



OFFICE OF THE PUBLIC AUDITOR

Appendix A: Notice of Appeal Form  
PROCUREMENT APPEAL

RECEIVED  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

APR 10 2012

TIME: 12:00pm BY: JH  
FILE NO CPA-PA: 12-009

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

In the Appeal of	)	<b>NOTICE OF APPEAL</b>
	)	
	)	
_____ (Name of Company), APPELLANT	)	
	)	
	)	Docket No. OPA-PA _____

**PART II- Appellant Information**

Name: Pacific Data Systems

Mailing Address: 185 Ilipog Drive, Suite 204A  
Tamuning, GU 96913

Business Address: same as mailing address

Daytime Contact No: 671-300-0202

**PART III- Appeal Information**

- A) Purchasing Agency: General Services Agency
- B) Identification/Number of Procurement, Solicitation, or Contract: RFQ 12001303
- C) Decision being appealed was made on 04-06-12 (date) by:  
 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)

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

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

GTA


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**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;
  - a. The services requested in this RFQ have already been bid by GSA in GSA-IFB-064-11 which is pending award by GSA. No further procurements should be made by GSA for these services, GSA should make an award in the pending procurement rather than undertaking another procurement for the same services.
  - b. This procurement violates 5 G.C.A. § 5213(a) since the total amount of these services for the services required for this department/agency for the fiscal period exceeds the Small Purchases limit of \$15,000.
  - c. This procurement violates 2 G.A.R. § 3111(b)(5) since GSA has artificially divided the services being procured for this department/agency using an abbreviated term and quantity of services to be procured in order for the total procurement to fall under the maximum dollar limit allowed for a Small Purchase procurement.
  - d. This procurement violates 5 G.C.A. § 5268(b) by requiring some features or delivery that are peculiar to one vendor's product or service.

2. A statement specifying the ruling requested;

We request that that OPA review order GSA to cancel of modify this procurement to come into compliance with applicable procurement law and/or regulations.

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.

We have attached copies of the referenced GSA Request For Quotation, our original Protest Letter, and GSA's letter in response to our protest.

*Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.*

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**PART V- Declaration Re Court Action**

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of the Public Auditor will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her 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 the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 10 day of APRIL, 2012.

By:   
APPELLANT – John Day  
Authorized Representative of Pacific Data Systems

*or*

By: \_\_\_\_\_  
Appellant's Duly Authorized Representative  
(Address)  
(Phone No.)

*APPENDIX A*

Exhibit 1 GSA Request For Quotation

Exhibit 2 PDS' Protest Letter

Exhibit 3 GSA's letter in response to our protest

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

Exhibit 1

GSA Request For Quotation

ATTN: John

REQUEST FOR QUOTATION

**URGENT**

BUYER : Paulino, Belinda B. - GSA  
 TELEPHONE: 475-1712  
 FAX NO. : 475-1716 *or 472-4217*

Please respond as soon possible but no later than: <u>4/02/2012</u>		Requisition Number: Q121060107 RFQ #: RFQ12001303	Date: 3/28/2012
VENDOR: PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE HBC 204A TAMUNING, GU 96913-0185 Phone (671) 300-0200 Fax (671) 300-0265		PLEASE FURNISH PRICE QUOTE, DELIVERY TIME AND TERMS BASED ON F.O.B. DESTINATION FOR THE ITEMS LISTED BELOW. PLEASE RESPOND BY THE ABOVE DATE.	
Quoted by Print/Signature:		Quote Date:	Phone Number:
** Delivery Date Required:	The party making the foregoing bid is genuine and that said bidder agrees, that they are fully aware and is in compliance with Title 5 G.C.A. Chapter 5 - 5801 and 5802 Wage Determination, and that the attached is the most recent issued by U.S. D.O.L. for the positions required to implement the required service as per the following specification. Therefore, under penalty of perjury, I certify that the facts stated above are true. Signature _____ Date: _____		
** Delivery Date Offered:			
Terms: _____ Prices good for: _____ Days			
1. Offering Recycle Products ( ) YES ( ) NO 2. Offering Biodegradable Products ( ) YES ( ) NO Please separate your offer of recyclable and/or biodegradable products from regular products.			

