

OFFICE OF PUBLIC ACCOUNTABILITY PROCUREMENT APPEALS 6/20/14 Appendix A: Notice of Appeal Exten TIME: 5:05 DAM DPM BY: AG **PROCUREMENT APPEAL** FILE NO OPA-PA: 005 PART I- To be completed by OPA In the Appeal of **NOTICE OF APPEAL** Pacific Data Systems, Inc (PDS) (Name of Company), APPELLANT Docket No. OPA-PA **PART II- Appellant Information** Name: Pacific Data Systems, Inc (PDS) Mailing Address: 185 Ilipog Drive, Suite 204A Tamuning, GU 96913 same as above **Business Address:** Email Address: John@pdsguam.com 671-300-0202 Daytime Contact No: Fax No.: 671-300-0265 **PART III- Appeal Information** A) Purchasing Agency: General Services Agency (GSA)

B) Identification/Number of Procurement, Solicitation, or Contract: Purchase Orders P146A01045, P146A01050, and P146A01052 issued under Procurement GSA-064-11

C) Decision being appealed was made on April 1, 2014 (date) by:

No decision has been rendered in this matter by GSA pending since April 21, 2014 by: X GSA Chief Procurement Officer Director of Public Works Head of Purchasing Agency

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

D) Appeal is made from:

(Please select one and attach a copy of the Decision to this form)

- Decision on Protest of Method, Solicitation or Award
- Decision on Debarment or Suspension
- X Decision on Contract or Breach of Contract Controversy

(Excluding claims of money owed to or by the government)

Determination on Award not Staved Pending Protest or Appeal

(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

• Not Applicable

PART IV- FORM AND FILING

This is a Procurement Appeal by Pacific Data Systems (PDS) of a contract controversy under §12301(a) related to a failure by General Services Agency (GSA) to render a decision within 60 days regarding Default Notices sent to PDS by GSA (see Exhibit A) for three GSA Purchase Orders; 146A01045, 146A01050, 146A01052 (see Exhibit B). These Purchase Orders were each issued according to the terms of GSA Invitation to Bid GSA-064-11. PDS addressed issues related to the delivery of the services ordered under these Purchase Orders in letters to GSA dated April 21, 2014 (see Exhibit C). PDS also provided additional justification for excusable delays regarding the delivery of these services on April 22, 2014 (see Exhibit D).

As of this date, GSA has not issued a decision on the matters related to these Purchase Orders and PDS is still being denied the ability to deliver the services that have been ordered and to perform against these Purchase Orders. PDS now seeks resolution of this controversy via the OPA Appeal process.

RULING REQUESTED BY THE OPA IN THIS APPEAL:

- A. PDS seeks a *de novo* review of the contract controversy in this matter. Specifically, PDS requests that the OPA validate the Purchase Orders that have been issued to PDS, order the Government of Guam to allow PDS the required time and access to deliver the services that have been ordered, and adjust the time allowed for PDS to deliver these services based on the delays caused by the Government.
- B. PDS also seeks a decision on the excusable delays that PDS has documented in this procurement. These delays were due to legal actions filed by the losing bidder, and were outside the control of PDS.
- C. PDS requests reimbursement of any and all applicable costs as may be determined by the OPA in this matter.

SUMMARY OF SUPPORTING EXHIBITS ATTACHED HERETO:

Exhibit A: Government of Guam Purchase Order P146A01045/P146A01050/P146A01052

Exhibit B: GSA Notice of Default regarding P146A01045/P146A01050/P146A01052

Exhibit C: April 21, 2014 PDS letter re issues related to P146A01045/P146A01050/P146A01052

Appendix A: Notice of Appeal Form PROCUREMENT APPEAL

Exhibit D: PDS Letter of April 22, 2014 regarding Excusable Delays in GSA-064-11 PO's

PART V – DECLARATION REGARDING COURT ACTION

The undersigned party does hereby confirm that to the best of his knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of Public Accountability within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 20th day of June, 2014.

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By:

APPELLANT Pacific Data Systems by John Day, its President

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April 21, 2014

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T OF GUAM

GSA

Ms. Claudia S. Acfalle Chief Procurement Officer General Services Agency (GSA) Government of Guam Piti, Guam 96913

RE: GSA Default Notice Reference PO P146A01045

Dear Ms. Acfalle:

Further to my letter to you on April 14, 2014, I wanted to take this opportunity to follow-up with you on this matter and give you an update regarding steps that PDS has taken to resolve this situation.

As we have informed you, over the last 10 days PDS has been trying to work with the authorized Government of Guam representatives for this site in order to arrange PDS access to the location to perform required site preparations and installation of equipment to provision the PDS services covered by this Purchase Order. It is the Government's responsibility to provide PDS with this access in order that PDS may perform the work required to install these services. I have attached copies of emails and a record of any telephonic discussions on this matter for your reference.

As of this writing we have been unable to confirm access to this site and as a direct consequence have been unable to install the services covered by this Purchase Order. Though PDS has not been able to provide these service or perform this work, PDS is incurring costs for equipment that has been purchased for this site and for other telecom circuits ordered to support this location. If the Government continues to refuse to grant PDS access to install these services, PDS reserves any and all options available to it for the recovery of any applicable costs from the Government for its failure to allow PDS to perform under this Purchase Order.

I would appreciate your feedback on this matter and a response to our earlier request for the Government to rescind this default notice for the reasons previously explained. We also recommend that if the Government cannot or will not allow PDS the access required to install the services covered by this Purchase Order then GSA should cancel this Purchase Order (bearing in mind that such a cancelation may also result in a PDS claim for any and all applicable costs).

I am available to meet with you in a good faith effort to resolve this matter.

Sincerely,

John Day President

Attachments as indicated

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

PACIFIC DATA SYSTEMS 185 Ilipog Drive Suite 204A Tamuning, Guam 96913

PDS Commication Log for: PO: P146A1050, P146A1052, & P146A1045

Date	Туре	То	From	Comments
4/14/13	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan &		Email advising of Default Notices received regarding the following PO's: P146A1050, P146A1052, & P146A1045 and requesting his
		John Day		assitance in getting us access to the relevant areas at each site so that we can provision our services Email acknowleging reciept of our
4/15/14	EMAIL		Wil Castro	email.
4/15/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Thanking Wil for email and requesting him to send us confirmation to dispatch our crew to the sites.
4/15/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to request for access to sites for provisioning of phone services.
4/16/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to request for access to sites for provisioning of phone services.
4/17/14	TELEPHONE CALL	Will Castro		Spoke to Wil he advised that he would contact the agency to get the confirmation for us to proceed from them. But he did follow-up with the Governor's Office and Government House folks but he did not get any feedback from them. He did confirm that he recieved my email dated April 14th. regarding the GSA Default Notices that we recieved. Said he would send a note to Rose (Ramsey).
4/17/14	TELEPHONE CALL	Christine Flores		Called and identified myself as John Mantanona from PDS. Spoke to the receptionist who transferred my call to Christine. Christine did not answer her line.

