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HBC BLDG SUITE 204A
2 TAMUNING, GUAM 96913
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RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 7/22/14
TIME: 4:49 AM PM BY: AA
FILE NO OPA-PA: 14-007

4
5 **BEFORE THE**
OFFICE OF PUBLIC ACCOUNTABILITY

6 IN THE PROCUREMENT APPEAL OF:)
7)
8 PACIFIC DATA SYSTEMS, INC.) Procurement Appeal: OPA-PA-14-007
9)
10) **PDS Comments on Agency Report**
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11 **Comes now** Pacific Data System (PDS) to submit comments on the Agency
12 Report provided by GVB in this matter on July 10, 2014. It is unfortunate
13 the GVB has yet to seriously evaluate the original procurement concerns
14 raised by PDS in its original protest and repeated in this Appeal to the OPA.
15 In fact, GVB's Agency Report seems to ignore the facts provided by PDS and
16 also the Order issued by the OPA in OPA-PA-14-003 which relates to the
17 official Procurement Record in this GVB bid; GVB-2014-002MS.

17 PDS now provides the following reply comments to the GVB Agency Report
18 submitted in this appeal.

19 **I. THE PDS PROTEST WAS TIMELY**

20 The PDS protest in this matter was made on May 12, 2014, which was well
21 within the 14 day protest period timeline. This protest was based on
22 information that PDS received from GVB on May 1, 2014. The PDS protest in
23 this matter is timely and this appeal cannot be dismissed for this reason.

FISHER & ASSOCIATES
ATTORNEYS AT LAW
RECEIVED

[Summary of pleading] - 1
DATE 7-22-14
TIME 4:40
BY [Signature]

1 **II. AUDIO CAPABILITY WAS PART OF THE GVB IFB AND NOT INCLUDED IN**
2 **THE G4S BID**

3 GVB has chosen to ignore the point made by the PDS Protest and
4 subsequent Appeal; the point being that the GVB IFB Specifications required
5 the Bidder to provide a Technical offer that included "the required
6 equipment, cabling, and other work related to installing a high-quality video
7 and audio recording and surveillance system designed to effectively monitor
8 key locations with the Tumon area"¹. As noted in the PDS Protest and Appeal,
9 no such audio recording capability is included in the G4S bid. The GVB
10 Agency Report attempts to confusion this issue by referring to camera
11 specifications and other bid references, but fails to address how the G4S bid
12 could be determined to have met this bid requirement for Audio recording.

13 **III. G4S 24x7 MONITORING AT THE GPD FRANKIE SMITH TUMON PRECINT**

14 GVB now contends that GVB had discussions with G4S to "confirm" the G4S
15 bid. This revelation is made after GVB has previously said it did not have
16 such discussions with G4S (see attached GVB letter dated 3/06/2014), and even
17 now GVB has not provided **ANY EVIDENCE** to substantiate this claim. GVB has
18 not provided any reference in the procurement record to such a meeting with
19 G4S (for example meetings between GVB and PDS are noted in GVB letters or
20 memo's to file, see attached), and GVB has not provided written evidence or
21 any document that would contain the "additional supplemental information
22 amending" the non-priced Technical Offer submitted by G4S and allowed by GVB
23 (Ref 2 GAR § 3109(t)(5)).

24 PDS believes that GVB is attempting to "rewrite history" to fit GVB's
25 actions in this case. The "New GVB story" relating to an allowed G4S
26 additional supplemental information is without facts or documentation and
27 must be dismissed by the OPA in her review of this appeal as unsubstantiated

¹ GVB IFB Specifications at page 22 and 47

1 fiction, introduced by GVB at this late hour in an effort to justify its
2 invalid actions.

3 GVB has ignored the many facts presented by PDS in its protest and this
4 Appeal that prove that the G4S Non-Priced Technical offer was not responsive
5 to the GVB bid specifications and should have been evaluated at unacceptable.
6 Reference 2 GAR § 3109(t)(6), an unacceptable technical offer "shall not be
7 afforded an additional opportunity to supplement its technical offer".

8 **IV. G4S DID NOT PROVIDE A SOLUTION FOR CONNECTION OF NEW AND EXISTING
9 CAMERAS**

10 GVB attempts to justify G4S use of an Internet Service Provider (ISP)
11 as a valid method of connecting the existing and new camera locations to the
12 GPD Frankie Smith Tumon Precinct. At the same time, GVB admits in its Agency
13 Report that the ISP to be used is not identified in the G4S proposal, the
14 type of service is not described (other than Broadband), and no details are
15 provided regarding how the service would be provisioned and installed at all
16 of the applicable existing and new camera locations. It is also obvious from
17 review of the G4S Cost Form, that G4S did not include any of these potential
18 ISP costs in its bid.

19 Though G4S is not an ISP, PDS has been providing ISP Broadband services
20 for more than 12 years and PDS can testify to the huge potential problems
21 that GVB could have implementing the technical bid proposed by G4S. PDS
22 believes that implementation of the type of ISP connections recommended by
23 G4S could end up costing GVB several hundreds of thousands of dollars in
24 additional expenses and cause many months of delay before the proposed ISP
25 connections could be functional and the camera's activated. Once activated
the ISP connections would require a continuing expenditure of GVB funds to
the ISP to maintain the broadband service connections to all of the camera
locations required.