THIS IS NOT AN ORDER

ITEM	DESCRIPTION - OR EQUAL	QTY	UOM	UNIT PRICE	TOTAL PRICE	AVAILABILITY
1	ISSUE TO COVER THE COST FOR IMMEDIATE TELEPHONE SERVICES ONLY. FOR DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS TELEPHONE NUMBERS: 646-3118, 646-3157, 646-3204 646-3226, 646-3241, 646-4323 646-3179, 646-4290, 637-5569 and 646-3129	1	MOS			

NOTE: The Government of Guam encourage offers of "EARTH FRIENDLY" products.  
 COMMITTED TO EXCELLENCE  
 CONTINUED ON NEXT PAGE

## REQUEST FOR QUOTATION

BUYER : Paulino, Belinda B. - GSA  
 TELEPHONE: 475-1712  
 FAX NO. : 475-1716

Please respond as soon possible but no later than: 4/02/2012		Requisition Number: Q121060107 RFQ #: RFQ12001303		Date: 3/28/2012		
VENDOR: PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE HBC 204A TAMUNING, GU 96913-0185 Phone (671) 300-0200 Fax (671) 300-0265		PLEASE FURNISH PRICE QUOTE, DELIVERY TIME AND TERMS BASED ON F.O.B. DESTINATION FOR THE ITEMS LISTED BELOW. PLEASE RESPOND BY THE ABOVE DATE.				
Quoted by Print/Signature:		Quote Date:		Phone Number:		
** Delivery Date Required:		The party making the foregoing bid is genuine and that said bidder agrees, that they are fully aware and is in compliance with Title 5 G.C.A. Chapter 5 - 5801 and 5802 Wage Determination, and that the attached is the most recent issued by U.S. D.O.L. for the positions required to implement the required service as per the following specification. Therefore, under penalty of perjury, I certify that the facts stated above are true. Signature _____ Date: _____				
** Delivery Date Offered:						
Terms: _____ Prices good for: _____ Days						
1. Offering Recycle Products ( ) YES ( ) NO 2. Offering Biodegradable Products ( ) YES ( ) NO Please separate your offer of recyclable and/or biodegradable products from regular products.						
T H I S I S N O T A N O R D E R						
ITEM	DESCRIPTION - OR EQUAL	QTY	UOM	UNIT PRICE	TOTAL PRICE	AVAILA- BILITY
	**MUST BE COMPATIBLE WITH EXISTING PHONE SYSTEM.  NOTE: PERIOD COVERED FOR ONE MONTH WITH OPTION TO RENEW OF A MONTH TO MONTH BASIS. PRICES WILL REMAIN THE SAME.					

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Exhibit 2

PDS' Protest Letter



Pacific Data Systems

April 2, 2012

VIA FAX DELIVERY  
472-4217

Ms. Claudia Acfalle  
Chief Procurement Officer  
General Services Agency  
148 Route 1 Marine Corps Drive  
Piti, Guam 96915

**Re: Protest of GSA Request for Quote RFQ12001303**

Dear Ms. Acfalle:

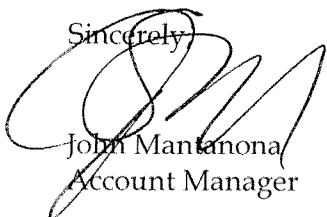
This is a PROTEST in accordance with 5 G.C.A. § 5425(a) in reference to the above GSA RFQ Small Purchase procurement.

PDS makes this timely protest for the following reasons:

1. The services requested in this RFQ have already been bid by GSA in GSA-IFB-064-11 which is pending award by GSA. No further procurements should be made by GSA for these services.
2. This procurement violates 5 G.C.A. § 5213(a) since the total amount of these services exceeds the Small Purchases limit of \$15,000.
3. This procurement violates 2 G.A.R. § 3111(b)(5) since GSA has artificially divided the services being procured for this department/agency using an abbreviated term and quantity of services to be procured in order for the total procurement to fall under the maximum dollar limit allowed for a Small Purchase procurement.
4. This procurement violates 5 G.C.A. § 5268(b) by requiring features that are peculiar to one vendor's product or service.
5. This procurement violates 5 G.C.A. § 5010 by requiring an unreasonable delivery timeline.

GSA is reminded that PDS has filed a timely protest of the above referenced procurement under 5 G.C.A. § 5425(g) and no further action on this procurement can be taken until this protest has been duly reviewed and an appropriate determination made.