COMPANY CONFIDENTIAL

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PACIFIC DATA SYSTEMS 185 Ilipog Drive Suite 204A Tamuning, Guam 96913

PDS Commication Log for: PO: P146A1050, P146A1052, & P146A1045

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Date	Туре	То	From	Comments
4/17/14	TELEPHONE CALL	Ann Aguon		Called to schedule our techs to provision services the next day. She advised to call Christine (Flores) to get because she's cant say anything until they tell her what to do.
4/18/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to our phone call with Wil Castro on 4/17/14to request for access to sites for provisioning of phone services.
4/21/14	TELEPHONE CALL	Wil Castro		No Answer, could not leave a message due to voicemail box was full.
4/21/14	TELEPHONE CALL		Wil Castro	Advised that he did not get the green light from the authorities to go. He said he will follow up. He advised that he made the requests to the agency twice regarding this and have not heard anything back from them

From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Tuesday, April 15, 2014 9:03 AM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: RE: Installation of Services for PO P146A1050, P146A1052, P146A1045

Thank you for your email Wil. Please send us confirmation as soon as possible so that we can dispatch our crew accordingly.

Sincerely, John Mantanona Government Account Manager Direct: 671-300-0229 Mobile: 671-686-7333 From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Tuesday, April 15, 2014 10:09 AM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: RE: Installation of Services for PO P146A1050, P146A1052, P146A1045 Importance: High

Wil,

We still have not heard back from you regarding confirmation of access to the sites and we need to release our technical team to work on other pending projects therefore, the next available window to provision this work will be this afternoon or tomorrow morning. Please confirm access to these sites accordingly.

Best regards, John Mantanona Government Account Manager -----Original Message-----From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Wednesday, April 16, 2014 3:42 PM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: Follow-Up RE: Installation of Services for PO P146A1050, P146A1052, P146A1045

Good Afternoon Wil,

I'm just following up on your confirmation on providing us access to provision our services for these sites. We have been ready to continue with our installations for the above referenced subject and need your assistance in facilitating this process so that we can cure the Default Notices that was delivered to us by GSA. Your timely assistance with providing us this access would be greatly appreciated. Should you need to call me please do so at your convenience.

Sincerely, John Mantanona Government Account Manager Direct: 671-300-0229 -----Original Message-----From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Friday, April 18, 2014 3:12 PM To: William Castro Cc: Joey Manibusan; Claudia Acfalle Subject: Follow Up to Installation of phone services for the Governor and Lt. Governor

Hafa Adai Wil.

It was nice talking with you yesterday on the phone regarding the installation of our telephone services for the Governors Office, Government House and Lieutenant Governor's Office. As mentioned, we are trying to clear Default Notices issued by GSA which allows us to cure in 10 days. I was hoping that after our conversation that I would hear from you at the end of the day yesterday or early today advising us of access to the relevant areas for each location so that we can proceed with our provisioning however, I have not heard or received an email from you yet regarding this and our ability to schedule the provisioning of our services for those locations. Your prompt feedback and assistance with facilitating this process would be greatly appreciated.

Best regards, John Mantanona Account Manager Direct: 671-300-0229 | Saipan: 670-235-0005

John Mantanona

From:	William Castro <wilcastro@guam.gov></wilcastro@guam.gov>
Sent:	Tuesday, April 15, 2014 8:29 AM
То:	John Mantanona
Cc:	Claudia Acfalle; Joseph C Manibusan; John Day; Wil Castro
Subject:	Re: Installation of Services for PO P146A1050, P146A1052, P146A1045

Hafa Adai John.

This is to acknowledge receipt.

I will process your request and get back to you as soon as practical.

Thank you, -Wil

On Mon, Apr 14, 2014 at 6:35 PM, John Mantanona <<u>ism@pdsguam.com</u>> wrote: > Hello Wil,

>

> I wanted to take this opportunity to give you copies of the attached

> Default Notices that we got from GSA late on Friday, April 11, 2014.

> GSA has essentially told us to continue with the installation for the

> three PO's referenced and to complete these installations ASAP

> otherwise GSA will hold us in Default and assess liquidated damages

> for failure to deliver the services for these sites. Though we do not

> agree that the failure to have these services installed to date is the

> fault of PDS or that PDS is in Default regarding the delivery of these > services, we do agree that the quickest and easiest way to resolve

> this matter is to move forward with these installations and to

> complete the service installations as soon as possible.

>

> In order to complete these installation we need your help to arrange
> access to each of the sites; the Adelup Complex and Government House.
> This email will serve as our formal request for you to arrange site
> access at both locations; Adelup Complex and Government House for our
> installation preparation work. We would like to have this access
> starting tomorrow (Tuesday, 4/15/14) at 9:30am and continuing through
> the rest of the week until our services are provisioned and installed.
> I would appreciate your prior confirmation of this access so that our
> technicians are not turned away as has happened in the past.

> If you have any questions or concerns or have trouble with the > attachments please do not hesitate to contact me.

>

> Best regards,

- > John Mantanona
- > Direct: 671-300-0229

> Mobile: 671-686-7333

--Sincerely, -Wil

. . . •

Wil Castro Chief Technology Officer (Acting) of the government of Guam wil.castro@guam.gov

Office of Technology Hagatna, Guam 929-6209 / 475-1209 ----- Guam, USA

John Mantanona

From:John Mantanona <jsm@pdsguam.com>Sent:Monday, April 14, 2014 6:35 PMTo:William CastroCc:Claudia Acfalle; Joseph C Manibusan; John DaySubject:Installation of Services for PO P146A1050, P146A1052, P146A1045Attachments:1050 Gov Office.pdf; 1052 Lt Gov Office.pdf; 1045 Gov Office.pdf

Hello Wil,

I wanted to take this opportunity to give you copies of the attached Default Notices that we got from GSA late on Friday, April 11, 2014. GSA has essentially told us to continue with the installation for the three PO's referenced and to complete these installations ASAP otherwise GSA will hold us in Default and assess liquidated damages for failure to deliver the services for these sites. Though we do not agree that the failure to have these services installed to date is the fault of PDS or that PDS is in Default regarding the delivery of these services, we do agree that the quickest and easiest way to resolve this matter is to move forward with these installations and to complete the service installations as soon as possible.

