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OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENTS
AUG 28 2012
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12-011

**THE OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEAL**

In the Appeal of:

PACIFIC DATA SYSTEMS

Appellant.

DOCKET NO. OPA-PA-12-011

EXHIBIT LIST

Pursuant to the Amended Scheduling Order issued on August 1, 2012 the General Services Agency hereby submits its exhibit list:

- A. GSA-IFB-064-11 (Due to size, please find copy in Procurement record)
- B. Policy In Favor of Local Procurement preference 5 GCA § 5008.

Dated August 28, 2012.

OFFICE OF THE ATTORNEY GENERAL
Leonardo M. Rapadas, Attorney General

By: 
FRED NISHIHIRA
Assistant Attorney General

COPY

5 GCA GOVERNMENT OPERATIONS
CH. 5 GUAM PROCUREMENT LAW

§ 5008. Policy In Favor of Local Procurement.

All procurement of supplies and services shall be made from among businesses licensed to do business on Guam and that maintain an office or other facility on Guam, whenever a business that is willing to be a contractor is:

(a) a licensed bona fide manufacturing business that adds at least twenty-five percent of the value of an item, not to include administrative overhead, using workers who are U. S. Citizens or lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United State to work, based on their former citizenship in the Trust Territory of the Pacific Islands; or

(b) a business that regularly carries an inventory for regular immediate sale of at least fifty percent (50%) of the items of supplies to be procured; or

(c) a business that has a bona fide retail or wholesale business location that regularly carries an inventory on Guam of a value of at least one half of the value of the bid or One Hundred Fifty Thousand Dollars (\$150,000) which ever is less, of supplies and items of a similar nature to those being sought; or

(d) A service business actually in business, doing a substantial portion of its business on Guam, and hiring at least 95% U. S. Citizens, lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

Procurement of supplies and services from off Guam may be made if no business for such supplies or services may be found on Guam or if the total cost F.O.B. job site, unloaded, of procurement from off island is no greater than eighty-five percent (85%) of the total cost F.O.B. job site, unloaded, of the same supplies or services when procured from a business licensed to do business on Guam that maintains an office or other facility on Guam and that is one of the above-designated businesses entitled to preference.

SOURCE: GC § 6950.7 added by P.L. 16-124 and repealed/reenacted by P.L. 19-4:12.

5 GCA GOVERNMENT OPERATIONS
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COMMENT: Originally added by Committee on General Government Operations. Follows a similar provision in Executive Order 65-12A, the former Procurement Regulations for the government of Guam. The aim is to encourage local businesses to the maximum extent possible. However, some needs of the government must be procured from off-island, especially services, and often such businesses do not have a system of agencies. Also, while local businesses are to be encouraged, they are not to be encouraged at a too-great expense to the general treasury. A safeguard is added to ensure that the comparison is equalized - so that what is compared is the total, delivered cost, not just the relative catalog costs between the on and off-island vendors. The formula "f.o.b. jobsite, unloaded" is taken from Hawaii law (HRS §103-43).

§ 5008.1. Policy in Favor of Native or Grown-in-Guam Horticultural Products.

(a) Notwithstanding any other provision of law, in any procurement of horticultural products utilizing public funds, no less than seventy-five percent (75%) of the products to be procured shall be native to Guam or grown-in-Guam, *except* for horticultural products that are on the endangered specie list, *unless* they are domestically cultivated and shall be made from among businesses authorized to transact business in Guam. '*Horticultural products,*' as used in this Section, includes:

- (1) plants;
- (2) trees;
- (3) flowers;
- (4) shrubs;
- (5) grass; *and*
- (6) seeds.

(b) The Department of Agriculture shall, in cooperation with the College of Agriculture and Life Sciences of the University of Guam:

- (1) determine, establish and maintain a list of species of native horticultural products;
- (2) determine conditions that constitute '*grown-in-Guam*'; *and*
- (3) establish and regularly update a list of qualified local landscapers, farmers and other related businesses authorized to transact business on Guam, and to assist those qualified businesses in establishment of availability and other related logistics to