

Pacific Data Systems
DOCKET NO: OPA-PA-18-004
INTERESTED PARTY HEARING BRIEF

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

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DATE: Dec 21, 2018
TIME: 3:05 AM PM BY: FDJ
FILE NO OPA-PA: 18-004

**BEFORE THE
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT PETITION**

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)	
IN THE PETITION OF)	DOCKET NO: OPA-PA-18-004
)	
TELEGUAM HOLDINGS, LLC dba GTA)	
)	
Appellant)	INTERESTED PARTY RESPONSE TO
)	TELEGUAM HOLDINGS, LLC dba GTA
)	HEARING BRIEF

Comes now Pacific Data Systems (PDS) to provide its opposition response to the Hearing Brief submitted by Teleguam Holdings, LLC (GTA) through its counsel on the Teleguam Holdings, LLC, (dba GTA) Appeal related to the General Services Agency (GSA) Invitation For Bid GSA-064-11.

OPPOSITION

PDS opposes GTA's conclusion that this current matter before the Public Auditor is with merit. With this appeal, GTA seeks to continues to relitigate the same facts and arguments. The Public Auditor, the Superior Court and even the Supreme Court of Guam have all ruled on the matter and the final determination has been made that, with the exception of Part E, all other parts of the bid are affirmed and should move forward

1 with the awards and implementation. This determination, documented in the
2 AMENDED JUDGEMENT, issued by the Superior Court and signed by GTA, specifically
3 states this fact.

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5 When GTA first originally protested, they only protested part E of GSA-064-11.
6 Subsequent GTA appeals of the other parts of the bid were denied by the GSA, OPA,
7 the Superior Court and the Supreme Court as either untimely or lacking jurisdiction.

8 Furthermore, GTA decided to exercise their right to withdraw their bid in their
9 response to GSA's request for bid confirmation. This voluntary action taken by GTA to
10 withdraw its bid from further consideration of award has affected their standing in the
11 procurement. Since GTA has chosen not to confirm their bid and has withdrawn their
12 bid, as is their right, under 5 GCA §5425(a), GTA no longer has the right to make a
13 protest in this procurement.
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16 **SUMMARY**

17 GTA's protest filing is without merit and GTA lacks the right to make a protest
18 due to its de facto withdrawal of its bid on June 8, 2018. If the OPA determines that
19 GTA continues to have the right to make a protest, then the current protest should be
20 DENIED as without merit since it provides no new issues and the procurement has
21 been fully litigated and a final determination has been made.

22 GTA's goal appears to be to create a new appeal process to further delay the
23 implementation or to cancel this procurement to its benefit, but to the detriment of the
24 Procurement System and Government of Guam as a whole. GTA's actions are a
25

1 violation of its Good Faith obligations under 5 GCA §5003 and demonstrate GTA's
2 desire to "game" the appeals process of the procurement system to achieve its goals of
3 delaying the implementation or the cancellation of this procurement. The Government
4 of Guam will accrue significant operational efficiencies and cost savings through the
5 implementation of this procurement and GTA provides no valid reasons for why GSA
6 should not be allowed to proceed with the implementation of this procurement. For
7 these reasons we request that the OPA **DENY** this GTA appeal and make the legal
8 findings of fact in this case to preclude further procurement controversies by GTA.
9

10 **RESPECTFULLY SUBMITTED** this 21st day of December 2018.

11 **PACIFIC DATA SYSTEMS**

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13 _____
14 **JOHN DAY**
15 *President*
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