In order to complete these installation we need your help to arrange access to each of the sites; the Adelup Complex and Government House. This email will serve as our formal request for you to arrange site access at both locations; Adelup Complex and Government House for our installation preparation work. We would like to have this access starting tomorrow (Tuesday, 4/15/14) at 9:30am and continuing through the rest of the week until our services are provisioned and installed. I would appreciate your prior confirmation of this access so that our technicians are not turned away as has happened in the past.

If you have any questions or concerns or have trouble with the attachments please do not hesitate to contact me.

Best regards, John Mantanona Direct: 671-300-0229 Mobile: 671-686-7333

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GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio

Anthony C. Blaz Deputy Director

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185

VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Facsimile: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. **P146A01050** award by reason of your failure to perform by <u>April 10, 2014</u>

You ARE HEREBY NOTIFIED that you have <u>ten</u> (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please confact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

Claudia S. Acfalle Chief Procurement Officer

cc: Division of Accounts, DOA

COMMITED TO EXCELLENCE

Benita A. Manglona Director

Eddie Baza Calvo

Governor

GSA

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Eddie Baza Calvo Governor



Benita A. Manglona Director **GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio Lieutenant Governor

Arthony C. Blaz Deputy Director

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185 VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Fax: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01052 award by reason of your failure to perform by <u>April 10, 2014.</u>

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

Claudia S. Acfalle Chief Produrement Officer

cc: Division of Accounts, DOA

COMMITED TO EXCELLENCE

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General Services Asency

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Eddie Baza Calvo Governor

8enita A. Manglona

Director



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Pitl, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio Lieutenant Governor

Anthony C. Blaz

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE, HBC 204A TAMUNING, GUAM 96913-0185 VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Fax: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01045 award by reason of your failure to perform by <u>April 10, 2014.</u>

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

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Chief Progurement Officer

cc: Division of Accounts, DOA

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Ms. Claudia S. Acfalle Chief Procurement Officer General Services Agency (GSA) Government of Guam Piti, Guam 96913

RE: GSA Default Notice Reference PO P146A01050

Dear Ms. Acfalle:

Further to my letter to you on April 14, 2014, I wanted to take this opportunity to follow-up with you on this matter and give you an update regarding steps that PDS has taken to resolve this situation.

As we have informed you, over the last 10 days PDS has been trying to work with the authorized Government of Guam representatives for this site in order to arrange PDS access to the location to perform required site preparations and installation of equipment to provision the PDS services covered by this Purchase Order. It is the Government's responsibility to provide PDS with this access in order that PDS may perform the work required to install these services. I have attached copies of emails and a record of any telephonic discussions on this matter for your reference.

As of this writing we have been unable to confirm access to this site and as a direct consequence have been unable to install the services covered by this Purchase Order. Though PDS has not been able to provide these service or perform this work, PDS is incurring costs for equipment that has been purchased for this site and for other telecom circuits ordered to support this location. If the Government continues to refuse to grant PDS access to install these services, PDS reserves any and all options available to it for the recovery of any applicable costs from the Government for its failure to allow PDS to perform under this Purchase Order.

I would appreciate your feedback on this matter and a response to our earlier request for the Government to rescind this default notice for the reasons previously explained. We also recommend that if the Government cannot or will not allow PDS the access required to install the services covered by this Purchase Order then GSA should cancel this Purchase Order (bearing in mind that such a cancelation may also result in a PDS claim for any and all applicable costs).

I am available to meet with you in a good faith effort to resolve this matter.

Sincerely, John Day

President

Attachments as indicated

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 Suite 204A Tamuning, Guam 96913

PDS Commication Log for: PO: P146A1050, P146A1052, & P146A1045

Date	Туре	То	From	Comments
4/14/13	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Email advising of Default Notices received regarding the following PO's: P146A1050, P146A1052, & P146A1045 and requesting his assitance in getting us access to the relevant areas at each site so that we can provision our services
4/15/14	EMAIL		Wil Castro	Email acknowleging reciept of our email.
4/15/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day	-	Thanking Wil for email and requesting him to send us confirmation to dispatch our crew to the sites.
4/15/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to request for access to sites for provisioning of phone services.
4/16/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to request for access to sites for provisioning of phone services.
4/17/14	TELEPHONE CALL	Will Castro		Spoke to Wil he advised that he would contact the agency to get the confirmation for us to proceed from them. But he did follow-up with the Governor's Office and Government House folks but he did not get any feedback from them. He did confirm that he recieved my email dated April 14th. regarding the GSA Default Notices that we recieved. Said he would send a note to Rose (Ramsey).
4/17/14	TELEPHONE CALL	Christine Flores		Called and identified myself as John Mantanona from PDS. Spoke to the receptionist who transferred my call to Christine. Christine did not answer her line.

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PACIFIC DATA SYSTEMS 185 Ilipog Drive Suite 204A Tamuning, Guam 96913

PDS Commication Log for: PO: P146A1050, P146A1052, & P146A1045

Date	Туре	То	From	Comments
4/17/14	TELEPHONE CALL	Ann Aguon		Called to schedule our techs to provision services the next day. She advised to call Christine (Flores) to get because she's cant say anything until they tell her what to do.
4/18/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to our phone call with Wil Castro on 4/17/14to request for access to sites for provisioning of phone services.
4/21/14	TELEPHONE CALL	Wil Castro		No Answer, could not leave a message due to voicemail box was full.
4/21/14	TELEPHONE CALL		Wil Castro	Advised that he did not get the green light from the authorities to go. He said he will follow up. He advised that he made the requests to the agency twice regarding this and have not heard anything back from them

Page 2 of 2

COMPANY CONFIDENTIAL

4/21/2014

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From: John Mantanona [<u>mailto:jsm@pdsguam.com</u>] Sent: Tuesday, April 15, 2014 9:03 AM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: RE: Installation of Services for PO P146A1050, P146A1052, P146A1045

Thank you for your email Wil. Please send us confirmation as soon as possible so that we can dispatch our crew accordingly.

