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4

OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
AUG 14 2012  
TIME 4PM BY MIMUFFEE  
FILE NO. 12-011

5 **BEFORE THE**  
6 **Office of Public Accountability**

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IN THE PETITION OF  
PACIFIC DATA SYSTEMS, INC.,  
Appellant.

OPA-PA-12-011  
PDS REPLY TO GTA TELEGUAM LLC  
MOTION TO DISMISS

13 Comes now Appellant, Pacific Data Systems, in the above referenced appeal to reply to the motion to  
14 dismiss filed by GTA Teleguam LLC (GTA) on July 12, 2012.

16 It is the position of PDS that the motion filed by GTA should not be considered by the OPA since this  
17 motion is untimely and the OPA's rules of procedure and practice do not allow for a party to make such a  
18 filing at this late date in the Appeal process. The OPA's Appeal rules allow GTA the opportunity to bring  
19 these comments and concerns to the Hearing Officer's attention as part of the record in the appeal process  
20 clearly defined by the OPA. And GTA did exercise its right and opportunity to make comments in this  
21 appeal, though GTA did not make any of the arguments now included in the referenced untimely motion  
22 filed on July 12, 2012 that seeks to dismiss the subject appeal without proper foundation. For these  
23 reasons, PDS objects to the OPA considering the untimely motion made by GTA and requests that the  
24 OPA dismiss the GTA motion without further consideration.

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1 If the OPA chooses to consider the GTA motion over the aforementioned objection by PDS, then it is the  
2 position of PDS that the GTA motion should be dismissed for the following reasons:

- 3 1. GTA's claim that the PDS protest is untimely is unsupported by the facts. PDS had no way of  
4 knowing what bidders submitted what documents beforehand. PDS is specifically prohibited by  
5 GSA collusion rules from discussing the content of its or other bidder's submissions.
- 6 2. GTA tries to make the case that PDS should assume responsibility for notifying other bidders and  
7 GSA about the need to file a Local Procurement Preference Application with their bids. Certainly  
8 this is not PDS' responsibility and a plain reading of the applicable statute referenced in the Bid  
9 Terms and Conditions (5 G.C.A. Section 5008) should have provide any responsible bidder with  
10 all the information that is required by the Bidder in order to qualify for this preference. This  
11 section simply requires the Bidder to make positive attestations as to which of the four criteria  
12 contained in this section of the law apply to the bidder.

13 For all of the above reasons the OPA should dismiss this motion made by GTA with further consideration  
14 in these proceedings.

15 **RESPECTFULLY SUBMITTED** this 8<sup>th</sup> day of August 2012.

16 **PACIFIC DATA SYSTEMS**

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19 **JOHN DAY**  
20 *President*