1	Suite 503, Bank of Guam Bldg.	
2	111 Chalan Santo Papa Hagatña, Guam 96910	
3	Telephone No.: (671) 477-2778 Facsimile No.: (671) 477-4366	OFFICE OF THE ACCOUNTABILITY
4 5	Attorneys for Appellant	AUG 02 2011
		Q Losa Mas
6	OFFICE OF PUBL	IC ACCOUNTABILITY 10-101
7	PROCURE	MENT APPEALS
8	In the Appeal of) Docket No. OPA-PA-10-005
9	PACIFIC DATA SYSTEMS, INC.,) MOTION OF PACIFIC DATA SYSTEMS
10	Appellant.) INC. TO ENFORCE PUBLIC AUDITOR'S) DECISION REGARDING AWARD OF
11) COSTS
12)
13	COMES NOW Pacific Data System	ns, Inc. ("PDS") and moves the Public Auditor
14		1 regarding the payment of PDS' costs in this
15	procurement, and as grounds therefore sta	
16		the Public Auditor entered her Decision in this
17	appeal.	
18	2. No further appeal wa	s taken by any party to this Decision, which is
19	now final.	y y 1 - y 10 mas b celsion, which is
20	3. In the Decision, the Pu	ublic Auditor awarded PDS its " reasonable
21		itation in its August 3, 2010 protest, including
22	PDS's reasonable bid preparation costs,	
23	Decision of January 12, 2011 at ¶ 7 on p. 20	
24		27, 2011, and attached hereto as Exhibit "A",
25		amount of \$21,299.17 to GCC, along with a
26	detailed breakdown of how those costs were	
27		monerou,
28		

H:\Christine\BRM\Day\Appeal re GCC\Motion to Enforce 08012011.doc

H:\Christine\BRM\Day\Appeal re GCC\Motion to Enforce 08012011.doc

- 5. Pursuant to the Decision of January 12, 2011, if GCC objected to PDS' demand, it could file an appropriate Motion with the Public Auditor no later than fifteen days after PDS submitted its cost demand to GCC.
- 6. GCC did not file any objection to PDS' cost demand with the Public Auditor. To the contrary, on July 6, 2011, the attorney for GCC wrote a letter to John Day of PDS which stated certain objections to the PDS cost demand. See Exhibit "B" attached hereto.
- 7. John Day of PDS then responded to said letter by his letter dated July 12, 2011, which letter PDS did attest to the accuracy of its cost demand and further pointed out that the fifteen day period for GCC to object to this cost demand by filing an appropriate Motion with the Public Auditor had expired. See Exhibit "C" attached hereto.
 - 8. Nevertheless, GCC has still failed to pay PDS on its cost demand.
- 9. GCC has clearly waived its right to object to the PDS cost demand by its failure to object to that cost demand by filing an appropriate Motion with the Public Auditor within fifteen days of May 27, 2011.

WHEREFORE, PDS requests that the Public Auditor now enter its Order against GCC requiring it to immediately pay \$21,299.17 to PDS.

DATED this 2 day of August, 2011.

Respectfully submitted,

BERMAN O'CONNOR & MANN

Attorneys for PACIFIC DATA SYSTEMS, INC.

By: Tell MANNI

BILL R. MANN

Exhibit "A"



May 27, 2011

VIA HAND DELIVERY

Ms. Mary A. Y. Okada, Ed.D President Guam Community Career College Mangilao, Guam 96915



Re: Reimbursement of PDS costs associated with Bid, Protest, and Appeal reference GCC Invitation for Bid: GCC-10-0015

Dear President Okada:

Further to the Decision issued by the Public Auditor on January 12, 2011 in Procurement Appeal OPA-PA-10-005 (applicable pages attached), PDS hereby submits our costs for reimbursement as specified in this matter.

Attached to this letter is our invoice number 112023 for \$21,299.17. Included with our invoice is a cost schedule that details these costs.

Please contact me if you have any questions on this matter.