Sincerely, John Mantanona Government Account Manager Direct: 671-300-0229 Mobile: 671-686-7333

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From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Tuesday, April 15, 2014 10:09 AM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: RE: Installation of Services for PO P146A1050, P146A1052, P146A1045 Importance: High

Wil,

We still have not heard back from you regarding confirmation of access to the sites and we need to release our technical team to work on other pending projects therefore, the next available window to provision this work will be this afternoon or tomorrow morning. Please confirm access to these sites accordingly.

Best regards, John Mantanona Government Account Manager -----Original Message-----From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Wednesday, April 16, 2014 3:42 PM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: Follow-Up RE: Installation of Services for PO P146A1050, P146A1052, P146A1045

Good Afternoon Wil,

I'm just following up on your confirmation on providing us access to provision our services for these sites. We have been ready to continue with our installations for the above referenced subject and need your assistance in facilitating this process so that we can cure the Default Notices that was delivered to us by GSA. Your timely assistance with providing us this access would be greatly appreciated. Should you need to call me please do so at your convenience.

Sincerely, John Mantanona Government Account Manager Direct: 671-300-0229 -----Original Message-----From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Friday, April 18, 2014 3:12 PM To: William Castro Cc: Joey Manibusan; Claudia Acfalle Subject: Follow Up to Installation of phone services for the Governor and Lt. Governor

Hafa Adai Wil.

It was nice talking with you yesterday on the phone regarding the installation of our telephone services for the Governors Office, Government House and Lieutenant Governor's Office. As mentioned, we are trying to clear Default Notices issued by GSA which allows us to cure in 10 days. I was hoping that after our conversation that I would hear from you at the end of the day yesterday or early today advising us of access to the relevant areas for each location so that we can proceed with our provisioning however, I have not heard or received an email from you yet regarding this and our ability to schedule the provisioning of our services for those locations. Your prompt feedback and assistance with facilitating this process would be greatly appreciated.

Best regards, John Mantanona Account Manager Direct: 671-300-0229 | Saipan: 670-235-0005

John Mantanona

From:	William Castro <wilcastro@guam.gov></wilcastro@guam.gov>
Sent:	Tuesday, April 15, 2014 8:29 AM
То:	John Mantanona
Cc:	Claudia Acfalle; Joseph C Manibusan; John Day; Wil Castro
Subject:	Re: Installation of Services for PO P146A1050, P146A1052, P146A1045

Hafa Adai John.

This is to acknowledge receipt.

I will process your request and get back to you as soon as practical.

Thank you,

-Wil

On Mon, Apr 14, 2014 at 6:35 PM, John Mantanona <<u>ism@pdsguam.com</u>> wrote: > Hello Wil,

>

> I wanted to take this opportunity to give you copies of the attached

> Default Notices that we got from GSA late on Friday, April 11, 2014.

> GSA has essentially told us to continue with the installation for the

> three PO's referenced and to complete these installations ASAP

> otherwise GSA will hold us in Default and assess liquidated damages

> for failure to deliver the services for these sites. Though we do not

> agree that the failure to have these services installed to date is the

> fault of PDS or that PDS is in Default regarding the delivery of these > services, we do agree that the quickest and easiest way to resolve

> this matter is to move forward with these installations and to

> complete the service installations as soon as possible.

>

> In order to complete these installation we need your help to arrange
> access to each of the sites; the Adelup Complex and Government House.
> This email will serve as our formal request for you to arrange site
> access at both locations; Adelup Complex and Government House for our
> installation preparation work. We would like to have this access
> starting tomorrow (Tuesday, 4/15/14) at 9:30am and continuing through
> the rest of the week until our services are provisioned and installed.
> I would appreciate your prior confirmation of this access so that our
> technicians are not turned away as has happened in the past.
> If you have any questions or concerns or have trouble with the

> attachments please do not hesitate to contact me.

> > Best regards,

- > John Mantanona
- > Direct: 671-300-0229
- > Mobile: 671-686-7333

--Sincerely, -Wil

. . . *

Wil Castro Chief Technology Officer (Acting) of the government of Guam wil.castro@guam.gov

Office of Technology Hagatna, Guam 929-6209 / 475-1209 ----- Guam, USA

John Mantanona

From:	John Mantanona <jsm@pdsguam.com></jsm@pdsguam.com>
Sent:	Monday, April 14, 2014 6:35 PM
То:	William Castro
Cc:	Claudia Acfalle; Joseph C Manibusan; John Day
Subject:	Installation of Services for PO P146A1050, P146A1052, P146A1045
Attachments:	1050 Gov Office.pdf; 1052 Lt Gov Office.pdf; 1045 Gov Office.pdf

Hello Wil,

I wanted to take this opportunity to give you copies of the attached Default Notices that we got from GSA late on Friday, April 11, 2014. GSA has essentially told us to continue with the installation for the three PO's referenced and to complete these installations ASAP otherwise GSA will hold us in Default and assess liquidated damages for failure to deliver the services for these sites. Though we do not agree that the failure to have these services installed to date is the fault of PDS or that PDS is in Default regarding the delivery of these services, we do agree that the quickest and easiest way to resolve this matter is to move forward with these installations and to complete the service installations as soon as possible.

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If you have any questions or concerns or have trouble with the attachments please do not hesitate to contact me.

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Best regards, John Mantanona Direct: 671-300-0229 Mobile: 671-686-7333

Eddie Baza Calvo Governor



Benita A. Manglona Director

GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217

Ray Tenorio Lieutenant Governor

Anthony C. Blaz **Deputy Director**

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. **HBC 204A** TAMUNING, GUAM 96913-0185

VENDOR NO. : P0076701 Telephone: 671 300-0200 Facsimile: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. \$146401050 award by reason of your failure to perform by April 10, 2014

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please confact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

Chief Procurement Officer

cc: Division of Accounts, DOA

COMMITED TO EXCELLENCE

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Benita A. Manglona Director **GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio Lieutenant Governor

Anthony C. Blaz Deputy Director

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185 VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Fax: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01052 award by reason of your failure to perform by <u>April 10, 2014</u>.

