



RECEIVED
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PROCUREMENT APPEALS

DATE: 10/11/2021
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FILE NO OPA-PA: 21-009

**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: **GSA IFB 040-21**
- C) Decision being appealed was made on **9/16/2021** (date rec'd by PDS was **9-20-2021**) by:
 GSA 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:
Teleguam Holdings LLC (GTA), Docomo Pacific, Inc. (DPAC)

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

PART IV- FORM AND FILING In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal;

PDS protested the planned Award decision by GSA to GTA and also the acceptance of the DPAC bid for this procurement on September 13, 2021. Separate protests were filed on each bid submission for GTA and DPAC. On September 20, 2021 PDS received a single response from GSA regarding their decision on both protests. GSA in its response concluded that the issues identified by PDS related to GTA had merit, however, GSA dismissed the same delivery issue in the DPAC bid submission.

PDS believes that the Protest Determination made by GSA related to GTA was correct, and that this same standard should have been applied to the DPAC bid, thus rejecting the DPAC bid as well.

2. A statement specifying the ruling requested;

PDS requests that the OPA order GSA to:

- **rescind the planned award of this bid to GTA and/or DPAC,**
- **reject the GTA and DPAC bids for the reasons stated in the PDS protests and now included with this appeal,**
- **award the bid to PDS as the lowest responsive, responsible bidder.**

3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.

- **See the attached EXHIBIT 1, copy of the PDS Protest and supporting documents filed with GSA on September 13, 2021 regarding the GTA Bid Submission.**
- **See the attached EXHIBIT 2, copy of the PDS Protest and supporting documents filed with GSA on September 13, 2021 regarding the DPAC Bid Submission.**
- **See the attached EXHIBIT 3, copy of the Protest Decision made by GSA and received by PDS on September 20, 2021.**
- **PDS expects to file additional supporting documents once the full Procurement Record is made available as part of the Appeal process.**

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

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 1st day of October 2021.


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

EXHIBIT 1



September 13, 2021

via email

Ms. Claudia S. Acfalle
Chief Procurement Officer
General Service Agency (GSA)
Government of Guam
148 Route 1 Marine Corps Drive
Piti, GU 96915

Subject: PROTEST of Invitation For Bid (IFB) GSA-040-21 Telecommunication Upgrade (GBHWC) Voice over IP (VOIP) Phone System & Manage Wi-Fi System

Dear Ms. Acfalle:

Pacific Data Systems (PDS) now files this PROCUREMENT PROTEST reference Guam Code Annotated (GCA) 5 §5425(a) regarding the above referenced procurement.

I. Background:

On August 2, 2021, the GSA issued Invitation for Bid (IFB) GSA-040-21 soliciting bids for Telecommunication Upgrade (GBHWC) Voice over IP (VOIP) Phone System & Manage Wi-Fi System. After issuing the IFB, GSA sent Bidders four (4) Bid Amendments to answer questions or provide clarifications as required. The bids for the IFB were submitted to GSA on August 31, 2021 with three bidders submitting offers (see Exhibit A which is a copy of the bid abstract from the public opening). On September 1, 2021, PDS filed with GSA a Freedom of Information request for copies of the other bidder submissions which GSA provided on September 7, 2021. On September 7, 2021 PDS received the attached Bid Status (see Exhibit B) which recommends award of the bid to TeleGuam Holdings, LLC dba: GTA.

II. Timeliness of Protest:

GCA 5 §5425(a) requires that Protests must be made within 14 days of the issues leading to the protest being known by the Protester (PDS in this case). The issues documented by PDS in this protest only became known to PDS upon the opening of bid submissions for this IFB on August 31, 2021 and were subsequently confirmed via a Freedom of Information request filed by PDS (though GSA did not provide PDS with a full and complete copy of the GTA bid submission). PDS expected that GSA would reject the GTA bid for the reasons explained below, however, the Bid Status issued by GSA and received by PDS on 09-07-2021 has created the situation where PDS must now file this Protest. Therefore, this PDS Protest meets the timeliness requirements as mandated by applicable law and regulation.



III. Basis for Protest:

The Bid submitted by GTA is deficient as the submission violates applicable Guam Procurement Law or Regulations and should not have been considered for Award by GSA for this procurement. The following is a list of the issues that have been identified by PDS regarding the GTA Bid Submission:

1. The Ownership and Interest Disclosure Affidavit submitted by GTA is invalid since the form has not been completed properly and should have been rejected by GSA (see attached Exhibit C). Proper Submission of this form is a requirement of law (see 5 GCA §5233) and the bid documents (see Exhibit D IFB page references: page 1 and #27 at page 31 which clearly reminds bidders that this form must be included with their bid submission and failure to file the form "***lead to rejection of the bid***"). For this reason, GSA has erred in accepting the GTA bid and recommending this submission for award.
2. The GTA bid submission is missing the required Guam Public Utilities Commission (GPUC) Certificate of Authority (COA) as specified by GSA in the Question and Response issued on August 20, 2021 (see attached Exhibit D). This amendment clearly states that the Bidder must provide a copy of the Certificate of Authority issued by the GPUC with their bid in order to certify that the Bidder has been approved by the Government of Guam to provide the telecommunications services specified (reference 12 GCA §12203). GTA did not provide the required documentation with their bid submission and this failure to provide the appropriate form should have led to the rejection of the GTA bid. For this reason, GSA has erred in accepting the GTA bid and recommending this submission for award.
3. The GTA bid submission did not provide any delivery commitment or response to the GSA required delivery date of 90 days after receipt of the Government Purchase Order. This delivery requirement is clearly articulated on page 3, #38 at page 26, and 32 of the IFB (see Exhibit E for copies of these bid pages). Further Guam Procurement Law at §5211(e) states that delivery should be one of the evaluation factors in consideration of award, and this point is confirmed in the bid at #16(c) at page 25 of the IFB. Indeed, the GSA Bid Status (see Exhibit B) lists "***Not meeting the delivery requirement as stated in the IFB***" as a reason for bid rejection. For this reason, GSA has erred in accepting the GTA bid and recommending this submission for award.