Sincerely,

John Day President

Attachments:

- OPA-PA-10-005 January 12, 2011 Decision (pages 1, 20, 21)
- PDS Invoice 112023
- Schedule of PDS Costs re GCC IFB GCC-10-0015

Pacific Data Systems

185 Ilipog Drive, HBC Suite 204A, Tamuning, GU 96913 Main: (671) 300-0200 | Fax: (671) 300-0265 | www.pdsguam.com

PACIFIC DATA SYSTEMS 185 Ilipog Drive HBC Building, Suite 204A Tamuning, GU 96913

Tel: (671) 300-0200 | Pax: (671) 300-0265 Email: pds_billing@pdsguam.com

invoice

	franco minima de la como de la co
Date	Invoice #
CONTROL CONTRO	
5/27/2011	F12023

Bill To	Ship To
Guarn Community College Atts: Accounts Payable P.O. Box 13169 GMF, GU 96921	Guam Community College P.O. Box 23069 GMF, GU 96921

P.O. Nu	mber	Tei	ms	Rep	Due Date	Ship Via	Refere	nce [Location
***************************************	governo vocato por a demandra aposa, co	No.	ı is	J	6/11/2011		GCC-10	-0015	ned Anticipal Endocrate and Committee Endocrate Springly and Committee Endocrate Springly
Quantity	ltem	Code			Descrip	tion		Price Each	Amount
	Acci Rea	ceivables	I CLM TEN CORRECT BEEN RE	THAT THE A THAT PAYN CEIVED. PACIFIC E	COVE BILL IS ENT THEREFOR	oust and Has not	I Appeal -		23,2944.17

per month on all balances due including any prior period assessments.

PDS REPRESENTATIVE

CUSTOMER REPRESENTATIVE PRINT & SIGN DATE

\$21,299,17

Total

TO GOO-TO-015 Yoke Over Internet Protocal Procurement Schoolie of PUS Costs

mel Q Q				でしている。	Properator O	
A THE PROPERTY OF THE PROPERTY			68,0		qy	1000
		Pikup, coy, son deribute Bid	813.92			The second secon
The company of the co	20200	S1500 001/000 000		The state of the s	250	VI STAND
	2 10 2 10 10 10 10 10 10 10 10 10 10 10 10 10	Read, discuss, analyze bid requirements	\$89.42	FT 187 COSt	Hiteratura Control of the Control of	CO 200
	S	bid ezylanış	\$57.69		A STATE OF THE PARTY OF THE PAR	Ander Charles (Charles)
Part 2 Commence of the commenc	NG	Read, discuss, analyze bid requirements	\$36.92		More conveniently interested that the property and the convenient of the convenient	1.00 L.V.V.V.
		Paticapate in Frenid meeting	\$89.42		7	0 1 7 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
The second secon	2	Particapate in Frebiri meeting	\$57.69			TO SEE SEE SEE SEE SEE SEE SEE SEE SEE SE
	2	Participate in Site Survey (2) at campus	\$57.69		mandere en	Ann des Tour Teach
A STATE OF THE PROPERTY OF THE	2	Witeip Site Sityey	857.89	(SQ) A.M. 7.1.4	Salaran en	
	5	Revew Site Survey create Questions	\$89.42		Z-	March 1976 1976 1976 1976 1976 1976 1976 1976
	8	Revew Site Survey create Questions	24.083		,	MONTH TO THE FOR
The second control of	Account to the second	Revew Site Survey create Questions	\$57.63	200 ALL 21	((timediamenonemented parameter)))	A C C C
	PM	Revew Site Survey create Questions	\$28.85		N)	The first of the second
A CONTRACTOR OF THE PROPERTY O	Attendo (licentamento messecrizo especiale)	Receive Amendments, ack, scan/copy	@13.92 202		Praedici i instance super Significant superior s	TO CO
	A. 333 (2)	Receive Amendments, ack, scancoox	0.10	250	3	CONTRACTOR
	Section of the sectio	Read, discuss, analyze bid amendments	589.42		Helimon: Hotels to extend on the second out of the second on the second	Commence of the Commence of th
		Read, discuss, analyze bid amendments	\$57.69		N	aliana di Santa da S
THE CONTRACT OF THE CONTRACT O	Agentine consistent and a second a second and a second and a second and a second and a second an	Read, discuss, analyze bid amerdments	\$28.85			
The state of the s		Read, discuss, analyza bid ameralments	\$36.92	i 1		SSS S
Annual des la company de la co	A CONTRACTOR OF THE PROPERTY O	Trepare 705 Bd Response	\$89.42	FIL My cost	30	\$2,682.69
A CONTROL OF THE PROPERTY OF T	S	Tedare 75 da Response	\$57.69	J war 1	3	
	The second secon	E	3			A Commencer of the comment of the co
properties de la constitución de	C S S	Propare 708 Bid Response	26.6%		3	LL OOS S
The state of the s	S	PDS BIO	\$13.92		3	**************************************
described and analysis of the second	JC	Tabare 125 did Response	\$20.88		Ċ	2208_80
SALVOLINA (**) 1888 SALVOLINA SALVOL	The state of the s	and the second second construction of the second	6.9.20	A CONTRACTOR OF THE CONTRACTOR	20	535.5
The second common control of the second cont		Prepare FDX 5tt Kesponse	\$28.80	FT MYOT COST	2	\$25.30
The second secon	STORY STORY	Leaner big Mountain and Sellic Mount	\$238.54	1800 A 18 18 18 18 18 18 18 18 18 18 18 18 18	*,3	273.55
			0:0		300	\$150.00
	10000	Cost of Bid packaging for 1 orig/5 copies	25	Der Dackede	6	& (50,00)
	Admin	Casher Check Processing lee	6	Dark fee	č	\$0000000000000000000000000000000000000
The second secon	Albanament Commence of the Com	C381167 C166K PCC8SIIC	\$19.20	241112 E1122	-u.š	**************************************
— 3 % 5 % 25 % 4 % 5 % 1 м 1 м 1 м 1 м 1 м 1 м 1 м 1 м 1 м 1	A CONTRACTOR OF THE PROPERTY O	PARO COLOR CALLER SE	80.52		100	

