

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: PDS
FILE NO OPA-PA: 18-004

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

IN THE PETITION OF
TELEGUAM HOLDINGS, LLC dba GTA
Appellant

DOCKET NO: OPA-PA-18-004
INTERESTED PARTY RESPONSE TO
GENERAL SERVICES AGENCY
HEARING BRIEF

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

RESPONSE

PDS concurs with GSA's conclusion that this current matter before the Public Auditor is barred by *res judicata*. GTA continues to relitigate the same facts and arguments. The Public Auditor, the Superior Court and the Supreme Court of Guam have all ruled on the matter that with the exception of Part E, all other parts of the bid are affirmed.

1 Furthermore, it is PDS' contention that GTA withdrew their bid on June 8, 2018
2 prior to their protest filing on July 9, 2018. Reference 5 GCA §5425(a), GTA no longer
3 has the right to protest any issue in this procurement.

4
5 **SUMMARY**

6 GTA's protest filing is without merit and GTA has no standing in this procurement
7 to make a protest due to its withdrawal of its bid on June 8, 2018. GTA's only goal is to
8 create a new appeal and judicial review process to further delay the implementation or
9 to cancel this procurement to its benefit, but to the detriment of the Procurement System
10 and Government of Guam as a whole.

11 GTA's actions are a violation of its Good Faith obligations under 5 GCA §5003
12 and demonstrate GTA's desire to "game" the procurement system to achieve its goals
13 of delaying the implementation or the cancellation of this procurement. The
14 Government of Guam will accrue significant operational efficiencies and cost savings
15 through the implementation of this procurement and GTA provides no valid reasons for
16 why GSA should not be allowed to proceed with the implementation of this
17 procurement. For these reasons we request that the OPA **DENY** this GTA appeal and
18 make the legal findings of fact in this case to preclude further procurement
19 controversies by GTA.
20

21 **RESPECTFULLY SUBMITTED** this 21th day of December 2018.

22 **PACIFIC DATA SYSTEMS**

23 
24 _____
25 **JOHN DAY**
President