IV. Summary:

As noted above PDS has identified serious deficiencies and violations of procurement law/regulation in the IFB bid submission by GTA. GSA must disqualify GTA as a non-responsive and non-responsible bidder and only consider/evaluate qualified bidders for award of this procurement. GSA must resolve the above issues before this procurement can move forward. Failure to address these issues will create confusion, legal controversy, and jeopardize the validity of any award made under this procurement. It should also be noted that PDS was not provided with a complete copy of the GTA submission and thus additional issues with the GTA Bid submission may also exist. PDS reserves the right to amend this Protest once it becomes aware of any applicable new information that applies to this Protest.



V. Negotiations to Resolve Protest:

Reference 5 GCA §5425(b), PDS is available to meet with the authorized GSA representative(s) to discuss this protest and engage in good faith negotiations to resolve this protest in order for the procurement to proceed towards a sustainable award.

VI. Procurement is Stayed:

GSA is reminded that PDS has filed a timely protest of this procurement and no further action can be taken regarding this procurement until this protest has been duly reviewed and an appropriate determination made (5 GCA §5425(g)).

Sincerely,

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

John Day
President

Attachments:

Exhibit A: GSA Bid Abstract, 08-31-2021

Exhibit B: GSA Bid Status, received by PDS on 09-07-2021

Exhibit C: Ownership and Interest Disclosure Affidavit submitted by GTA

Exhibit D: GSA Question and Response regarding requirement for GPUC COA submission

Exhibit E: Copies of referenced IFB pages regarding IFB delivery requirements

DEPARTMENT OF ADMINISTRATION

GOVERNMENT OF GUAM
ABSTRACT OF IFB

IFB Number: GSA-040-21

Number of Bids Received: 3

Number of IFB Amendments: 4


ABSTRACT OF IFB

Opening Date: 8/31/21
Time: 3:00 PM

| Description of Supplies or Services | Acceptance Time | Delivery Acceptance | Delivery Specified | A | B | C | D | E | F | G | H | I | Item No. | Qty. | Unit | Remarks |
|---|-----------------|---------------------|--------------------|---|---|---|---|---|---|---|---|---|----------|------|------|---|
| | | | | | | | | | | | | | 1.0 | 1.0 | MOS | |
| TELECOMMUNICATION UPGRADE (GBHWC) VOIP PHONE SYSTEM & MANAGED WI-FI | 9:57a | 8/31/21 | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | 1.0 | 12 | MOS | Bidders Remarks - GSA acknowledge from + agreement for 5 Bids |
| OFFEROR(S) Telecom Holdings LLC GSA CRA 202175888 \$6,500; by FHIP in business license | | | | | | | | | | | | | 2.0 | 12 | MOS | Bidders Remarks - GSA acknowledge from + agreement for 5 Bids |
| Specific Data Systems Bid Bond AEA-3995-B; First Net 15% of total Price Amt; Business License | 2:01p | 8/31/21 | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | 1.0 | 12 | MOS | Bidders Remarks - \$2,899.95 = \$34,774.40 |
| DOCOMO Pacific; Bid Bond KIC-15078 c/c'd Bidder by DDC Ins. Co Ltd; 15% of total Bid Bond Business & Contractors Licenses | 2:05p | 8/31/21 | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | 2.0 | 12 | MOS | Bidders Remarks - include in PDS offer on #1107 = \$1,500.00 Bidders Remarks - item #1107 - PDS offer include |
| | | | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | 1.0 | 12 | MOS | Bidders Remarks - \$2,432.00 = \$29,184.00 |
| | | | | | | | | | | | | | 2.0 | 12 | MOS | Bidders Remarks - item #1107 - ref Technical Description Section = \$20,284.00 Bidders Remarks - item #1107 - ref Technical Description Section |

I hereby certify that all bids received in response to this invitation were opened under my personal supervision and that the same as of all bidders have been entered hereon


(Signature)

TABULATED BY: 
DATE: 8/31/21

- LEGEND(S)**
- (A) Ethical Standards Affidavit
 - (B) Affidavit re No Gratuities or Kickbacks
 - (C) Restriction Against Sex Offenders Affidavit
 - (D) Declaration re Compliance with U.S. DOL Wage Determination
 - (E) Affidavit re Non Collusion
 - (F) Affidavit Disclosing Ownership and Commission
 - (G) Affidavit re Contingent Fees
 - (H) Bid Bond Submittal (15% of Total Bid Amount)
 - (I) Current Business License

NAMES OF PERSONS PRESENT AT THE BID OPENING AND WHOM THEY REPRESENT.
(It is not necessary to fill in this portion if date is recorded elsewhere)

Tito Castro

KEISEN CHARGUAF

Franklin Arturo - Pacific Data Systems

ADMINISTRATIVE STATEMENT (Where applicable)

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Exhibit B

GENERAL SERVICE AGENCY
(Ahensian Setbision Hinirat)
Government of Guam
148 Route 1 Marine Corps Drive, Piti, Guam 96915
Tel: 477-1707-10 Fax: 472-4217 / 475-1716/27

Accountability * Impartiality * Competence * Openness * Value

BID STATUS

September 03, 2021

PACIFIC DATA SYSTEMS (PDS)
Attn: John Day, President/COO
185 Ilipog Drive, Suite 101
Maite, Guam 96910
Tel: (671) 300-0200 / Fax: (671) 300-0265
Email: www.pdsguam.com

BID INVITATION NO.: GSA-040-21

OPENING DATE: August 31, 2021

**Telecommunication Upgrade (GBHWC) Voice over IP (VOID) Phone System
& Manage Wi-Fi System.**

The following is the result of the above-mentioned bid. Refer to the items checked below.