Total Bid Preparation Costs

\$10,276.78

TO GOO TO JOING OVER Internet Protocal Productionent Schedule of PDS Costs

	Š			PD8 000 P	US GOO Protest Costs	
Throught appropried to the control of the control o	(SAIRE MANAGEMENT AND REPORT OF THE PROPERTY O		Fato		35	
Annews in the control of the control	TO THE REAL PROPERTY OF THE PR	White was the property of the			**************************************	A STATE OF THE STA
A CONTRACTOR AND A CONT		Review GCC non award	8	770 WY 981	tanos Anna a fantes massa Norman agus es massa se cana agus	
	C		280.40			D. A. C.
	C		242 65	A Company of the Comp	Siller of Science States and Sci	COTTEMPORATION OF THE STATE OF
Lipmonto-improved control control control of the state of	WWW.	A STATE OF THE PROPERTY OF THE	Contraction to the second constraint of the se	Secretary Company Company		4
	metrocommunication of the second seco		0.10		3	53
A STATE OF THE STA		Read and analyze Folk documents	\$89.42	FTE INV COST		Transmission of The Nation of
	5	Moet with legal course to discuss	\$89.42			Processing and Allert School S
760020	ikanata Inemp		ŝ		adamahalamusaanatamassi Ongologi Optosiossi.	The second contract of
			\$89.42		* O	
	あれる。こと	Review Bit Protest with Serior Mant	\$236.64		2	
Meeting of site		Review Bid Protest with level course	\$89.42	· · · · Æ	Section of the sectio	
	S	Finalize Bid Protest and Ille with 600	\$89. \$2.		2	
Davey and Admin	Con.	File Protest with GCC, scan, copy	\$13.92			VO 4.00
The second management of the second management	Admin	Mileage expense	(S) (S) (S)		36	

