

OFFICE OF PUBLIC ACCOUNTABILITY
Doris Flores Brooks, CPA, CGFM
Public Auditor

PROCUREMENT APPEALS

In the Appeal of) **Appeal No: OPA-PA-12-011**
)
)
PACIFIC DATA SYSTEMS, INC.,) **DECISION RE: PURCHASING**
) **AGENCY'S REQUEST**
) **FOR DISQUALIFICATION**
Appellant.)
_____)

To: **Purchasing Agency:** General Service Agency, Management
Claudia Acfalle, Chief Procurement Officer
C/O Fred Nishihira, Assistant Attorney General
Office of the Attorney General
287 West O'Brien Drive
Hagatna, Guam 96910
Telephone: (671) 475-3324

Appellant: Pacific Data Systems, Inc.
John Day, President
185 Ilipog Drive, Suite 204A
Tamuning, Guam 96913
Telephone: (671) 300-0202

Interested Party: Teleguam Holdings, LLC ("GTA")
Robert W. Holbrook, Jr., President, Chief Executive Officer, General Manager, & Board Member
C/O Elyze M. Iriarte, ESQ.
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THIS MATTER came before the Public Auditor pursuant to the Purchasing Agency's July 6, 2012 objection and request for disqualification of the Lujan Aguigui & Perez LLP ("LAP") firm as the Hearing Officer for this procurement appeal.

FACTS

Between February 2010 and November 2010, the LAP law office was engaged by TeleGuam Holdings ("GTA") to provide legal advice on various matters, some of which were in

opposition to Pacific Data Systems (“PDS”). After January 2011, LAP was not engaged to handle other matters for GTA or its subsidiaries or affiliated companies.

After review of the facts disclosed in the June 29, 2012 Disclosure and Notice of Status Hearing, the Hearing Officer believed that no conflict of interest exists which requires its recusal, as the disclosed matters are not related to the instant appeal. The Public Auditor concurred with the Hearing Officer’s findings, and the notice was sent to the parties on the same date.

DISCUSSION


After making full disclosure of LAP’s dealings with GTA, the Purchasing Agency filed a motion on July 6, 2012 contending that LAP represented GTA in matters wherein PDS was the opposing party. Therefore, the Purchasing Agency requests that Hearing Officer Delia Lujan Wolff and the firm LAP be disqualified to avoid any appearance of bias.

CONCLUSION

In light of the concern raised, the Purchasing Agency’s Request for the Hearing Officer’s disqualification is hereby GRANTED. The Public Auditor hereby removes Attorney Delia Lujan Wolff as Hearing Officer and the firm LAP in this appeal and the new Hearing Officer assigned is Attorney Phillip Torres, Teker Torres Teker, LLP.

As previously ordered on June 29, 2012, a status hearing shall take place **on Tuesday, July 10, 2012, at 11:00 a.m.**, during which time the new Hearing Officer, Phillip Torres will address any filed written objections and other pending issues. Any persons requiring special accommodations, auxiliary aids or services to attend the Status Conference shall contact and submit their request to Michele Huffer, Office of Public Accountability, Suite 401, DNA Building, 238 Archbishop Flores Street, Hagatna, Guam, 96910, at 475-0390 ex 201.

DATED this 9th day of July, 2012, by:



DORIS FLORES BROOKS, CPA, CGFM
PUBLIC AUDITOR