- Cancelled (in its entirety), or partially cancelled due to:
 - Insufficient funds;
 - Change of specifications; or
 - Insufficient number of bidders.
- Rejected due to:
 - Late submission of bid;
 - No bid security or insufficient bid security;
 - Not meeting the delivery requirement as stated in the IFB;
 - Non-conformance with requirement of IFB; (See Remarks)
 - High price**
 - Others

REMARKS: _____

Bid recommended for: **TeleGuam Holdings, LLC dba: GTA in the amount of \$26,400.00**

REMARKS: Thank you for your participation with this bid. Please send your authorized representative to pickup your original bid status and cashier check/bid bond or Standby Letter of Credit.

Acfalle 9/3/2021
CLAUDIA S. ACFALLE
Chief Procurement Officer

| |
|---|
| Please Print |
| ACKNOWLEDGEMENT COPY (Re-fax to GSA) |
| Received By: _____ |
| Date: _____ |
| Company Name: _____ |
| Fax to: 475-1727 or 472-4217 |
| E-mail to: gsaprocurement@gsadoa.guam.gov |

Exhibit C

AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSION

CITY OF Tamuning)
) ss.
 ISLAND OF GUAM)

- A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the offeror and that [please check only one]:
- [] The offeror is an individual or sole proprietor and owns the entire (100%) interest in the offering business.
- [x] The offeror is a natural person or persons and the other persons who have held more than 10% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows [if none, please so state]:

| Name of 2nd Tier Owner | Principle Place of Business Street Address | % of Interest |
|--------------------------------|---|---------------|
| <u>TeleGuam Holdings, Inc.</u> | <u>624 North Marine Corps Dr.</u> | <u>100%</u> |
| _____ | <u>Tamuning, GUJ 96913</u> | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

- [] The offeror is an artificial person (as defined in 1 GCA § 715 or 5 GCA § 5030(n) or 5233(b)), known as _____ [please state name of offeror company], and the natural or artificial persons who have held more than 25% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows [if none, please so state]:

| Name of 2nd Tier Owner | Principle Place of Business Street Address | % of Interest |
|------------------------|---|---------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

- B. If any Second Tier Owner identified above is an artificial person, the natural or artificial owners of such Second Tier owner who have held more than 49% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows [if none, please so state]:

Second Tier Owner Name _____

| Name of 3rd Tier Owner | Principal Place of Business Street Address | % of Interest |
|------------------------|---|---------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |

C. If the name of no natural person has been identified as an owner, or a second or third tier owner of the prospective contractor, bidder, or offeror, please identify the name, position, address, and contact information of the natural person having authority and responsibility of the performance of the prospective contract, and the name of any natural person who has the authority and power to remove and replace the designated responsible person or otherwise control the performance of the prospective contract.

| Name of Natural Person | Principal Place of Business Street Address |
|------------------------|---|
| _____ | _____ |
| _____ | _____ |


D. Further, I say that the persons who have received or are entitled to receive a commission, gratuity, contingent fee or other compensation to solicit, secure, or assist in obtaining business related to the bid or proposal for which this Affidavit is submitted are as follows (if none, please so state):

| Name | Principal Place of Business Street Address | Amount of Compensation |
|-------|---|------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |

E. Further, I say that the persons who have directly or indirectly participated in this solicitation and who are also employees of the government of Guam or the government of the United States if federal funds are to be used in the payment of the contract related to the bid or proposal for which this Affidavit is submitted are as follows (if none, please so state):

| Name | Principal Place of Business Street Address |
|-------|---|
| _____ | _____ |
| _____ | _____ |

F. Throughout the term of this contract, I agree to promptly make any disclosures not made previously and update changes in ownership, identities of owners and other required information, interests, compensation or conflicts of the persons required to be disclosed herein. I understand that failure to comply with this requirement shall constitute a material breach of contract.



 Signature of one of the following:
 Offeror, if the offeror is an individual;
 Partner, if the offeror is a partnership;
 Officer, if the offeror is a corporation.

Subscribed and sworn to before me this 21st day of August, 2021.


 NOTARY PUBLIC
 My commission expires, _____

NACRINA F. MENDIOLA
NOTARY PUBLIC
 In and for Guam, U.S.A.
 My Commission Expires: APR 06, 2023
AG Procurement Form 003 (Rev. Apr. 23, 2021)
 624 N Marine Corps Drive Tincup, GU 96913

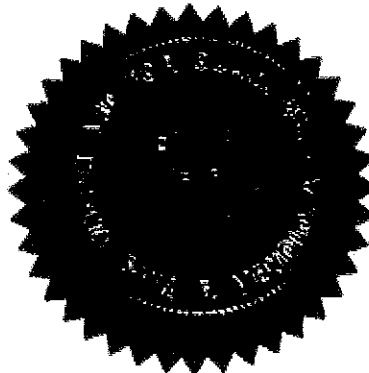
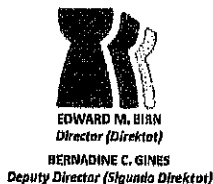


Exhibit D



**DEPARTMENT OF
ADMINISTRATION**

DIPATTAMENTON ATMENESTRASION

GENERAL SERVICES AGENCY

(*Ahenslan Setbislan Hinlat*)

Telephone (Telfon): (671) 475-1707/1729 • Fax (Faks): (671) 472-4217/1727



LOURDES A. LEON GUERRERO

Governor (*Maga'ähga*)

JOSHUA F. TENORIO

Lt. Governor (*Sigundo Maga'ähhi*)

**INVITATION FOR BID - GSA-040-21
Telecommunication Upgrade - GBHWC**

Questions received from: Pacific Data System on 8/10/21

Question 1:

The United States Department of Homeland Security has warned against the use of Information Technology Services and Equipment from Chinese Telecom Firms. The agency's report specifically names Chinese telecoms Huawei and ZTE specifically as threats to U.S. companies, service providers, and network operators.