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

Claudia S. Acfalle Chief Producement Officer

cc: Division of Accounts, DOA

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General Services Agency

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Eddie Baza Calvo Governor

Benita A. Manglona

Director



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio Lieutenant Governor

Anthony C. Blaz

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185 VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Fax: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01045 award by reason of your failure to perform by <u>April 10, 2014.</u>

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

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Chief Producement Officer

cc: Division of Accounts, DOA

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April 21, 2014

via hand delivery

Ms. Claudia S. Acfalle Chief Procurement Officer General Services Agency (GSA) Government of Guam Piti, Guam 96913

RE: GSA Default Notice Reference PO P146A01052

Dear Ms. Acfalle:

Further to my letter to you on April 14, 2014, I wanted to take this opportunity to follow-up with you on this matter and give you an update regarding steps that PDS has taken to resolve this situation.

As we have informed you, over the last 10 days PDS has been trying to work with the authorized Government of Guam representatives for this site in order to arrange PDS access to the location to perform required site preparations and installation of equipment to provision the PDS services covered by this Purchase Order. It is the Government's responsibility to provide PDS with this access in order that PDS may perform the work required to install these services. I have attached copies of emails and a record of any telephonic discussions on this matter for your reference.

As of this writing we have been unable to confirm access to this site and as a direct consequence have been unable to install the services covered by this Purchase Order. Though PDS has not been able to provide these service or perform this work, PDS is incurring costs for equipment that has been purchased for this site and for other telecom circuits ordered to support this location. If the Government continues to refuse to grant PDS access to install these services, PDS reserves any and all options available to it for the recovery of any applicable costs from the Government for its failure to allow PDS to perform under this Purchase Order.

I would appreciate your feedback on this matter and a response to our earlier request for the Government to rescind this default notice for the reasons previously explained. We also recommend that if the Government cannot or will not allow PDS the access required to install the services covered by this Purchase Order then GSA should cancel this Purchase Order (bearing in mind that such a cancelation may also result in a PDS claim for any and all applicable costs).

I am available to meet with you in a good faith effort to resolve this matter.

Sincerely, John Dav

President

Attachments as indicated

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

PACIFIC DATA SYSTEMS 185 Ilipog Drive Suite 204A Tamuning, Guam 96913

PDS Commication Log for: PO: P146A1050, P146A1052, & P146A1045

Date	Туре	То	From	Comments
4/14/13	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Email advising of Default Notices received regarding the following PO's: P146A1050, P146A1052, & P146A1045 and requesting his assitance in getting us access to the relevant areas at each site so that we can provision our services
4/15/14	EMAIL		Wil Castro	Email acknowleging reciept of our email.
4/15/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Thanking Wil for email and requesting him to send us confirmation to dispatch our crew to the sites.
4/15/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to request for access to sites for provisioning of phone services.
4/16/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to request for access to sites for provisioning of phone services.
4/17/14	TELEPHONE CALL	Will Castro		Spoke to Wil he advised that he would contact the agency to get the confirmation for us to proceed from them. But he did follow-up with the Governor's Office and Government House folks but he did not get any feedback from them. He did confirm that he recieved my email dated April 14th. regarding the GSA Default Notices that we recieved. Said he would send a note to Rose (Ramsey).
4/17/14	TELEPHONE CALL	Christine Flores		Called and identified myself as John Mantanona from PDS. Spoke to the receptionist who transferred my call to Christine. Christine did not answer her line.

COMPANY CONFIDENTIAL

PACIFIC DATA SYSTEMS 185 Ilipog Drive Suite 204A Tamuning, Guam 96913

PDS Commication Log for: PO: P146A1050, P146A1052, & P146A1045

Date	Туре	То	From	Comments
4/17/14	TELEPHONE CALL	Ann Aguon		Called to schedule our techs to provision services the next day. She advised to call Christine (Flores) to get because she's cant say anything until they tell her what to do.
4/18/14	EMAIL	Wil Castro w/copy to Claudia Acfalle, Joseph Manibusan & John Day		Follow-up to our phone call with Wil Castro on 4/17/14to request for access to sites for provisioning of phone services.
4/21/14	TELEPHONE CALL	Wil Castro		No Answer, could not leave a message due to voicemail box was full.
4/21/14	TELEPHONE CALL		Wil Castro	Advised that he did not get the green light from the authorities to go. He said he will follow up. He advised that he made the requests to the agency twice regarding this and have not heard anything back from them

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From: John Mantanona [<u>mailto:jsm@pdsguam.com</u>] Sent: Tuesday, April 15, 2014 9:03 AM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: RE: Installation of Services for PO P146A1050, P146A1052, P146A1045

Thank you for your email Wil. Please send us confirmation as soon as possible so that we can dispatch our crew accordingly.

Sincerely, John Mantanona Government Account Manager Direct: 671-300-0229 Mobile: 671-686-7333 From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Tuesday, April 15, 2014 10:09 AM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: RE: Installation of Services for PO P146A1050, P146A1052, P146A1045 Importance: High

Wil,

We still have not heard back from you regarding confirmation of access to the sites and we need to release our technical team to work on other pending projects therefore, the next available window to provision this work will be this afternoon or tomorrow morning. Please confirm access to these sites accordingly.

Best regards, John Mantanona Government Account Manager -----Original Message-----From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Wednesday, April 16, 2014 3:42 PM To: 'William Castro' Cc: 'Claudia Acfalle'; 'Joseph C Manibusan'; 'John Day'; 'Wil Castro' Subject: Follow-Up RE: Installation of Services for PO P146A1050, P146A1052, P146A1045

Good Afternoon Wil,

I'm just following up on your confirmation on providing us access to provision our services for these sites. We have been ready to continue with our installations for the above referenced subject and need your assistance in facilitating this process so that we can cure the Default Notices that was delivered to us by GSA. Your timely assistance with providing us this access would be greatly appreciated. Should you need to call me please do so at your convenience.

Sincerely, John Mantanona Government Account Manager Direct: 671-300-0229 -----Original Message-----From: John Mantanona [mailto:jsm@pdsguam.com] Sent: Friday, April 18, 2014 3:12 PM To: William Castro Cc: Joey Manibusan; Claudia Acfalle Subject: Follow Up to Installation of phone services for the Governor and Lt. Governor

Hafa Adai Wil.

5. 1

It was nice talking with you yesterday on the phone regarding the installation of our telephone services for the Governors Office, Government House and Lieutenant Governor's Office. As mentioned, we are trying to clear Default Notices issued by GSA which allows us to cure in 10 days. I was hoping that after our conversation that I would hear from you at the end of the day yesterday or early today advising us of access to the relevant areas for each location so that we can proceed with our provisioning however, I have not heard or received an email from you yet regarding this and our ability to schedule the provisioning of our services for those locations. Your prompt feedback and assistance with facilitating this process would be greatly appreciated.