Total Bid Protest Costs

\$3,790.53

			9		\$ D	The side of the si
200			A CONTRACTOR CONTRACTO			
	MACHINE MACHIN	表现是一种,我们是一个人,我们是一个人,我们是一个人,我们就是一个人,我们就是一个人,我们就是一个人,我们就是一个人,我们就是一个人,我们就是一个人,我们就是一个人,我们就会一个人,我们就会一个人,我们就会一个人,我们就会	fato	(1881)	2	10,03
Programment and the first and	disystement of the book of the property of the	A STATE OF THE STA				
	C. C	Review GCC protest rejection	\$89.42	TE WY COST		TO SOLE SOLE SOLE SOLE SOLE SOLE SOLE SOL
F102 (27)	S	Review OTA Bid documents	\$80.A2		S. S	
New with Arvie Actual		1000 150 030 6 0 0 0 A A003	889.40		2	
Review and Proparation	Since		28042	CACA PLAN COLUMN	COMPANIE OF THE PROPERTY OF TH	The Control Co
3 6016		OV Key aw Appeal with Senior Mam	\$238.54		2	CAN CAM SOME TO CONTRACT CONTR
Meet with Atty re Appeal	S	Approve filter of Notice of Appea	\$39.42		eronominister et incentration of the second	CONTRACTOR
A CONTRACTOR OF THE PROPERTY O	S	KOVIN PROBLEM STATE STAT	\$89.42		2	
Review and Analysis		The second control of	\$89.42	William Communication of the c		
	5	The Meaning Conference Review	\$89.42		Marie Andrews Committee Co	A CONTRACTOR OF THE CONTRACTOR
	The state of the s	11705/10 Pre-Hearing Conference	686 12	800 Alta 31.3	mmet Newsonia Newsonia (Commissione)	Control of the Contro
Research and prep	5-7	Motion to Compel GCC re Complete Agency Report	88.45	And the second s	envergenses variables (
NASA AND AND AND AND AND AND AND AND AND AN			\$89.42	SSS A Field of all of and	Millionessing MP2 of the Medical Annual Annu	tatatot til samman oca
		Notice of Hearing re Appellant's Motion to Compel and Continue Pre-Hearing Conf	Š			
Section to the control of the contro	i i i i i i i i i i i i i i i i i i i	TeleGuam Holdings LLC's Comments on Produrement Appeal and Agency Report	889.42		America and the second of the	allian del menore es contra consecuente de contra consecuente del contra del

TO GOOTE ONE VOICE OVER INTERNET PROTOCAL PROGUESTION Schedule of PDS Costs

				PDS Appeal of GCC Protest Costs	C Prote	がたのののが
A CHARLES AND A		Š.	75/6	ZZBE	8	westerower the second s
Research and prep	5	Appellant PDS Comments on Agency Report	(%) (%) (%) (%)	THE MAY COS	4	\$357.69
	40	First Suppositional Production Recycle	30.5	SOO A R. S.	Malada Marana Malada Marana da Santa Marana da	And the second s
		real Pary in Interest Telegram Addings		лення нейнина бель бали болишим даланда (4.4. былда организация изменя устройную пределения).	monoidemaior	Action to Act of the Control of the
Ž	C.,	LLO'S Opposition to Motion to Compet	(80 A)		NJ	a Z
Systemical settlement of the control	A CONTRACTOR OF THE PROPERTY O	GCC to Provide Agency Report				\$ 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.
and the second s		Response to Appellant's Motion to		врада в в середня под середня под	Nation Contractor of the State	Tyminholoxide (etch form) open Verland i Altri Albeide Leben (etc.) Homos (etch tempe a coppense) on
Review, Analysis, Proparation	5	Compal GCC to Provide Complete	380 A3	777 78 88	2	
*** Comment of the control of the co				- d	Silvenos Salve	
		Rebuile to Appellant's Comments on the		Annie de la company de la comp	edites to deplicate processor construction (the construction of the construction of th	Vierwey Wichelman De Addition (Intilitation Communication International Internation
	The National Contract of the State of the St	Agency Report	\$000. *	Ti Si	Α	Ø Ø
DISCUSS WITH COURSE	5	Hearing Request	-000 -000 -000 -000 -000 -000 -000 -00	1SK ARTHU	etaretariorisministra juniorismos junioris	
i de la companya de	e de la companya de	Decision and Order RE Appallant's Motion		A THE STATE OF THE	en annotation de la companie de la c	CETAMORA) AL LINEWAS PARTICULAR AND AND AND THE CONTRACTOR AND ADDRESS AND ADD
ReviewDiscuss wCounsel	()	to Compai GCC to Provide Complete	\$89.AX	28 AE 11 L	D.	
de distribution de la company		Agency Report		sionalinguos.	*****************************	
WESSERON, ORD, CIRCLES WALL	30	Suppervental Brief	\$30,42		Materical School Services (Material School Services)	tinaharukalaurenaanianakarukanakarukarukanakarukanakanakanakanakanakanakanakanakanakan
	5	Deckaration of John Brady	\$89.42	Fig. hry cost		
		Real Party in interest TeleGuam Holdings			Hellendeld termed Schargerey (scherolog) (residensis).	Vonicio de proprio Petro de parte de commentar de una escentra de April de Contracto de Contract
Review Discuss w/Course	C	LOS Response to Appellant's	000 th	THE WY COS	₹ \>	
Power and the state of the stat	(Specifically Constituted Local Constitute C	Supplemental Bief				
	6	Mation to Correct Decision	\$80.42 74.080	KON AM SLA	manasanthipanasanthipanasanthipanasanthipanasanthipanasanthipanasanthipanasanthipanasanthipanasanthipanasanthi September 1988	
Z C	Salata Sa Salata Sa Salata Salata Salata Salata Salata Salata Salata Salata Salata Salata Salata Salata Salata Salata Sa Sa Salata Sa Sa Sa Sa Sa Sa Sa Sa Sa Sa Sa Sa Sa	Second Supplemental Procurement	8		2	The Section of the Se
минеско у учита у складуулления пределения под семента под семента продости под семента п		он ду хол тогу туу та	Appendit Art (Artist NO) (100 (100 Appendit Appe	SAME TO THE SAME OF THE SAME O	AV JACTET CANADA SANTA	Similar Andrews Service (out of contents or production of contents
Zeioz	\$	Third Supplemental Programan Record	285.A2		PS)	
Review Discuss WCourse	5	OPA Decision on PDS Appea	980.42		Notice and State of S	
The second secon		Review OPA Dadision on PDS Appeal	\$230.54	100 AM 21 1	control of the contro	
The state of the s	à	Mileage expense for affaite meetings	80.5 2	957 300	50	828 B
And the second s	eto Militak	Ж. m) (ко) продолжения бумных этемпера выговиров проворожного ченного мененовым желения проводущей бутов проводущей проводущей выполняться выста выполняться выполняться выполняться выполняться выполнять	Actual Louis of the Control of the C	CERT (SCHOOL) TO CONTROL OF THE PRODUCT AND	UNDERSOANI) ACUSANGA AND DOMINIO COMMI	Control transport delight of the Control of the Con