Sincerely,



John Mantanona  
Account Manager

Cc: Bill Mann - Attorney for Pacific Data Systems



# Message Confirmation Report

02-APR-2012 16:04 MON

WorkCentre M20 Series  
Machine ID : Pacific Data Systems  
Serial Number : not installed  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 1  
Start Time : 02-APR-2012 16:03 MON  
Elapsed Time : 00' 28"  
Mode : STD G3  
Results : O.K



April 2, 2012

VIA FAX DELIVERY  
472-4217

Ms. Claudia Acfalle  
Chief Procurement Officer  
General Services Agency  
148 Route 1 Marine Corps Drive  
Piti, Guam 96915

**Re: Protest of GSA Request for Quote RFQ12001303**

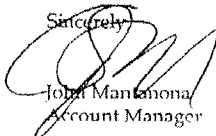
Dear Ms. Acfalle:

This is a PROTEST in accordance with 5 G.C.A. § 5425(a) in reference to the above GSA RFQ Small Purchase procurement.

PDS makes this timely protest for the following reasons:

1. The services requested in this RFQ have already been bid by GSA in GSA-IFB-064-11 which is pending award by GSA. No further procurements should be made by GSA for these services.
2. This procurement violates 5 G.C.A. § 5213(a) since the total amount of these services exceeds the Small Purchases limit of \$15,000.
3. This procurement violates 2 G.A.R. § 3111(b)(5) since GSA has artificially divided the services being procured for this department/agency using an abbreviated term and quantity of services to be procured in order for the total procurement to fall under the maximum dollar limit allowed for a Small Purchase procurement.
4. This procurement violates 5 G.C.A. § 5268(b) by requiring features that are peculiar to one vendor's product or service.
5. This procurement violates 5 G.C.A. § 5010 by requiring an unreasonable delivery timeline.

GSA is reminded that PDS has filed a timely protest of the above referenced procurement under 5 G.C.A. § 5425(p) and no further action on this procurement can be taken until this protest has been duly reviewed and an appropriate determination made.

Sincerely,  
  
John Mananona  
Account Manager

Cc: Bill Mann - Attorney for Pacific Data Systems

# Message Confirmation Report

02-APR-2012 16:06 MON

WorkCentre M20 Series  
Machine ID : Pacific Data Systems  
Serial Number : not installed  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 3  
Start Time : 02-APR-2012 16:05 MON  
Elapsed Time : 01'06"  
Mode : STD G3  
Results : O.K



April 2, 2012

VIA FAX DELIVERY  
472-4217

Ms. Claudia Acfalle  
Chief Procurement Officer  
General Services Agency  
148 Route 1 Marine Corps Drive  
Piti, Guam 96915

**Re: Protest of GSA Request for Quote RFQ12001303**

Dear Ms. Acfalle:

This is a PROTEST in accordance with 5 G.C.A. § 5425(a) in reference to the above GSA RFQ Small Purchase procurement.

PDS makes this timely protest for the following reasons:

1. The services requested in this RFQ have already been bid by GSA in GSA-IFB-064-11 which is pending award by GSA. No further procurements should be made by GSA for these services.
2. This procurement violates 5 G.C.A. § 5213(a) since the total amount of these services exceeds the Small Purchases limit of \$15,000.
3. This procurement violates 2 C.A.R. § 3111(b)(5) since GSA has artificially divided the services being procured for this department/agency using an abbreviated term and quantity of services to be procured in order for the total procurement to fall under the maximum dollar limit allowed for a Small Purchase procurement.
4. This procurement violates 5 G.C.A. § 5268(b) by requiring features that are peculiar to one vendor's product or service.
5. This procurement violates 5 G.C.A. § 5010 by requiring an unreasonable delivery timeline.

GSA is reminded that PDS has filed a timely protest of the above referenced procurement under 5 G.C.A. § 5425(g) and no further action on this procurement can be taken until this protest has been duly reviewed and an appropriate determination made.