Please advise if the Government of Guam's policy regarding use of these manufacturers' equipment as a source for this IFB is prohibited.

Response: Government of Guam follows the policy of the United States Department of Homeland Security that has warned against the use of Information Technology Services and Equipment from Chinese Telecom Firms.

Question 2:

Please advise if bidders must provide proof, with their bid submission, of a certificate of authority (COA) as a locally exchange carrier (LEC) issued by the Public Utilities Commission (PUC) in order to lawfully provide the voice communications services (reference 12 GCA §12203).

Response: Bidders must provide COA proof issued by PUC as a local exchange carrier with their BID Submission.

Question 3:

Reference SGCA §5267, Please provide the sources of the technical specifications utilized for this bid invitation.

Response: Specifications was based on market research via internet.

Question 4:

Is GBHWC seeking Internet Access services under this procurement? If so, please more clearly define the requirements for this service:

- The download and upload bandwidth required,
- Number of Static IP addresses that should be included.
- Whether the bidder should also provide a router and firewall with the services.

Response: Internet access for WiFi hosted System is for staff and guest.

- 50 mpbs for download and upload bandwidth
- If Static IP addresses are needed to be configure then GBHWC will provide
- Bidder should provide all necessary equipment needed for this service.

Questions received from: GTA on 8/10/21

Question 1:

Please confirm who is responsible for doing any inside wiring?

Response: Bidder is responsible for providing necessary wiring for VOIP and WiFi hosted System.

Question 2:

Please advise how many hosted VOIP handsets and services are required and specify by location.

Response: Reference to the BID GSA-040-21 Item 1.0 under number of phones, location is at GBHWC Main Tamuning Branch and Healing Hearts.

Question 3:

Please advise if vendor shall provide the cost on bidding/remarks or if GSA is requesting that vendor just provide the remarks and include total monthly/annual services on 1.0 and 2.0 of the GSA IFB.

Response: Bidder will provide the total monthly/annual cost of service for section 1.0 and 2.0 of the BID specification.

Question 4:

To reduce handset cost and provide flexibility, please advise if MAX UC soft phone client services will be needed or required as a feature to provide remote control ability. If so, please provide an updated bid form to include this feature.

Response: Bidder must follow BID specification as specified.

Question 5:

Please advise if GBHWC is requiring for WiFi coverage throughout the (2) entire facilities GBHWC 790 Gov. Carlos G. Camacho Road, Tamuning Guam and Healing Hearts 215 Duenas Dr. Tamuning Guam 96913.

Response: Reference Item 2.0 BID specifications implement and configure manage WiFi System that incorporates internet connectivity with meshing throughout the facility.

Question 6:

Please advise if GBHWC would like vendor to install WiFi in the patient rooms or can vendor install the AP at the common areas/hallways as long as signal reaches throughout the facility.

Response: GBHWC would like bidder to install WiFi access point at the common areas/hallway as long as internet signal reaches throughout the facility.

Question 7:

Please advise if vendor will need any safety/security training before installing equipment.

Response: Yes, bidder will need safety/security briefing prior to installing equipment.

Question 8:

Please advise if GBHWC will require vendor to provide firewall protection solution for the WiFi Network.

Response: Currently GBHWC is protected by Office of Technology (OTECH) government GGWAN firewall therefore, will not require bidder to provide firewall protection solution for the WiFi Network.

Question 9:

Can you advise if GBHWC will require vendor to provide URL filtering and control?

Response: Bidder is not required to provide URL filtering and control services which is currently managed by GGWAN firewall.

Questions received from: Docomo Pacific on 8/10/21

Question 1:

Please confirm if equipment for the bid is to be leased or owned.

Response: Lease support agreement is preferred.

Question 2:

Will awarded provider be allowed to utilize existing fiber between IDF/comms racks for GBHWC?

Response: Yes

Question 3:

Will awarded provider be allowed to utilize existing outlets/UPS at MDF/IDF locations at GBHWC and Healing Hearts?

Response: Yes

Question 4:

Will awarded provider be allowed to utilize existing rack 1st/2nd/3rd FLR at GBHWC?

Response: Yes

Question 5:

Will awarded provider be providing network rack for Healing Hearts location?

Response: Yes

Question 6:

Will awarded provider be allowed to use existing network lines to each workstation for VOIP Phones at GBHWC and Healing Hearts? Or will awarded provider run a separate network line to each location VOIP phone will be installed for GBHWC and Healing Hearts?

Response: Yes, bidder will be allowed to use existing network lines to each workstation for VOIP phones at GBHWC and Healing Hearts. The bidder will be required to provide a separate patch cable to the instruments. No separate network lines.

Question 7:

GBHWC Floor Map indicated 112 drops total from 1st to 3rd floor, if awarded provider is to use existing network lines, will additional network lines be completed on all floors to match count of units/workstations prior to installation?

Response: Actual count is 183 drops from attached A building layout. No additional drops needed at this time.