Best regards, John Mantanona Account Manager Direct: 671-300-0229 | Saipan: 670-235-0005

John Mantanona

From:	William Castro <wilcastro@guam.gov></wilcastro@guam.gov>
Sent:	Tuesday, April 15, 2014 8:29 AM
То:	John Mantanona
Cc:	Claudia Acfalle; Joseph C Manibusan; John Day; Wil Castro
Subject:	Re: Installation of Services for PO P146A1050, P146A1052, P146A1045

Hafa Adai John.

This is to acknowledge receipt.

I will process your request and get back to you as soon as practical.

Thank you, -Wil

On Mon, Apr 14, 2014 at 6:35 PM, John Mantanona <<u>ism@pdsguam.com</u>> wrote: > Hello Wil,

>

> I wanted to take this opportunity to give you copies of the attached
> Default Notices that we got from GSA late on Friday, April 11, 2014.
> GSA has essentially told us to continue with the installation for the
> three PO's referenced and to complete these installations ASAP
> otherwise GSA will hold us in Default and assess liquidated damages
> for failure to deliver the services for these sites. Though we do not
> agree that the failure to have these services installed to date is the
> fault of PDS or that PDS is in Default regarding the delivery of these
> services, we do agree that the quickest and easiest way to resolve
> this matter is to move forward with these installations and to
> complete the service installations as soon as possible.

> In order to complete these installation we need your help to arrange
> access to each of the sites; the Adelup Complex and Government House.
> This email will serve as our formal request for you to arrange site
> access at both locations; Adelup Complex and Government House for our
> installation preparation work. We would like to have this access
> starting tomorrow (Tuesday, 4/15/14) at 9:30am and continuing through
> the rest of the week until our services are provisioned and installed.
> I would appreciate your prior confirmation of this access so that our
> technicians are not turned away as has happened in the past.

>

>

> If you have any questions or concerns or have trouble with the
 > attachments please do not hesitate to contact me.

> Best regards,

- > John Mantanona
- > Direct: 671-300-0229

> Mobile: 671-686-7333

---Sincerely, -Wil

Wil Castro Chief Technology Officer (Acting) of the government of Guam wil.castro@guam.gov

Office of Technology Hagatna, Guam 929-6209 / 475-1209 ------ Guam, USA

John Mantanona

From:John Mantanona <jsm@pdsguam.com>Sent:Monday, April 14, 2014 6:35 PMTo:William CastroCc:Claudia Acfalle; Joseph C Manibusan; John DaySubject:Installation of Services for PO P146A1050, P146A1052, P146A1045Attachments:1050 Gov Office.pdf; 1052 Lt Gov Office.pdf; 1045 Gov Office.pdf

Hello Wil,

I wanted to take this opportunity to give you copies of the attached Default Notices that we got from GSA late on Friday, April 11, 2014. GSA has essentially told us to continue with the installation for the three PO's referenced and to complete these installations ASAP otherwise GSA will hold us in Default and assess liquidated damages for failure to deliver the services for these sites. Though we do not agree that the failure to have these services installed to date is the fault of PDS or that PDS is in Default regarding the delivery of these services, we do agree that the quickest and easiest way to resolve this matter is to move forward with these installations and to complete the service installations as soon as possible.

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If you have any questions or concerns or have trouble with the attachments please do not hesitate to contact me.

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Best regards, John Mantanona Direct: 671-300-0229 Mobile: 671-686-7333

GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio

Anthony C. Blaz

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185

VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Facsimile: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. **P146A01950** award by reason of your failure to perform by <u>April 10, 2014</u>

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

Claudia 5. Acfalle Chief Procurement Officer

cc: Division of Accounts, DOA

COMMITED TO EXCELLENCE

Eddie Baza Calvo

 $^{\circ}$ GSA

Benita A. Mangiona Director

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GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio Lieutenant Governor

Anthony C. Blaz Deputy Director

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185 VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Fax: 671 300-0265

Dear Sir / Madam

Hafa Adai !

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01052 award by reason of your failure to perform by <u>April 10, 2014</u>.

You ARE HEREBY NOTIFIED that you have <u>ten</u> (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

Claudia S. Acfalle Chief Produrement Officer

cc: Division of Accounts, DOA

COMMITED TO EXCELLENCE

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General Services Agency

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Eddie Baza Całvo Governor

Benita A. Manglona

Director



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat) Department of Administration 148 Route 1 Marine Drive, Piti, Guam 96915 Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 472-4217 Ray Tenorio

Anthony C. Blaz

DATE: April 11, 2014

PACIFIC DATA SYSTEMS 185 ILIPOG DRIVE. HBC 204A TAMUNING, GUAM 96913-0185 VENDOR NO. : <u>P0076701</u> Telephone: 671 300-0200 Fax: 671 300-0265

Dear Sir / Madam

Hafa Adai!

PLEASE TAKE NOTICE that you are in default of the referenced Purchase Order No. P146A01045 award by reason of your failure to perform by <u>April 10, 2014.</u>

You ARE HEREBY NOTIFIED that you have ten (10) days from the day you receive this notice within to cure the default. After the time specified in this paragraph, the Chief Procurement Officer may by written notice to you, terminate your right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform, and procure similar supplies or services form other contractors in accordance with the procurement laws and regulation of Guam. After the time to cure has lapse, you will be liable for damage for delay in the amount of one-fourth (1/4) of one percent (1%) of outstanding order per calendar day from date set for cure until either the Territory reasonably obtains similar supplies or services if you are terminated for default. If your delay or nonperformance is excused in accordance with 2GAR 6101(8) (d), then no liquidated damages will be due the Territory. However, you will remain liable for damages caused other than by delay.

Please be reminded that all provisions of the Procurement Laws and Regulation apply. Excusable nonperformance must be preceded by notice of delay of the Chief Procurement Officer.

Should you have any questions or require information, please contact the Chief Procurement Officer at the General Services Agency, Department of Administration at 475-1707.

Si Yu'os Ma'ase.

