



OFFICE OF THE PUBLIC AUDITOR

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

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

MAR 28 2012

TIME 2:00 PM BY JB
FILE NO OPA-PA 12-006

PART I- To be completed by OPA

In the Appeal of _____)
)
)
(Name of Company), APPELLANT)
)
)
)
)

NOTICE OF APPEAL

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 12001012
- C) Decision being appealed was made on 03-22-2012 (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

_____	_____
_____	_____
_____	_____
_____	_____

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.
 - e. This procurement violates 5 G.C.A. § 5010 by requiring an unreasonable delivery timeline.

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.

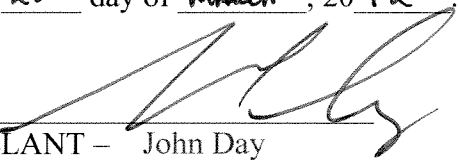
Appendix A: Notice of Appeal Form
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PART V- Declaration Re Court Action

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 28th day of MARCH, 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

URGENT

REQUEST FOR QUOTATION

BUYER : Tedtaotao, Christine M. - GSA
 TELEPHONE: 475-1705
 FAX NO. : 475-1727

Please respond as soon possible but no later than: 3/12/2012	Requisition Number: Q120201005 RFQ #: RFQ12001012	Date: 3/09/2012
--	--	--------------------

VENDOR: PACIFIC DATA SYSTEMS 135 CHALAN SANTO PAPA SUITE 100 AGANA, GU 96910 Phone (671) 300-0215 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:** _____

**** Delivery Date Offered:** _____

Terms:

 Prices good for: _____ Days

The party making the foregoing bid is genuine and that said bidder agrees, that they are fully aware and 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: _____

- 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	ISSUED TO COVER THE COST OF TELEPHONE SERVICES FOR THE OFFICE OF ECONOMIC ADJUSTMENT LOCATED AT THE RICARDO J. BORDALLO GOVERNORS ADELUP COMPLEX. OEA: 1)475-3221 2)475-9378 15.60x2=31.20	1	MOS			

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

REQUEST FOR QUOTATION

BUYER : Tedtaotao, Christine M. - GSA
 TELEPHONE: 475-1705
 FAX NO. : 475-1727

Please respond as soon possible but no later than: 3/12/2012	Requisition Number: Q120201005 RFQ #: RFQ12001012	Date: 3/09/2012
--	--	--------------------

VENDOR: PACIFIC DATA SYSTEMS 135 CHALAN SANTO PAPA SUITE 100 AGANA, GU 96910 Phone (671) 300-0215 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
2	SURCHARGES *** IMMEDIATE SERVICES *** Period to Cover: One Month with the Option to renew for additional months based on the same price rate.	1	MOS			

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Exhibit 2

PDS' Protest Letter



March 20, 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 RFQ 12001012

Dear Ms. Acfalle:

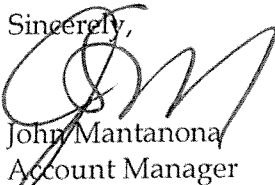
This is a PROTEST in accordance with 5 G.C.A. § 5425(a) in reference to the above GSA RFQ Small Purchase procurement.

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

20-MAR-2012 15:43 TUE

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

Name/Number : 94724217
Page : 3
Start Time : 20-MAR-2012 15:42 TUE
Elapsed Time : 01'00"
Mode : STD G3
Results : O.K



March 20, 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 RFQ 12001012


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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(h) 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

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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

March 22, 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:

03-26-12

Vendor Name:

Pacific Data Systems

Fax #'s:

472-4217 / 475-1727 / 1716

Re: Letters of Protests on RFQ 12000894; 12001149; 12000523
12001058 and 12001012

Dear Mr. Mantanona:

I am in receipt of your letters of protest of March 20, 2012 for the above entitled Request for Quotations. Since you cite the same issues for 4 of the 5 protests, I will address them together.

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.

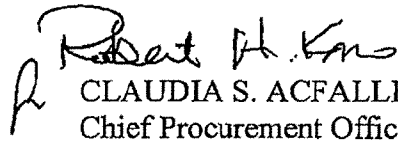
COMMITTED TO EXCELLENCE

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.

For RFQ12001012, you indicated a fifth issue 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.

On a further note, you protested RFQ 102001058. A review of this indicated that the timeframe of seven (7) months was stated. This was in error and will be corrected.

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

26-MAR-2012 09:10 MON

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

Name/Number : 94724217
Page : 2
Start Time : 26-MAR-2012 09:09 MON
Elapsed Time : 00' 42"
Mode : STD G3
Results : O.K

03-26-12 09:10 PM

671 472 4217

1 2

Eddie Baza Calvo
Governor



GENERAL SERVICES AGENCY

(Ahensian Setblison 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

March 22, 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:	03-26-12
Vendor Name:	Pacific Data Systems
Fax #'s:	472-4217 / 475-1727 / 1716

Re: Letters of Protests on RFQ 12000894; 12001149; 12000523
12001058 and 12001012

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I am in receipt of your letters of protest of March 20, 2012 for the above entitled Request for Quotations. Since you cite the same issues for 4 of the 5 protests, I will address them together.

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.