Question 8:

Provided number of workstations is 148 and Phones 130. Will awarded provider provide each workstation with an VOIP Phone?

Response: To be determine by GBHWC Management and OTECH

Question 9:

Are all workstations to be installed with a VOIP phone connecting back to a POE capable switch at GBHWC and Healing Hearts?

Response: To be determine by GBHWC Management and OTECH

Question 10:

Will awarded provider providing network POE switches? Or will we be using existing network POE switches?

Response: Bidder will be using existing network POE switches.

Question 11:

Confirm current total amount of Trunk lines (Sessions) with their current PBX provider for GBHWC and Healing Hearts?

Response: IFB section 1.0 identifies total number of phones for both GBHWC Tamuning Main Branch and Healing Hearts facilities.

Question 12:

Confirm current total amount of Analog direct lines (Fax, Security Alarms, Credit Card) at GBHWC and Healing Hearts?

Response: Fax Lines = 12; Security Alarms = (Is setup as part of the fire control system); Credit Cards = None.

Question 13:

Confirm if the existing units are Digital Phones or IP Phones at GBHWC and Healing Hearts?

Response: All digital/Analog phones except for Project LINC location at GBHWC Tamuning Main Branch 1st Floor that is using IP Phones (12)

Question 14:

Confirm if GBHWC/Healing Hearts would need any Analog extension phones (cordless or regular desk handsets)?

Response: Yes (Cordless/Regular Desk Handsets will do)

Question 15:

Confirm amount of VOIP Phones per each floor on GBHWC? And Healing Hearts?

Response: GBHWC Main = 130 and Healing Hearts = 10

Question 16:

May GBHWC / Healing Hearts provide us more details regarding call center requirements?

Response: Both GBHWC/Healing Hearts incoming calls will be automated to direct incoming calls to appropriate facility/location/section.

Question 17:

Confirm if awarded provider may propose a unit with similar capabilities to the Polycom 500 stated on specifications?

Response: Yes, Polycom 500 was simply for reference.

Question 18:

Will the PBX be integrated and configured to allow direct EXT to EXT calls between both locations (GBHWC & Healing Hearts)?

Response: Yes

Question 19:

Will both locations GBHWC & Healing Hearts share Trunk Line (Sessions)?

Response: Yes

Question 20:

May Healing Hearts provide current floor plan/building layout? IFB only included floor plan layout for Main GBHWC location.

Response: No building layout of Healing Hearts at this time.

Question 21:

Please confirm if the bid is only for equipment upgrades or if it includes recurring service fees for phone service and internet service. If bid includes internet service fee, please identify internet speed requested.

Response: Please identify on BID requirements all equipment/upgrade/phone service/wifi/internet service and all recurring service fees. Internet speed will be at 50mpbs download and upload bandwidth.

Question 22:

Can we request bid deadline extension?

Response: Refer to Amendment 3 dated 8/19/21 – "Bid Opening" date to now read: 8/27/21 at 2:00 P.M.

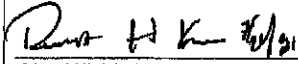
Claudia S. Acfalle 9/19/21
/ CLAUDIA S. ACFALLE
Chief Procurement Officer

| |
|---|
| Please Print |
| ACKNOWLEDGEMENT COPY (Re-fax to GSA) |
| Received By: _____ |
| Date: _____ |
| Company Name: _____ |
| Fax to: 475-1727 or 472-4217 |
| E-mail to: gsaprocurement@gsadoa.guam.gov |

Exhibit E
INVITATION FOR BID

ISSUING OFFICE:

GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM
148 ROUTE 1, MARINE DRIVE
PITI, GUAM 96915



CLAUDIA S. ACFALLE
Chief Procurement Officer

DATE ISSUED: Aug. 02, 2021

BID INVITATION NO: GSA-040-21

BID FOR: **TELECOMMUNICATION UPGRADE (GBHWC)**
Voice over IP (VOIP) Phone System & Manage Wi-Fi System

SPECIFICATION: **SEE ATTACHED**

DESTINATION: GUAM BEHAVIORAL HEALTH & WELLNESS CENTER

REQUIRED DELIVERY DATE: **90 Days Upon Receipt of Purchase Order. For a period of one (1) year with an option to renew on a year to year basis for four (4) additional years upon availability of funds with no change in cost. The "Renewals/Extensions" are at the sole discretion of the Government of Guam.**

INSTRUCTION TO BIDDERS:

INDICATE WHETHER: INDIVIDUAL PARTNERSHIP CORPORATION

INCORPORATED IN: _____

This bid shall be submitted in duplicate and sealed to the issuing office above no later than (Time) 9:00AM, Date: 8/17/2021 and shall be publicly opened. Bid submitted after the time and date specified above shall be rejected. See attached General Terms and Conditions, and Sealed Bid Solicitation for details.

The undersigned offers and agrees to furnish within the time specified, the articles and services at the price stated opposite the respective items listed on the schedule provided, unless otherwise specified by the bidder. In consideration to the expense of the Government in opening, tabulating, and evaluating this and other bids, and other considerations, the undersigned agrees that this bid remain firm and irrevocable within 90 calendar days from the date opening to supply any or all the items which prices are quoted.