Total OFA Appeal Costs

223.7

Total PDS Bid, Protest, and Protest Appeal Costs

\$2.500.3



OFFICE OF PUBLIC ACCOUNTABILITY Dor'ts Plores Binoks, CPA, CGPM Public Auditor

PROCUREMENT APPEALS

IN THE APPEAL OF,

33

12

11.70

3 3

3 -7

. 3

APPEAL NO: OPA-PA-10-005

PACIFIC DATA SYSTEMS, INC.

DECISION

Appellant

LINTRODUCTION

This is the Decision of the Public Auditor for an appeal filed on October 12, 2010, by

PACIFIC DATA SYSTEMS, INC., (Hereafter "PDS") regarding the GUAM COMMUNITY

COLLEGE, Government of Guam's (Hereafter "GCC") October 5, 2010 denial of PDS's August

3, 2010, protest concerning GCC's solicitation of Invitation for Bid No. GCC-FB-10-015 Voice

Over-Internet Protocol (VoIP) Telephone System Project (Hereafter "IFB"). The Public Auditor

holds that GCC erroneously deemed Interested Party TELEGUAM HOLDINGS LLC, dba GTA

TELEGUAM's (Hereafter "GTA") bid to be responsive to the IFB after GTA failed to include a

valid Major Shareholder's Affidavit at the time GTA submitted its bid. Accordingly, PDS's

appeal is GRANTED.