Sincerely,

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

John Mananona  
Account Manager

Cc: Bill Mann - Attorney for Pacific Data Systems

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**PROCUREMENT APPEAL**

Exhibit 3

GSA's letter in response to our protest

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

April 6, 2012

Memorandum

Mr. John Mantanona  
Account Manger  
Pacific Data Systems  
185 Illog Drive  
HBC Suite 204A  
Tamuning, Guam 96913

Please Print

ACKNOWLEDGEMENT COPY (Re-fax to GSA)

Received BY:

Date:

Vendor Name:

Fax #'s :

472-4217 / 475-1727 / 1716

Re: Letters of Protest on RFQ 12001303

Dear Mr. Mantanona:

I am in receipt of your letters of protest of April 2, 2012 for the above entitled Request for Quotation.

The services request in the RFQ have already been bid by GSA in GSA IFB-064-11, which is pending award by GSA. No further procurements should be made by GSA for these services. **Response:** As you pointed out, GSA bid 064-11 is not yet awarded. The agencies and departments need service and we award on the lowest possible time frame so that when an award is made, the winning bidder can put up the service immediately.


This procurement violates 5 GCA Section 5213(a) since the total amount of these services exceeds the Small Purchases limit of \$15,000. **Response:** The stated amount does not exceed the small purchase amount of \$15,000., since the government is awarded on a limited time basis until the GSA bid 064-11 can be awarded.

This procurement violates 2 GAR Section 3110(0(5) since GSA has artificially divided the services being procured for this department/agency using an abbreviated term and quantity of services to be procured in order for the total procurement to fall under the maximum dollar limit allowed by a small purchase procurement. **Response:** See response to statements 1 and 2.

This procurement violates 5 GCA Section 5268(b) by requiring features that are peculiar to one vendor's product or service **Response:** All specifications for telephone services are approved by the government's Bureau of Information Technology and as such, they have determined that they specifications are appropriate.

You allege that this procurement violates 5 GCA sections 5010 by requiring an unreasonable delivery timeline. **Response.** The needs of the agency and departments involved require immediate service. The fact that the delivery timeline may not be possible does not make it a violation.

Based upon the above, your protests are denied. You have the right to seek any administrative or judicial review authorized by law.

  
CLAUDIA S. ACFALLE  
Chief Procurement Officer

# Message Confirmation Report

09-APR-2012 15:03 MON

WorkCentre M20 Series

Machine ID : Pacific Data Systems  
Serial Number : not installed  
Fax Number : 6713000265

Name/Number : 94724217  
Page : 2  
Start Time : 09-APR-2012 15:02 MON  
Elapsed Time : 00' 40"  
Mode : STD G3  
Results : O.K

671 475 1727

01:54:59 p.m. 04-06-2012

1/2

Eddie Baza Calvo  
Governor



## GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)  
Department of Administration

Ray Tenorio  
Lieutenant Governor

Berita 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

April 6, 2012

### Memorandum

Mr. John Mantanona  
Account Manger  
Pacific Data Systems  
185 Illog Drive  
HBC Suite 204A  
Tamuning, Guam 96913

Please Print

ACKNOWLEDGEMENT COPY (Re-fax to GSA)

Received BY: *John Mantanona*

Date: *4/5/12*

Vendor Name: *Pacific Data Systems*

Fax #'s : 472-4217 / 475-1727 / 1716

Re: Letters of Protest on RFQ 12001303

Dear Mr. Mantanona:

I am in receipt of your letters of protest of April 2, 2012 for the above entitled Request for Quotation.

The services request in the RFQ have already been bid by GSA in GSA IFB-064-11, which is pending award by GSA. No further procurements should be made by GSA for these services. **Response:** As you pointed out, GSA bid 064-11 is not yet awarded. The agencies and departments need service and we award on the lowest possible time frame so that when an award is made, the winning bidder can put up the service immediately.

This procurement violates 5 GCA Section 5213(a) since the total amount of these services exceeds the Small Purchases limit of \$15,000. **Response:** The stated amount does not exceed the small purchase amount of \$15,000, since the government is awarded on a limited time basis until the GSA bid 064-11 can be awarded.

This procurement violates 2 GAR Section 3110(05) since GSA has artificially divided the services being procured for this department/agency using an abbreviated term and quantity of services to be procured in order for the total procurement to fall under the maximum dollar limit allowed by a small purchase procurement. **Response:** See response to statements 1 and 2.

This procurement violates 5 GCA Section 5268(b) by requiring features that are peculiar to one vendor's product or service. **Response:** All specifications for telephone services are approved by the government's Bureau of Information Technology and as such, they have determined that they specifications are appropriate.