NAME AND ADDRESS OF BIDDER:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS BID:

AWARD: CONTRACT NO.: _____ AMOUNT: _____ DATE: _____

ITEM NO(S). AWARDED: _____

CONTRACTING OFFICER:

CLAUDIA S. ACFALLE
Chief Procurement Officer

NAME AND ADDRESS OF CONTRACTOR:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS CONTRACT:

- [] 29. **SAFETY INSPECTION:** All motor vehicles delivered under this contract must pass the Government of Guam Vehicle Inspection before delivery at destination.
- [] 30. **GUARANTEE:**
- a. Guarantee of Vehicle Type of Equipment:**
The successful bidder shall guarantee vehicular type of equipment offered against defective parts, workmanship, and performance, for a period of not less than one (1) year after date of receipt of equipment. Bidder shall also provide service to the equipment for at least one (1) year. Service to be provided shall include, but will not be limited to tune ups (change of spark plugs, contact points and condensers) and lubrication (change of engine and transmission oil). All parts and labor shall be at the expense of the bidder. All parts found defective and not caused by misuse, negligence or accident within the guarantee period shall be repaired, replaced, or adjusted within six (6) working days after notice from the Government and without cost to the Government. Vehicular type of equipment as used in this context shall include equipment used for transportation as differentiated from tractors, backhoes, etc.
- (b) Guarantee of Other Type of Equipment:**
The successful bidder shall guarantee all other types of equipment offered, except those mentioned in 30a, above, against defective parts, workmanship, and performance for a period of not less than three (3) months after date of receipt of equipment. Bidder shall also provide service to the equipment for at least three (3) months. All parts found defective within that period shall be repaired or replaced by the Contractor without cost to the Government. Repairs, adjustments or replacements of defective parts shall be completed by the contractor within six (6) working days after notice from the Government.
- (c) Compliance with this Section is a condition of this Bid.**
- [X] 31. **REPRESENTATION REGARDING ETHICS IN PUBLIC PROCUREMENT:** The bidder or contractor represents that it has not knowingly influenced and promises that it will not knowingly influence a Government employee to breach any of the ethical standards and represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth on Chapter 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.
- [X] 32. **REPRESENTATION REGARDING CONTINGENT FEES:** The contractor represents that it has not retained a person to solicit or secure a Government contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business (GPR Section 11-207).
- [X] 33. **EQUAL EMPLOYMENT OPPORTUNITY:** Contractors shall not discriminate against any employee or applicant of employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that employees are treated equally during employment without regards to their race, color, religion, sex, or national origin.
- [X] 34. **COMPLIANCE WITH LAWS:** Bidders awarded a contract under this Solicitation shall comply with the applicable standard, provisions, and stipulations of all pertinent Federal and/or local laws, rules, and regulations relative to the performance of this contract and the furnishing of goods.
- [] 35. **CHANGE ORDER:** Any order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-03.1 of the Guam Procurement Regulations.
- [X] 36. **STOP WORK ORDER:** Any stop work order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-04.1 of the Guam Procurement Regulations.
- [X] 37. **CANCELLATION OF INVITATION FOR BIDS OR REQUEST FOR PROPOSALS:** Any Invitation for Bid may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the Territory in accordance with regulations promulgated by the Policy Office. The reasons therefor shall be made part of the contract file.
- [X] 38. **TIME FOR COMPLETION:** It is hereby understood and mutually agreed by and between the contractor and the Government that the time for delivery to final destination or the timely performance of certain services is an essential condition of this contract. If the contractor refuses or fails to perform any of the provisions of this contract within the time specified in the Purchase Order (from the date Purchase Order is acknowledged by vendor), then the contractor is in default. Defaults will be treated subject to and in accordance with the provisions of 2 GAR, Div. 4 § 6101(B)
- [X] 39. **JUSTIFICATION OF DELAY:** Bidders who are awarded contracts under this Solicitation, guarantee that the goods will be delivered to their destination or required services rendered within the time specified. If the bidder is not able to meet the specified delivery date, he is required to notify the Chief Procurement Officer of such delay. Notification shall be in writing and shall be received by the Chief Procurement Officer at least twenty-four (24) hours before the specified delivery date. Notification of delay shall include an explanation of the causes and reasons for the delay including statement(s) from supplier or shipping company causing the delay. The Government reserves the right to reject delay justification if, in the opinion of the Chief Procurement Officer, such justification is not adequate.

EXHIBIT 2



September 13, 2021

via email

Ms. Claudia S. Acfalle
Chief Procurement Officer
General Service Agency (GSA)
Government of Guam
148 Route 1 Marine Corps Drive
Piti, GU 96915

Subject: PROTEST of Invitation For Bid (IFB) GSA-040-21 Telecommunication Upgrade (GBHWC) Voice over IP (VOIP) Phone System & Manage Wi-Fi System

Dear Ms. Acfalle:

Pacific Data Systems (PDS) now files this PROCUREMENT PROTEST reference Guam Code Annotated 5 GCA §5425(a) regarding the above referenced procurement.

I. Background:

On August 2, 2021, the GSA issued Invitation for Bid (IFB) GSA-040-21 soliciting bids for Telecommunication Upgrade (GBHWC) Voice over IP (VOIP) Phone System & Manage Wi-Fi System. After issuing the IFB, GSA sent Bidders four (4) Bid Amendments and also answer to Bidder questions/requests for clarifications as required. The bids for the IFB were submitted to GSA on August 31, 2021 with three bidders submitting offers (see Exhibit A which is a copy of the bid abstract from the public opening). On September 1, 2021 PDS filed with GSA a Freedom of Information request for copies of the other bidder submissions which GSA provided on September 7, 2021. On September 7, 2021 PDS received the attached Bid Status (see Exhibit B) which recommends award of the bid to TeleGuam Holdings, LLC dba: GTA.

