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11 Docomo Pacific, Inc.

12 **OFFICE OF PUBLIC ACCOUNTABILITY**
13 **PROCUREMENT APPEAL**

14 In the Appeal of

15 PACIFIC DATA SYSTEMS, INC.

16 Appellant.

DOCKET NO. OPA-PA-15-007

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

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

19 Pacific Data System, Inc.’s (“PDS”) sole contention in this procurement appeal is that
20 GPA improperly modified Docomo’s bid amounts during its evaluation of the bid submissions
21 based on oral statements made by a Docomo representative, Ms. Judy Rosario (“Ms. Rosario”), at
22 the bid opening, which PDS claims, resulted in an award to Docomo as the lowest bidder for Bid
23 Items A-3, A-4 and A-5. (See PDS Notice of Appeal, filed May 29, 2015; PDS Comments on GPA
24 Agency Report, filed July 17, 2015.) Docomo is a qualified bidder and PDS’s appeal lacks merit
25 and should be denied.

26 In order to support this argument, PDS argues that it compared the (1) submissions by
27 PDS, GTA, and Docomo (Proc. Rec. Tab 13); (2) the Bid Abstract (Proc. Rec. Tab 27); and the
28 GPA Bid Analysis dated November 13, 2014 (Proc. Rec. Tab 35). Based on its review of these
documents, PDS will conclude that GPA accepted the oral statements by Ms. Rosario at the bid
opening as a modification of Docomo’s written bid submission. According to PDS, GPA accepted

1 Ms. Rosario's statements as changing Docomo's bid price from a price "PER SITE" to a price for
2 "ALL SITES" for each of the bid items, and proceeded to divide these prices by the number of sites
3 for each of the bid items to arrive at a lower Docomo bid price. PDS argues that but for the alleged
4 oral modification by Ms. Rosario, PDS should have been found to be the lowest bidder for Bid
5 Items A-1, A-4 and the lowest bidder for all WAN services (A-3, A-4, A-5). PDS is wrong.

6 In its IFB, GPA provided price bid forms for each of the bid items, including for Bid Items
7 A-3, A-4 and A-5, for the bidders to use. While the price bid forms identified "PRICE PER SITE"
8 for Bid Items A-3, A-4, and A-5, ascertaining and indicating a price per site in the bid forms would
9 not make sense for certain bid items such as Bid Item A-8. Therefore, in order to prevent any
10 uncertainty as to its price bid, Docomo's bid on the GPA bid form reflected a total combined price
11 for all sites for each year and included in its price bid proposal package a separate spreadsheet
12 ("Docomo Spreadsheet") that explained each bid price on the GPA bid form. (*See* Declaration of
13 James W. Hofman, II, filed July 27, 2015.)

14 Docomo's Spreadsheet provided GPA with a clear breakdown of Docomo's price for each
15 Bid Item including a description of the services, quantity (i.e. number of sites per Bid Item), units,
16 unit price (i.e. price per site) and the total annual price for all units/sites. Notably, following bid
17 opening, GPA sought further clarification from PDS and GTA as to whether the price bids inserted
18 on their respective GPA bid forms were in fact unit prices, that is, price per site. (Proc. Rec. Tab 31
19 and 32.) No such clarification was sought from Docomo as Docomo's Spreadsheet clearly set forth
20 Docomo's price per site. With confirmation from PDS and GTA that their stated bid prices were
21 per site and using the information contained in Docomo's Spreadsheet, GPA was able to correctly
22 evaluate Docomo, PDS, and GTA's price bid submissions and properly compare bid prices per site
23 submitted by all three bidders.

24 The oral statements made by Ms. Rosario during the bid opening were not intended to
25 modify Docomo's bid submission, nor were they treated by GPA as such. Following Ms. Rosario's
26 statements, Mr. Jesse Reyes, GPA, Buyer Supervisor, informed Ms. Rosario that the Evaluation
27 Committee, which deals with the technical matters will review it. (*See* Exhibit 8 to PDS's Notice of
28 Appeal.)

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There was no modification of Docomo's bid by Ms. Rosario's statements. Docomo's bid prices for Bid Items A-3, A-4 and A-5 set forth in GPA's Bid Analysis (Proc. Rec. 35) are the same as Docomo's bid prices set forth on the GPA Bid form as broken down by Docomo's Spreadsheet. Docomo was merely making clear orally, prior to the opening of its bid, what was already set forth in its submitted price bid and Spreadsheet included as part of its price bid submission. Thus, there was no modification as PDS argues and GPA properly evaluated the bids submitted making sure to compare price per site for all bidders. Accordingly, Docomo's price bid for Bid Items A-3, A-4 and A-5 conformed in all material respects to the IFB, *see* 5 GCA § 5201(g), and was the lowest responsive and responsible bidder, *see* 5 GCA § 5211(g), 2 G.A.R., Div. 4, § 3109(n)(1).

For all the foregoing reasons and based upon the matters that will be presented during the hearing of this Appeal, Docomo did not improperly orally modify its bid and therefore is a qualified bidder. Accordingly, Docomo respectfully requests that PDS's appeal be denied.

Respectfully submitted this 14th day of August, 2015.

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

By: 
GENEVIEVE P. RAPADAS

1 **CERTIFICATE OF SERVICE**

2 I, Genevieve P. Rapadas, do hereby certify that on August 14, 2015, I caused a copy of
3 **INTERESTED PARTY DOCOMO PACIFIC, INC.'S HEARING BRIEF** filed with the
4 Office of Public Accountability on August 14, 2015, to be served upon the following, by hand
5 delivery:

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10 Dated this 14th day of August, 2015.

11 **CALVO FISHER & JACOB LLP**
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14 
15 By: _____
16 **GENEVIEVE P. RAPADAS**

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