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Chief Procurement Officer

cc: Division of Accounts, DOA

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April 22, 2014

via fax 472-4217

Ms. Claudia S. Acfalle Chief Procurement Officer General Services Agency (GSA) Government of Guam Piti, GU 96913

RE: Installation Status of GSA Purchase Orders

Dear Ms. Acfalle:

I wanted to take this opportunity to give you an update on the status of the GSA Purchase Orders that have been issued to PDS under the GSA-064-11 Telecom procurement for Parts 2 and 3. I have attached a schedule that shows the status of each Purchase Order for your reference and also notes any exceptions or issues that have occurred doing the service installation that may be the cause for delays in the installation of PDS' services.

The procurement called for an installation timeline of 150 days from the date of the current batch of Purchase Orders; which were all issued on November 22, 2013. However, there have been excusable delays in the installation of these services that I wanted to call to your attention. Some of these delays have had to do with individual sites and these are noted on the attached. Of greater concern to PDS are delays that have occurred that have extended the time required to install all of the services. The most significant delay of this type was the Motion for Contempt that was filed by Teleguam Holdings LLC (GTA) on December 13, 2013 (see attached partial copies of the Superior Court filings on this matter).

Due to the potential for severe penalties if GTA were to prevail in this Motion it was decided by the Government and PDS legal counsels that the installation of the PDS services should be suspended for the duration of the case. As the attached copies show, a hearing on the Motion was held on Jan 9, 2014 with a final Decision and Order issued by the Superior Court on March 10, 2014.

Based on the attached information regarding the delays associated in the installation of the PDS services, PDS has made the following calculations to arrive at a revised installation timeline for this procurement:

GSA PO's issued on 11/22/2013, PDS starts work on installation of the services

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



- GTA Motion for Contempt filed 12/13/2013, PDS suspended work on installation of services
- Court issues Decision and Order on March 10, 2014, PDS resumes work on installation of new services. PDS Installation work suspended a total of 87 days.

Based on the above excusable delay, the revised installation timeline would be recalculated as follows:

- 50% of the Purchase Orders installed within 90 days or by May 19, 2014
- 75% of the Purchase Orders installed within 120 days or June 18, 2014
- 100% of the Purchase Orders installed within 150 days or July 18, 2014

As the attached schedule shows, PDS currently has completed installation for more than 75% of the Purchase Orders and we estimate that services for all Purchase Orders will be completed by the end of May 2014 (please note exceptions for some sites that are preventing PDS from service installation).

I would appreciate your confirmation of the excusable delays that we have defined herein, as well as, the revised installation timeline as expressed above.

Sincerely. John Day President

Attachments as indicated

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

GSA 064-11: PDS IMPLEMENTATION UPDATE

Department/Agency	PO No.	PO Date	INSTALLATION STATUS April 22, 2014	COMMENT
AGENCY FOR HUMAN RESOURCES DEV-WIA ADULT PROG - PY2012/FY2013	P145A01073	11/22/2013	Service has been installed	
AGENCY FOR HUMAN RESOURCES DEV-WIA DISLOC WORKER - PY11/FY12	P146A01076	11/22/2013	Service has been installed	
AGENCY FOR HUMAN RESOURCES DEV-WIA YOUTH PROGRAM-PY2011	P146401077	11/22/2018	Service has been installed	
BUREAU OF STATISTICS AND PLANS-ADMINISTRATION	P146A01080	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-COOPERATIVE AGREEMENT WPCFIN	P146A01079	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-EDWARD BYRNE JUSTICE ASSISTANCE	P146A01082	11/22/2013	Service has been installed	
SUREAU OF STATISTICS AND PLANS-GUAM COASTAL MGMT PROG 306	P146A01083	11/22/2013	Service has been installed	
BUREAU OF STATISTICS AND PLANS-PROJ SAFE NEIGHBORHOODS (PSN)	P146A01081	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS / OSH	P146A01065	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS ONE STOP WORKFORCE INFO	P146A01061	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS ONE STOP WORKFORCE INFO	P146A01063	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-BLS-ONE STOP	P146A01071	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01066	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01067	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-DOL MANPOWER DEVELOPMENT FUND	P146A01070	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-FISCAL & SUPPORT	P146A01068	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-GUAM EMPLOYMENT SERVICES 90%	P146A01069	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-OSHA ON-SITE CONSULTATION PRG	P146A01062	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-SERVE-GUAM	P146A01060	11/22/2013	Service has been installed	
	P146A01064	11/22/2013	Service has been installed	
DEPARTMENT OF LABOR-WAGE AND HOUR DIVISION				
SUAM FIRE DEPARTMENT-E911 COMMUNICATIONS BUREAU	P146A01055	11/22/2013	Service CANNOT be installed	Service on PO not compatible with E911 Sys
GUAM FIRE DEPARTMENT			Partially Installed	see Individual status for various locations
DNA Bulding Locations			Service has been installed	
FIRE STATION 3 BARIGADA			Partially Installed	installation progress, est complete 4-30
FIRE STATION & UMATAC			Partially Installed	installation progress, est complete 4-30
FIRE STATION 4 DEDEDO			Partially Installed	installation progress, est complete 4-30
FIRE STATION 9 YONA			Partially installed	installation progress, est complete 4-30
FIRE STATION 5 AGAT	P146A01053	11/22/2013	Partially Installed Partially Installed	installation progress, est complete 4-30
FIRE STATION 10 YIGO			Partially Installed	installation progress, est complete 4-30 installation progress, est complete 4-30
FIRE STATION 6 INARAJAN			Partially Installed	installation progress, est complete 4-30
FIRE STATION 11 TALOFOFO			Partially installed	installation progress, est complete 4-30
FIRE STATION 1 TAMUNING FIRE STATION 2 SINIJANA			Partially Installed	installation progress, est complete 4-30
PIRE STATION 7 PITI			Partially Installed	installation progress, est complete 4-30
FIRE STATION 12 ASTUMBO			Partially Installed	installation progress, est complete 4-30
MAINTENANCE SHOP UPPER TUMON			Partially Installed	installation progress, est complete 4-30
DEPT OF PUBLIC HEALTH-FACILITIES & MAINTENANCE SECT			Partially Installed	see individual status for various locations
DPHSS - Central Main			Installation in process	instaliation progress, est complete 5-31
DPHSS - Mangilao Legacy Building Location			Service has been installed	
DPHSS - Senior Citizens (Mangilao, Castle Bullding Location)			Partially Installed	installation progress, est complete 4-30
DPHSS - Immunization (Mangilao Castle Building Location)			Partially Installed	Some PO services not compatible w/existing Pho
	P146A01072	11/22/2013	Service has been installed	System, waiting on amendment
DPHSS - Southern Clinic DPHSS - Northern Clinic			Service has been installed	
DPHSS - Northern Canic DPHSS - WIC Tivan Location			Service has been installed	
			Partially Installed	Some PO services not compatible w/existing Pho
DPHSS - Karinn Office				System, waiting on amendment
DPHSS - BOSSA		11/33/2001	Service has been installed	
DEPARTMENT OF ADMINISTRATION-DIRECTOR'S OFFICE	P145A01108	11/22/2013	Service has been installed	
DEPARTMENT OF AGRICULTURE-GUAM PLANT INSPECTION PERMIT	P146A01084	11/22/2013	Partially Installed	installation progress, est complete 4-30
GOVERNORS OFFICE-EXECUTIVE DIRECTION	P146A01045	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services
GOVERNORS OFFICE-GOVERNMENT HOUSE	P146A01050	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services
LT. GOVERNORS OFFICE-I SEGUNDU NA MAGA"LAHEN GUAHAN	P146A01052	11/22/2013	Not installed on HOLD	No Access to Site, unable to install services.