II. Timeliness of Protest:

5 GCA §5425(a) requires that Protests must be made within 14 days of the issues leading to the protest being known by the Protester (PDS in this case). The issues documented by PDS in this protest only became known to PDS upon the opening of bid submissions for this IFB on August 31, 2021 and were subsequently confirmed via a Freedom of Information request filed by PDS (though GSA did not provide PDS with a full and complete copy of the GTA bid submission). PDS expected that GSA would rejected the GTA bid for the reasons explained below, however, the Bid Status issued by GSA and received by PDS on September 7, 2021 has created the situation where PDS must now file this Protest. Therefore, this PDS Protest meets the timeliness requirements as mandated by applicable law and regulation.



III. Basis for Protest:

The Bid submitted by Docomo Pacific, Inc. (DPAC) is deficient as the submission violates applicable Guam Procurement Law or Regulations and should not have been considered for Award by GSA for this procurement. The following is a list of the issues that have been identified by PDS regarding the DPAC Bid Submission:

1. The DPAC bid submission did not provide any delivery commitment or response to the GSA required delivery date of 90 days after receipt of the Government Purchase Order. This delivery requirement is clearly articulated on page 2, #38 at page 26, and 32 of the IFB (see Exhibit C for copies of these bid pages). Further Guam Procurement Law at §5211(e) states that delivery should be one of the evaluation factors in consideration of award, and this point is confirmed in the bid at #16(c) at page 25 of the IFB. Indeed, the GSA Bid Status (see Exhibit B) lists ***“Not meeting the delivery requirement as stated in the IFB”*** as a reason for bid rejection. For this reason, GSA has erred in accepting the DPAC bid and considering this submission for bid award.
2. The DPAC bid submission did not provide the latest version of the DOL Wage Determination as applicable to Guam as required by Form E DECLARATION RE COMPLIANCE WITH U.S. D.O.L. WAGE DETERMINATION, Point (4) of this form. The schedule provided by DPAC was dated July 24, 2020 when the most current version at the time of bid submission was dated August 4, 2021. For this reason, GSA has erred in accepting the DPAC bid and considering this submission for award.

IV. Summary:

As noted previously, PDS has identified serious deficiencies and violations of procurement law/regulation in the IFB bid submission by DPAC. GSA must disqualify DPAC as a non-responsive and non-responsible bidder and only consider/evaluate qualified bidders for award of this procurement. GSA must resolve the above issues before this procurement can move forward. Failure to address these issues will create confusion, legal controversy, and jeopardize the validity of any award made under this procurement. It should also be noted that PDS was not provided with a complete copy of the DPAC submission and thus additional issues with the DPAC Bid submission may also exist. PDS reserves the right to amend this Protest once it becomes aware of any applicable new information that applies to this Protest.

V. Negotiations to Resolve Protest:

Reference 5 GCA §5425(b), PDS is available to meet with the authorized GSA representative(s) to discuss this protest and engage in good faith negotiations to resolve this protest in order for the procurement to proceed towards a sustainable award.



VI. Procurement is Stayed:

GSA is reminded that PDS has filed a timely protest of this procurement and no further action can be taken regarding this procurement until this protest has been duly reviewed and an appropriate determination made (5 GCA §5425(g)).

Sincerely,

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

John Day
President

Attachments:

Exhibit A: GSA Bid Abstract, 08-31-2021

Exhibit B: GSA Bid Status, received by PDS on 09-07-2021

Exhibit C: Copies of referenced IFB pages regarding IFB delivery requirements

NAMES OF PERSONS PRESENT AT THE BID OPENING AND WHOM THEY REPRESENT.
(It is not necessary to fill in this portion if date is recorded elsewhere)

| | |
|-------------------------------------|--|
| Tito Castro | |
| KELSEY CHARGVALAF | |
| Wendy Anthon - Pacific Data Systems | |
| | |
| | |
| | |
| | |
| | |

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ADMINISTRATIVE STATEMENT (Where applicable)

○

Exhibit B

GENERAL SERVICE AGENCY
(Ahensian Setbision Hinirat)
Government of Guam
148 Route 1 Marine Corps Drive, Piti, Guam 96915
Tel: 477-1707-10 Fax: 472-4217 / 475-1716/27

Accountability * Impartiality * Competence * Openness * Value

BID STATUS

September 03, 2021

PACIFIC DATA SYSTEMS (PDS)
Attn: John Day, President/COO
185 Ilipog Drive, Suite 101
Maite, Guam 96910
Tel: (671) 300-0200 / Fax: (671) 300-0265
Email: www.pdsguam.com

BID INVITATION NO.: GSA-040-21

OPENING DATE: August 31, 2021

**Telecommunication Upgrade (GBHWC) Voice over IP (VOID) Phone System
& Manage Wi-Fi System.**

The following is the result of the above-mentioned bid. Refer to the items checked below.

- Cancelled (in its entirety), or partially cancelled due to:
 - Insufficient funds;
 - Change of specifications; or
 - Insufficient number of bidders.
- Rejected due to:**
 - Late submission of bid;
 - No bid security or insufficient bid security;
 - Not meeting the delivery requirement as stated in the IFB;
 - Non-conformance with requirement of IFB; (See Remarks)
 - High price**
 - Others

REMARKS: _____

Bid recommended for: **TeleGuam Holdings, LLC dba: GTA in the amount of \$26,400.00**

REMARKS: Thank you for your participation with this bid. Please send your authorized representative to pickup your original bid status and cashier check/bid bond or Standby Letter of Credit.

