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FILE NO OPA-PA: 14-013

8 **OFFICE OF PUBLIC ACCOUNTABILITY**
9 **PROCUREMENT APPEAL**

10 In the Appeal of

DOCKET NO. OPA-PA-14-013

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12
13 PACIFIC DATA SYSTEMS, INC.

**INTERESTED PARTY DOCOMO
PACIFIC, INC.'S HEARING BRIEF**

14 Appellant.
15

16 DOCOMO PACIFIC, INC. (“Docomo”), an Interested Party in the above-captioned
17 appeal, hereby submits its hearing brief in the above-entitled appeal.

18 Pacific Data System, Inc.’s (“PDS”) appeal arises from Guam Power Authority’s
19 (“GPA”) Invitation for Multi-Step Bid GPA 072-14 for Voice and Data Services (“IFB”). The
20 sole question raised by PDS relating to GPA’s intended award to Docomo is whether Docomo
21 has the appropriate authority to provide the services for IFB Bid Items A-3, A-4 and A-5.
22 (Notice of Appeal p. 3.) Docomo’s affiliate company, Guam Telecom, LLC (“Guam Telecom”),
23 who is qualified and authorized to provided the services solicited in Bid Items A-3, A-4 and A-5,
24 was disclosed in Docomo’s bid submission as part of Docomo’s bid team. The IFB specifically
25 permitted the inclusion of affiliate companies, thus, PDS’s appeal lacks merit and should be
26 denied.
27
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1 The IFB was issued on September 18, 2014. (Procurement Record “PR”) p. 1139.) The
2 IFB specifically allowed bidders to include affiliate companies in support of the performance of
3 the services solicited under the IFB. The IFB provides:

4 2.10.1.1 Technical Proposal

5 Each BIDDER’s Technical Proposal shall include the following:

6 a. Business Structure and Business Approach

7 The CONTRACTOR shall provide company information such
8 as name, local address, corporate headquarters (if any) and
9 affiliate company in support for the performance of its
contractual obligations.

10 (IFB p. 12; PR p. 691.)

11 Docomo and Guam Telecom are both wholly-owned companies of Docomo Guam
12 Holdings, Inc., a Guam corporation. (Decl. of James W. Hofman, II, filed on January 12, 2015.)
13 Docomo made clear in its Technical Proposal that Docomo and its affiliate companies, including
14 Guam Telecom, would provide the services solicited by GPA:

15 With the recent acquisition of MCV Broadband, Docomo Pacific
16 now provides our customers a full suite of enterprise level
17 solutions to include Wireless Voice & Data Services ... Cable TV
18 services, High Speed Internet Data solutions and business
telephone services/systems (SIP) with long distance capabilities to
enhance your communication needs.

19 (Docomo Technical Proposal Cover Page; PR p. 450.)

20 With the full suite of enterprise service offerings above, Docomo
21 Pacific has the capability of providing service to the Federal and
22 Local Government. We are confident that the expertise and
23 direction of both legacy companies (MCV Broadband and Docomo
Pacific), now combined, offer the most and reliable services to
Guam and the Marianas.

24 (Docomo Technical Proposal, Business Structure & Approach p. 1; PR p. 453.)

25 In 2013, Docomo Pacific acquired MCV Broadband expanding our
26 service offering into a full suite of enterprise level solutions
27 including Landline Phone, Internet, Cable TV, Fiber Solutions, and
Enterprise WiFi services.

28 (Docomo Technical Proposal, Experience & Qualifications; PR p. 397.)

1 Docomo's Technical Proposal illustrated Docomo's and its affiliate companies'
2 (including Guam Telecom's) compliance with local and federal regulatory requirements.
3 (Docomo Technical Proposal, Federal and Regulatory Compliance; PR pp. 555-570.) Docomo's
4 Technical Proposal included Guam Telecom's Certificate of Authority from the Guam Public
5 Utilities Commission, which qualified Guam Telecom to provide the services described in Bid
6 Items A-3, A-4 and A-5. (*Id.*; PR pp. 562-570.) Docomo's Technical Proposal included the
7 business licenses for its affiliate companies Guam Cablevision, LLC and Guam Telecom.
8 (Docomo Technical Proposal, Required Forms; PR pp. 663-667.)

9 Docomo understood the services solicited by GPA and understood that GPA would
10 accept services being performed by affiliate entities as clearly set forth on page 12 of the IFB.
11 Accordingly, Docomo presented its technical qualifications for the wide range of voice and data
12 services being solicited by including the appropriate certifications for services to be provided by
13 Docomo's affiliate companies. This was clearly permitted by the IFB and Docomo's Technical
14 Proposal conformed in all material respects to the IFB. 5 GCA § 5201(g) ("Responsive bidder
15 means a person who has submitted a bid which conforms in all material respects to the Invitation
16 for Bids.") Docomo is clearly a qualified bidder and GPA's determination that Docomo is a
17 qualified bidder must be sustained.

18 For all the foregoing reasons and based upon the matters that will be presented during the
19 hearing of this Appeal, Docomo is a qualified bidder and GPA's intent to award Bid Items A-3,
20 A-4 and A-5 to Docomo must stand. Accordingly, Docomo respectfully requests that PDS's
21 appeal be denied.

22 Respectfully submitted this 6th day of February, 2015.

23 **CALVO FISHER & JACOB LLP**
24 Attorneys for Interested Party
25 Docomo Pacific, Inc.

26 
27 By: _____
28 **GENEVIEVE P. RAPADAS**

1 **CERTIFICATE OF SERVICE**

2 I, Genevieve P. Rapadas, do hereby certify that on February 6, 2015, I caused to copies of
3 **1) INTERESTED PARTY DOCOMO PACIFIC, INC.'S HEARING BRIEF and 2)**
4 **INTERESTED PARTY DOCOMO PACIFIC, INC.'S SUPPLEMENTAL EXHIBIT LIST**
5 filed with the Office of Public Accountability on February 6, 2015, to be served upon the
6 following, by hand delivery:

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12 Dated this 6th day of February, 2015.

13 **CALVO FISHER & JACOB LLP**
14 Attorneys for Interested Party
Docomo Pacific, Inc.

15 

16 By: _____
17 **GENEVIEVE P. RAPADAS**