II. FINDINGS OF FACT

The Public Auditor in reaching this Decision has considered and incorporates herein the procurement record and all documents submitted by the parties, pursuant to PDS' November 29, 2010 Withdrawal of Request for Hearing. Additionally, the Public Auditor has considered and incorporated herein all testimony and arguments presented at the November 23, 2010 Hearing or

Decision- I San del tra balleng 238 dechimos fines Sines Inglife, Casan (1886) 34 (1871) 438-9380 Fin (1871) 472-7881 anasografingus ing (India) 374(191) (472-788)

IV. CONCLUSION

Based on the foregoing, the Public Auditor hereby determines the following:

- 1. Through simple negligence, GTA Submitted a false Major Shareholder Disclosure Affidavit with its Bid in violation of 5 G.C.A. §5233 and 2 G.A.R., Div. 4. Chap. 3, \$3109(e)(3)(E) which resulted in GTA's bid being non-responsive to the IFB.
- Guam Procurement Laws and Regulations prohibit GCC from accepting GTA's September 30, 2010 Major Shareholders affidavit because it is a late modification or correction of the bid after bid opening.
- GCC's award of the contract to GTA is void because GTA was a non-responsive bidder which GCC should have disqualified and rejected at the time of bid opening.
 - 4. PDS's Appeal is granted.

[1]

3

12

13

£ -\$

ŧ <u>S</u>

10

;8

13

2.3

- 5. GCC's contract with GTA arising from the IFB for IFB Item Nos. 1.1 thru 7.1 is hereby terminated as of the date of this decision and although GTA is generally entitled to compensation for its actual expenses it reasonably incurred under the contract plus a reasonable profit for the period prior to the termination, the Public Auditor finds that GTA did not incur expenses and is not entitled to reasonable profits because GTA did not perform work under the contract due to GCC not issuing GTA a purchase order.
- 6. GCC shall consider the IFB's remaining bidders in accordance with Guam Procurement Law and Regulations.
- 7. PDS is hereby awarded, pursuant to 5 G.C.A. §5425(h)(2), PDS's reasonable costs incurred in connection with the solicitation and its August 3, 2010 protest, including PDS's reasonable bid preparation costs, excluding PDS's attorney's fees, because as PDS was the second highest scoring bidder, there is a reasonable likelihood that PDS would have been awarded the contract but for GCC's acceptance and attempted cure of GTA's non-responsive bid in violation of Guam Procurement Laws and Regulations as set forth above. GCC may object to PDS's cost demand by filing the appropriate motion with the Public Auditor no later than fifteen (15) days after PDS submits such cost demand to GCC.

This is a Final Administrative Decision. The Parties are hereby informed of their right to appeal from a Decision by the Public Auditor to the Superior Court of Guam, in accordance with Part D of Article 9, of 5 G.C.A. within fourteen (14) days after receipt of a Final Administrative Decision. 5 G.C.A. §5481(a).

A copy of this Decision shall be provided to the parties and their respective attorneys, in accordance with 5 G.C.A. §5702, and shall be made available for review on the OPA Website www.guamopa.org.

DATED this 12th day of January, 2011.

53

13

15

18

200

DOKIS FLORES BROOKS, CPA. CGFM PUBLIC AUDITOR

DF Brooke

Decision- 21

Exhibit "B"

CABOT MANTANONA LLP

Attorneys at Law

Cesar C. Cabot, Esq. Rawlen M.T. Mantanona, Esq. David P. Ledger, Esq. Helkel S. Hemminger, Esq. Sarah A. Strock, Esq. David J. Guerrieri, Jr., Esq. Catrina M. Campana, Esq.

July 6, 2011

VIA FACSIMILE: 300-0265

John Day Pacific Data Systems 185 Ilipog Drive,HBC Suite 204A Tamuning, Guarn 96913

Re: PDS Bid Preparation Costs

Dear Mr. Day:

Please be advised that I am writing in response to PDS' claim for reasonable costs for reimbursement for reasonable costs incurred in connection with the solicitation and protest of GCC Bid No. GCC-10-0015.

According to the invoice number 112023 and cost schedule prepared by PDS, the bid, protest, and protest appeal costs total \$21,299.17.

5 G.C.A. § 5425(h) entitles a protestant to the reasonable costs incurred in connection with the solicitation and protest, including bid preparation costs and excluding attorney's fees when a protest is sustained.

As per 5 G.C.A. § 5425(h), GCC first requests the revision of the invoice to reflect an hourly rate for non professional work and errands to reflect the current minimum wage of \$7.25/hour.

GCC submits that the nine hours billed as "pickup bid", "Deliver & Pickup FoIR" admin time" and "Delivery and Admin" should be revised to reflect the current minimum wage. These tasks are detailed as routine errands such as the delivery and copying of documents which we believe cannot reasonably be billed at a rate above the minimum wage.