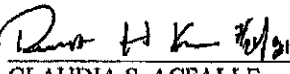
Acfalle 9/3/2021
CLAUDIA S. ACFALLE
Chief Procurement Officer

| |
|---|
| Please Print |
| ACKNOWLEDGEMENT COPY (Re-fax to GSA) |
| Received By: _____ |
| Date: _____ |
| Company Name: _____ |
| Fax to: 475-1727 or 472-4217 |
| E-mail to: gsaprocurement@gsadoa.guam.gov |

Exhibit C
INVITATION FOR BID

ISSUING OFFICE:

GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM
148 ROUTE 1, MARINE DRIVE
PITI, GUAM 96915


CLAUDIA S. ACFALLE
Chief Procurement Officer

DATE ISSUED: Aug. 02, 2021

BID INVITATION NO: GSA-040-21

BID FOR: TELECOMMUNICATION UPGRADE (GBHWC)
Voice over IP (VOIP) Phone System & Manage Wi-Fi System

SPECIFICATION: **SEE ATTACHED**

DESTINATION: GUAM BEHAVIORAL HEALTH & WELLNESS CENTER

REQUIRED DELIVERY DATE: **90 Days Upon Receipt of Purchase Order. For a period of one (1) year with an option to renew on a year to year basis for four (4) additional years upon availability of funds with no change in cost. The "Renewals/Extensions" are at the sole discretion of the Government of Guam.**

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INDICATE WHETHER: INDIVIDUAL PARTNERSHIP CORPORATION

INCORPORATED IN: _____

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NAME AND ADDRESS OF BIDDER:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS BID:

AWARD: CONTRACT NO.: _____ AMOUNT: _____ DATE: _____

ITEM NO(S). AWARDED: _____

CONTRACTING OFFICER:

CLAUDIA S. ACFALLE
Chief Procurement Officer

NAME AND ADDRESS OF CONTRACTOR:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS CONTRACT:

- [] 29. **SAFETY INSPECTION:** All motor vehicles delivered under this contract must pass the Government of Guam Vehicle Inspection before delivery at destination.
- [] 30. **GUARANTEE:**
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- [X] 32. **REPRESENTATION REGARDING CONTINGENT FEES:** The contractor represents that it has not retained a person to solicit or secure a Government contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business (GPR Section 11-207).
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- [] 35. **CHANGE ORDER:** Any order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-03.1 of the Guam Procurement Regulations.
- [X] 36. **STOP WORK ORDER:** Any stop work order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-04.1 of the Guam Procurement Regulations.
- [X] 37. **CANCELLATION OF INVITATION FOR BIDS OR REQUEST FOR PROPOSALS:** Any Invitation for Bid may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the Territory in accordance with regulations promulgated by the Policy Office. The reasons therefor shall be made part of the contract file.
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- [X] 39. **JUSTIFICATION OF DELAY:** Bidders who are awarded contracts under this Solicitation, guarantee that the goods will be delivered to their destination or required services rendered within the time specified. If the bidder is not able to meet the specified delivery date, he is required to notify the Chief Procurement Officer of such delay. Notification shall be in writing and shall be received by the Chief Procurement Officer at least twenty-four (24) hours before the specified delivery date. Notification of delay shall include an explanation of the causes and reasons for the delay including statement(s) from supplier or shipping company causing the delay. The Government reserves the right to reject delay justification if, in the opinion of the Chief Procurement Officer, such justification is not adequate.

EXHIBIT 3



DEPARTMENT OF ADMINISTRATION

DEPARTAMENTON ATMENESTRASION
P.O. Box 884 HAGATNA, GUAM 96932



GENERAL SERVICES AGENCY

AHENSIAH SETBISION HINIRAT
WEBSITE: WWW.GSA.DQA.GUAM.GOV
EMAIL: GSAPROCUREMENT@GSA101A.GUAM.GOV

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LIEUTENANT GOVERNOR

EDWARD M. BIRN
DIRECTOR

BERNADINE C. GINES
DEPUTY DIRECTOR

September 16, 2021

Pacific Data Systems
RECEIVED

Date: 9/20/2021

Time: 1:15 PM

Rep: Jack F. Ueb

Memorandum

Mr. John Day
President
Pacific Data Systems
121 Robot Street Suite 101
Maite, Guam 96910

Re: Protest dated September 13, 2021 on GSA-040-21 by GTA and DOCOMO Pacific

We are in receipt of your protest letters dated September 13, 2021 against both GTA and DOCOMO Pacific on the above entitle bid number.

1. PDS issue no. 1: GTA failed to submit a completed proper Ownership and Interest Disclosure Affidavit.

GSA response: GTA did submit an Ownership and Interest Disclosure document. As indicated in previous decisions, submissions of a document, while not completed is considered to be a "minor informality" and still acceptable. Therefore, your protest on this issue is considered not to be with merit.

2. PDS issue no. 2: GTA bid submission failed to have the required Guam Public Utilities Commission Certificate of Authority with their bid submission.

GSA response: GTA's bid submission did not have the required Guam Public Utilities Certificate in its bid package. Therefore, your protest is considered to have merit on this issue.

3. PDS issue no. 3: GTA bid submission failed to state any delivery commitment.

GSA response: While the bid indicates that the work shall be completed in ninety (90) days, there is nothing in the bid that the bidder needs to agree to this. Therefore, you protest is without merit.

As to your protest on DOCOMO, you stated two (2) issues:

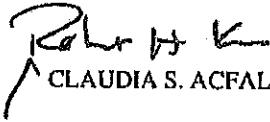
1. PDS issue no. 1: DOCOMO failed to meet delivery commitment as stated in the "invitation to bid".

GSA response: We agree that DOCOMO failed to submit a delivery response as required in the bid.

2. PDS issue no. 2: DOCOMO did not provide the latest version of the U.S. Department of Labor Wage Determination.

GSA Response: DOCOMO submit a DOL Wage Determination. However, it was not the latest. Therefore, it is considered to be a "minor informality" and they will be required to submit a corrected one prior to award.

You have the right to seek any administrative or judicial review authorize by law.


CLAUDIA S. ACFALLE