CARLSMITH BALL LLP

ELYZE M. IRIARTE eiriarte@carlsmith.com VINCENT C. CAMACHO vcamacho@carlsmith.com Bank of Hawaii Bldg., Suite 401 134 West Soledad Avenue Hagåtña, Guam 96932-5027 Telephone No. 671.472.6813 Facsimile No. 671.477.4375

Attorneys for Appellant Teleguam Holdings, LLC and its wholly owned subsidiaries EELIMAN O'CONNOR & MANN RECEIVED

DEC. 13 2013

IN THE SUPERIOR COURT OF GUAM

TELEGUAM HOLDINGS LLC AND ITS WHOLLY OWNED SUBSIDIARIES,

Plaintiff,

VS.

TERRITORY OF GUAM; DEPARTMENT OF ADMINISTRATION, GENERAL SERVICES AGENCY; THE OFFICE OF PUBLIC ACCOUNTABILITY; PACIFIC DATA SYSTEMS, INC., CIVIL CASE NO. CV0333-13

EX PARTE APPLICATION TO HEAR MOTION FOR CONTEMPT; MOTION FOR CONTEMPT; MEMORANDUM OF POINTS AND AUTHORITIES

Defendants.

EX PARTE APPLICATION TO HEAR MOTION FOR CONTEMPT

Plaintiff Teleguam Holdings LLC hereby applies to the Court to hear the attached Motion for Contempt *Ex Parte* and on an expedited basis. The basis for this application is that Defendants have violated the Court's Temporary Restraining Order by issuing Purchase Orders, to the detriment of Teleguam, as this Court has already found. The issue is time-critical and should be addressed without delay.

Dated this 13th day of December 2013.

4821-0355-3047.1



IN THE SUPERIOR COURT OF GUAM



CASE NO .: CV0333-13 LERK OF COUL

NOTICE OF HEARING

TELEGUAM HOLDINGS, LLC,

Plaintiff(s),

PACIFIC DATA SYSTEMS OFFICE OF PUBLIC ACCOUNTABILITY GOV'T OF GUAM, TERRITORY OF GUAM

VS.

Defendant(s).

Carlsmith Ball Llp To:

Attorney BILL R MANN To:

To: **ATTORNEY FRED NISHIHIRA**

You are hereby notified that the above-captioned case is scheduled before the Honorable JUDGE ANITA A SUKOLA on:

Motion Hearing re Bond Posting

PURPOSE OF HEARING:

TIME: DATE:

January 9, 2014 10:30 a.m.

Location of Hearing: Guam Judicial Center, Hagatna, Guam

REMARKS:

DATE: December 31, 2013

DANIELLE ROSETE Clerk, Superior Court of Guam By:

Dotores Manibusan, Courtroom/Chamber Clerk JAN 07 YON

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	MAR 10 20	SUPERIOR COURT			
1	Time: 4:34	2014 KAR 10 AN 11: 40			
2 3	IN THE SUPERIOR C	COURT OF GUAM CLEPK AT COURT			
4		1			
5	TELEGUAM HOLDINGS LLC AND ITS WHOLLY OWNED SUBSIDIARIES,) Case No. CV 0333-13			
6	Plaintiffs,	{			
.7		DECISION AND ORDER			
8 9	¥\$.	PLAINTIFF'S MOTION FOR CONTEMPT AND PARTIES' REQUESTS FOR BOND			
10	TERRITORY OF GUAM; DEPARTMENT OF ADMINISTRATION, GENERAL	}			
11 12	SERVICES AGENCY; THE OFFICE OF PUBLIC ACCOUNTABILITY; PACIFIC DATA SYSTEMS, INC.,	}			
13		}			
14	Defendants.	}			
15					
16 17 18	INTRODU	전화철학 가슴 것 모님이 있는 것 같아. 가지 않는 것 같은 것 않아? 귀엽 날 없			
19	This matter came before the Honorable . January 9, 2014 on Plaintiff Teleguam's Ex Parte	Anita A. Sukola on December 24, 2013 and Application to Hear Motion for Contempt and			
20	Motion for Contempt, as well as on the parties"				
21	Plaintiff. Attorneys Elyze M. Iriarte and Vinc	cent Camacho represent Plaintiff Teleguam,			
22	Assistant Attorney General Fred Nishihira represents Defendant Government of Guam, and				
23	Attorney Bill R. Mann represents Defendant Pacific Data Systems (PDS). Following the				
24	hearings, the Court took the matters under advisement. Having considered the parties'				
25	arguments and the applicable law, the Court now issues its Decision and Order DENYING Plaintiff's Motion for Contempt, DENYING Plaintiff's request for return of the bond, and				
26	GRANTING Defendants' request for return of the bond.				
27	ATTATA TA MANAGAMANA ANA	경험 성가 가지 않는 것이 것 것 같아요. 것이 있었다. 것 같아요. 이 것 같아요. 이 것 같아요. 이 것 것 같아요. 같은 것 같아요. 이 것 같아요. 이 것 같아요. 이 것 같아요.			
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	Page 1 CV 0333-13: Teleguam V. Guam, et al Plaintiff's Motion for Contempt and Parties'	Requests for Bond			
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Message Confirmation Report

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