Edge Building, Second Floor 929 South Marine Corps Drive Tamuring, Guam 96913 Telephona: (671) 646-2001 Facsimile: (671) 646-0777 Email: mail@cmlaw.us Letter to John Day Re: PDS Bid Preparation Costs July 6, 2011 Page 2 of 2

Further, GCC requests clarification regarding the 152 hours that the PDS invoice attributes to "Prepare PDS Bid response". These hours are billed in addition to the dozens of hours also listed under the task "bid prep". This accounting reflects almost four weeks of professional work devoted exclusively to the preparation of this bid.

It is GCC's position that the hundreds of hours billed in Invoice 112023 for bid pep are not a reflection of the reasonable amount of time devoted to the routine peparation of a bid package. This being the case, GCC requests that PDS revise the invoice to reflect the reasonable hours devoted to bid preparation.

GCC requests that PDS Invoice Number 112023 be revised to reflect these changes listed above in order to bring the invoice in conformity with 5 G.C.A. § 5425(h). Please do not hesitate to contact me at my office if you have any questions or concerns regarding the above noted response.

Si Yu'os Ma'ase.

CATRINA M. CAMPANA

MIVCatrina/GCC/PDS bid costs.docx

CABOT MAINTANONA LLP Edge Bidg., Second Floor 929 South Marine Corps Drive Tamuning, Guam 96913 Attomeys-at-Lsw
Cesar C. Cabot, Esq.
Rawfen M.T. Mantanona, Esq.
David P. Ledger, Esq.
Helkei S. Hemminger, Esq.
David J. Guerrieri, Esq.
Catrina M. Campana, Esq.

FACSIMILE TRANSMITTAL SHEET

TO:

John Day

PACIFIC DATA SYSTEMS

FACSIMILE #:

(671) 300-0265

FROM:

CATRINA M. CAMPANA, ESQ.

DATE:

July 6, 2011

GLIENT/

MATTER:

PDS Bid Preparation Costs

NO. OF PAGES INCLUDING THIS TRANSMITTAL SHEET: 3 Page(s)

COMMENTS:

Please see the attached letter regarding the above matter.

Thank you.

Stacy Cuasito Legal Secretary

The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the Individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

Please contact Stacy at 646-2001 if this transmission is incomplete or illegible. Si Yu'os Ma'ase

Exhibit "C"



July 12, 2011

via Fax to 646-0777 Page 1 of 1

Ms. Catrina M. Campana, Esq. Cabot Mantanona LLP Edge Bldg., Second Floor 929 South Marine Corps Drive Tamuning, GU 96913

Re: Your Fax of July 6, 2011 re PDS Cost Demand from GCC

Dear Ms. Campana:

PDS is receipt of your fax of July 6, 2011 regarding the cost demand claim that PDS made to GCC on May 27, 2011, in response to the Decision issued by the Public Auditor in Procurement Appeal OPA-AP-10-005 related to GCC Bid No. GCC-10-0015.

In Section IV Conclusion of the Decision (a copy of which PDS provided to GCC with our letter on May 27, 2011) the Public Auditor instructed GCC as follows:

GCC may object to PDS's cost demand by filing the <u>appropriate motion with the Public</u>
<u>Auditor no later than fifteen (15) days after</u> PDS submits such cost demand to GCC.
(emphasis added)

PDS made its cost demand to GCC on May 27, 2011 and the 15 day time period for GCC to object to this cost demand has long since lapsed. Also, any objections that GCC may have had to the PDS cost demand should have been filed with the Public Auditor not PDS.

PDS does attest to the accuracy of the cost demand that we have made to GCC and once more requests that GCC reimburse PDS these costs as ordered by the Public Auditor. If PDS does not receive payment by GCC for its costs (PDS Invoice 112023) by July 19, PDS will file a motion with the Public Auditor to compel GCC to make payment and to further reimburse PDS for any additional costs incurred in this matter plus applicable interest on the amounts due.

Sincerely,

John Day President

> 185 Ilipog Drive, HBC Suite 204A, Tamuning, GU 96913 Main: (671) 300-0200 | Fax: (671) 300-0265 | www.pdsguam.com