

Suite 401 DNA Building
 238 Archbishop Flores St.
 Hagåtña, Guam 96910



FAX

To:	Ms. Claudia S. Acfalle Chief Procurement Officer General Services Agency Department of Administration 148 Route 1 Marine Drive Piti, Guam 96915 Phone: (671) 475-1707 Fax: (671) 475-1727 Email: Claudia.Acfalle@gsadoa.guam.gov	From:	Benjamin J.F. Cruz Public Auditor Office of Public Accountability
		Pages:	6 (including cover page)
CC:	Mr. John Day, President Appellant Pacific Data Systems, Inc. (PDS) 185 Ilipog Drive, Suite 204A Tamuning, Guam 96913 Phone: (671) 300-0202 Fax: (671) 300-0265 Email: john@pdsguam.com	Date:	October 4, 2021
		Phone: Fax:	(671) 475-0390 x. 204 (671) 472-7951

Re: OPA-PA-21-009 Notice of Receipt of Appeal

For Review
 Please Comment
 Please Reply
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Comments:

Please acknowledge receipt of this transmittal by re-sending this cover page along with your firm or agency's receipt stamp, date, and initials of receiver.

Thank you,
 Jerrick Hernandez, Auditor
jhernandez@guamopa.com



OFFICE OF PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910
Phone: (671) 475-0390 / FAX: (671) 472-7951

October 4, 2021

Ms. Claudia S. Acfalle
Chief Procurement Officer
General Services Agency
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

VIA FACSIMILE: (671) 475-1727

Re: Notice of Receipt of Appeal – OPA-PA-21-009

Dear Ms. Acfalle,

Please be advised that Pacific Data Systems, Inc. (hereinafter referred to as “PDS”) filed an appeal with the Office of Public Accountability (OPA) on October 1, 2021, regarding GSA’s denial of PDS’s protest related to the procurement for Telecommunication Upgrade (GBHWC) Voice over IP (VOID) Phone System and Manage Wi-Fi System (GSA IFB No. GSA-040-21). OPA has assigned this appeal case number OPA-PA-21-009.

Immediate action is required of GSA pursuant to the Rules of Procedure for Procurement Appeals, found in Chapter 12 of the Guam Administrative Regulations (GAR). Copies of the rules, the appeal, and all filing deadlines are available at OPA’s office and on its website at www.opaguam.org. The first three pages of the notice of appeal filed with OPA is enclosed for your reference.

Please provide the required notice of this appeal to the relative parties with instructions that they should communicate directly with OPA regarding the appeal. You are also responsible for giving notice to the Attorney General or other legal counsel for your agency. Promptly provide OPA with the identities and addresses of interested parties and a formal entry of appearance by your legal counsel.

Pursuant to 2 GAR, Div. 4, Ch. 12, §12104(3), the submission of one complete copy of the procurement record for the procurement solicitation above, as outlined in Title 5, Chapter 5, §5249 of the Guam Code Annotated is required no later than **Monday, October 11, 2021**, five work days following this Notice of Receipt of Appeal. We also request one copy of the Agency Report for each of the procurement solicitations cited above, as outlined in 2 GAR, Division 4, Chapter 12, §12105, by **Monday, October 18, 2021**, ten work days following receipt of this notice.

When filing all other required documents with our office, please provide one original and one copy to OPA (electronic filings will be acceptable), and serve a copy to PDS. Although the Guam

Procurement Law and Regulations require only one copy of the procurement record, OPA respectfully asks that GSA provide one original and one electronic file of the said record, which will be distributed as follows: Copy-1: Master File; and Copy-2: Public Auditor and/or Hearing Officer.

Thank you for your prompt attention to this matter. Please contact Jerrick Hernandez at 475-0390 ext. 204 or jhernandez@guamopa.com should you have any questions regarding this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Benjamin J.F. Cruz', with a stylized flourish at the end.

Benjamin J.F. Cruz
Public Auditor

Enclosure: First Three Pages of the Notice of Appeal – OPA-PA-21-009

Cc: Appellant PDS President John Day



RECEIVED
 OFFICE OF PUBLIC ACCOUNTABILITY
 PROCUREMENT APPEALS
 DATE: 10/11/2021
 TIME: 4:03 PM EPM BY: [Signature]
 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



Jerrick Hernandez <jhernandez@guamopa.com>

OPA-PA-21-009 Notice of Receipt of Appeal

Jerrick Hernandez <jhernandez@guamopa.com>

Mon, Oct 4, 2021 at 4:02 PM

To: Claudia Acfalle <Claudia.Acfalle@gsadoa.guam.gov>, Robert Kono <robert.kono@gsa.guam.gov>

Cc: John Day <john@pdsguam.com>

Hafa Adai,

Please see attached Notice of Receipt of Appeal for OPA-PA-21-009. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

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Regards,

Jerrick J.J.G. Hernandez, MA, CGAP, CICA
Auditor
Office of Public Accountability – Guam
www.opaguam.org
Tel. (671) 475-0390 ext. 204
Fax (671) 472-7951

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**21-009 Notice of Receipt of Appeal.pdf**

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