1 Clearly the G4S proposal did not meet the GVB Technical Bid
2 requirements to provide an offer that included all equipment and services to
3 deliver the proposed system in a condition that included "all other necessary
4 and incidental works to make the system work and ready for use"². Instead the
5 G4S solution would have involved another, third party ISP, to provide
6 critical services to link the existing and new camera locations back to the
7 central monitoring site at the GPD Frankie Smith Tumon Precinct. This is yet
8 another example of the lack of a proper and fair evaluation of the technical
9 offers made by PDS and G4S.

9 **V. G4S PROJECT PLAN WAS NON-RESPONSIVE TO BID REQUIREMENTS**

10 In PDS's protest and this Appeal, PDS provided point after point
11 detailing deficiencies in the Technical Project Plan submitted by G4S.
12 Basically, G4S presented no plan, other than a plan to make a plan that GVB
13 could approve and pay more to implement later. It is almost beyond reason
14 that GVB can state that the Project Plan submitted by G4S was acceptable and
15 "most advantageous to the Government" when this plan did not even come close
16 to meeting the requirements as defined in the GVB Bid document.

17 **VI. GVB CLAIM FOR ATTORNEY FEES**

18 As the above reply comments has shown, PDS's original timely protest
19 and this Appeal have raised serious issues related to how GVB's performed the
20 evaluation and award of this procurement. Further, GVB's refusal to provided
21 transparency in the procurement process and failure to provide a proper
22 Procurement Record, as required by law and regulation, cast doubt over the
23 integrity of the procurement process being conducted by GVB and even whether
24 GVB can make a fair and impartial decision in this matter regardless of the
25 clear facts that PDS has presented in our Protest and Appeal. The issues
that PDS has raised in this Appeal are not made fraudulently, frivolously, or

² GVB IFB specifications at page 26, paragraph 2

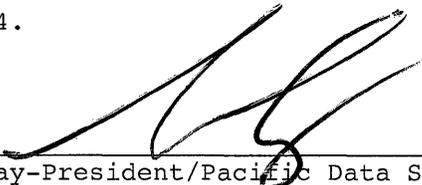
1 solely to disrupt the procurement process. These issues have been raised by
2 PDS in effort to resolve serious problems regarding the evaluation and award
3 of this procurement to a bidder that has made a bid that is not responsive.
4 PDS would not have had to take these steps had GVB conducted a proper and
5 fair evaluation of the Bids submitted or entered into negotiations with PDS
6 to resolve the protest as allowed by law and regulation. Therefore, no award
7 of attorney fees or expenses can be justified in this appeal.

8 VII. CONCLUSION

9 PDS continues to request that the OPA undertake a *de novo* review of the
10 IFB evaluation and GVB intent to award the bid to G4S.

11 For the record, PDS requests a hearing on this matter before the OPA
12 and requests granting of discovery from GVB and G4S as well as scheduling of
13 depositions as may be required to fully define the history of the
14 specifications involved in this procurement, any Supplemental Amendments to
15 Technical Offers, and evaluation decisions made by GVB.

16 Submitted this 22nd day of July, 2014.

17
18 X 
19 John Day-President/Pacific Data Systems

20 Attachments as noted.
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22
23
24
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February 24, 2014

MEMORANDUM

To: File

From: Chief Procurement Officer

RE: Determination of Acceptability for GVB-2014-002MS for CCTV Surveillance Systems

In accordance with 2 GAR §3109(t)(4), an Evaluation Committee met to evaluate Unpriced Technical Offers for GVB 2014-002MS for CCTV Surveillance Systems.

Two (2) offers were received and the evaluation committee concluded that one (1) offer was deemed acceptable and one (1) to be potentially acceptable.

Pursuant to 2 GAR §3109(t)(5), as Chief Procurement Officer, I determined that there was a need to meet with Pacific Data Systems, whose offer was found to be potentially acceptable, to discuss their Unpriced Technical Proposal.

On February 24, 2014 at 9:30AM, GVB met with Pacific Data Systems to determine the acceptability of their proposal.

I have now determined that Pacific Data Systems' proposal is acceptable.

Senseramente,

KARL A. RANGELINAN
General Manager
Chief Procurement Officer





March 6, 2014

Mr. John Day
Pacific Data Systems
185 Illipog Dr.
HBC Suite 204A, Tamuning, Guam 96913

RE: Multi Step Procurement No. GVB 2014-002MS , A Closed Circuit Television Surveillance System at Tumon and Hagatna Bay, Guam

Håfa Adai Mr. Day,

In our meeting on 05 March 2014, you raised to us several concerns. We address these concerns as best as we can and within the constraints of procurement law and regulation.

Having examined a bid cost summary in this solicitation, you noted great differences in bid amounts between Pacific Data Systems and another bidder. Particularly, and as to Task 1, you asked whether the other bidder presented a quotation based upon an assessment of the existing closed circuit television system or replacement of that system. The Guam Visitors Bureau assumes that all bidders have read the solicitation carefully and responded according to its terms and call. *See pp. 51-52, Multi Step Procurement No. GVB 2014-002MS.*

You stated that the other bidder offered a bid amount as to Task IV that would result in a loss to that company. We do not know if the tendered bid would result in a loss to that other bidder and assume all bidders used their best business judgment in responding to the solicitation. In this solicitation, the Bureau seeks the lowest price from a responsible, responsive bidder.

You also stated that there was great disparity in the prices of items offered to the Bureau. We've noted the difference, but have found all bidders in Phase 2 to be responsive to the Bureau's needs.

Thank you for your interest in this solicitation and hope you will participate in future Bureau procurements as appropriate.

Senseramente',

JON NATHAN P. DENIGHT
Acting General Manager