) Cancel the balance and consider the order complete
- ( ) Please ship VIA; A.P.P., Ocean Freight, P.P., Book Post
- ( X ) Others: (as stated below)

AMEND TO DE-OBLIGATE THE AMOUNT OF \$63,312.78 FROM THE REMAINING THREE MONTHS (JULY, AUGUST & SEPTEMBER) DUE TO SERVICES WILL NO LONGER BE REQUIRED. ALL OTHERS REMAIN UNCHANGED.

Your immediate action in this matter is requested.

*Handwritten signature* Sincerely yours,

Claudia S. Acfalle  
Chief Procurement Officer

DOA 273

Please Print

ACKNOWLEDGEMENT COPY (Re-fax to GSA)

Received By: *[Signature]*

Date: *6/11/14*

Vendor Name: *PACIFIC DATA SYSTEMS*

Fax #: 472-4217

COMMITTED TO EXCELLENCE  
COMMITTED TO EXCELLENCE

Message Confirmation Report

12-JUN-2014 09:46 THU

WorkCentre M20 Series  
Machine ID : Pacific Data Systems  
Serial Number : RYU412612  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 1  
Start Time : 12-JUN-2014 09:45 THU  
Elapsed Time : 00' 26"  
Mode : STD G3  
Results : O.K

06 11 14 09:22AM

071 172 1317

COMMITTED TO EXCELLENCE

Eddie Baza Calvo  
Governor  
Benita A. Mangiona  
Director



GENERAL SERVICES AGENCY

(Ahenslan Setbison Hinrat)  
Department of Administration  
148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

Ray Tenorio  
Lieutenant Governor  
Anthony C. Blaz  
Deputy Director

6/11/2014  
ISSUE DATE

VENDOR: PACIFIC DATA SYSTEMS  
188 ILIPOG DRIVE  
STE 204A  
TAMUNING, GU 96913

Amendment No.: 2014000001

VENDOR NO.: P0076701 PHONE: 671 300-0200 FAX: 671 300-0265  
EMAIL: MARTINA@PDSGUAM.COM

SUBJECT: Purchase Order No. P146A01072 Dated 11/21/2013 Document No. Q141754011

In reference to the above subject matter, please take the following action(s) upon receipt of this Pro Forma letter. (X) marked in the box opposite the action, is/are the actions to be taken:

- Cancel in its entirety
- The substitute item(s) is/are acceptable, proceed with the shipment
- Cancel the balance and consider the order complete
- Please ship VIA: A.P.P., Ocean Freight, P.P., Book Post
- Others: (as stated below)

AMEND TO DE-OBLIGATE THE AMOUNT OF \$63,312.78 FROM THE REMAINING THREE MONTHS (JULY, AUGUST & SEPTEMBER) DUE TO SERVICES WILL NO LONGER BE REQUIRED. ALL OTHERS REMAIN UNCHANGED.

Your immediate action in this matter is requested.

Sincerely yours,

Claudia S. Acfalle  
Chief Procurement Officer

DOA 273

Please Print  
ACKNOWLEDGEMENT COPY (Re-fax to GSA)  
Received By:   
Date: 6/11/14  
Vendor Name: PACIFIC DATA SYSTEMS  
Fax #: 472-4217

COMMITTED TO EXCELLENCE  
COMMITTED TO EXCELLENCE

## Exhibit L:

June 13, 2014, GSA letter to PDS reference GSA PO 146E00286)

**Eddie Baza Calvo**  
Governor



**GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat)  
Department of Administration

**Ray Tenorio**  
Lieutenant Governor

**Benita A. Manglona**  
Director

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

**Anthony C. Blaz**  
Deputy Director

June 13, 2014

Memorandum

Mr. John Mantanona  
Government Account Manager  
Pacific Data Systems  
185 Illpog Drive  
HBC Suite 204A  
Tamuning, Guam 96913

Re: Purchase Order 146E00286)

Dear Mr. Mantanona:

The General Services Agency is in receipt of your memorandum dated June 12, 2014, in which you inquired as to the status of the above stated purchase order. The above stated purchase order was issued pursuant to bid after a decision of the court case in this matter. As such, the purchase order was issue pursuant to all of the bid terms and conditions for the remaining fiscal year,.

As part of the initial group of agencies and departments, you had ninety (90) days to fully comply with the terms of the bid. You failed to do so and as such, the government issued you a notice to cure. When you failed to cure, the government determined that it will terminate your services. As such, this purchase order ceased.

Further as a point of clarification in your company's June 10<sup>th</sup> memorandum to GSA. You indicated that a notice of default was sent and received by your company on June 2<sup>nd</sup>. That is correct. However, that is a duplication of one that was received and acknowledged by you on May30th (See attached). The duplication notice does not supersede or extend the period of time of the first notice.

*Rec'd*  
*6/13/14*  
*[Signature]*

*Rob H K* *4/13/14*  
ROBERT H. KONO  
Acting

