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## OFFICE OF THE ATTORNEY GENERAL

AG Procurement Form 009 (4<sup>th</sup> Rev. May 5, 2013)

### PROCUREMENT REVIEW CHECKLIST FOR REQUEST FOR PROPOSALS (RFP)

AG PCF No.: ABCD ##-####

Special Assistant Attorney General: Enter Attorney's Name Here

Agency: Enter Agency's Name Here Agency RFP No.: Enter Ref. No. Here

Brief Description: Enter Description Provided by Agency in Notification Here

**Instructions:** For each question or item below, please answer "yes," "no," or "not applicable" ("n/a") by checking the appropriate box. Each question must be answered, or the checklist will be considered incomplete and returned to you for completion. In some cases, a short answer is required in addition to checking one of the boxes. Please provide an answer in the space provided. Some questions or items below are also accompanied by notes or special instructions. Please read them carefully and respond accordingly. Please note that if an item is required by a law, or based on one, the applicable law is cited. "L" refers to sections from 5 GCA (the Guam Procurement Law); "R" refers to sections from 2 GAR Div. 4 (the Guam Procurement Regulations).

When you have completed the procurement and the checklist, please sign and date the certification, and submit the certified checklist to the Attorney General's Office.

This checklist covers the basic essentials of an RFP type of procurement. However, depending upon the circumstances, other requirements of the Guam Procurement Law and regulations may apply. In addition, federally funded acquisitions may be subject to federal requirements. You are responsible for ensuring that all legal requirements are followed, including any requirements not specifically addressed in this checklist.

The Attorney General's Office will conduct occasional audits of your agency's acquisitions which you are handling as a Special Assistant Attorney General pursuant to 5 GCA § 5150. Please have the procurement record ready for audit at all times. The procurement record should be complete, organized, without multiple numbers of the same documents, and bound in some manner so that there are no loose papers. If we audit a record, and find that it is unorganized, or contains unnecessary duplications, or loose papers, we will return it to you for restructuring into an acceptable form.



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yes    no    n/a

### INITIAL QUESTIONS

1.   Is there a record of planning for this procurement? [5GCA §5010; 2 GAR, Div. 4 §1102.03]
2.   Is there a record of the requesting agency's determination of need? [5 GCA § 5249(e)]
3.   Is this procurement mandated by statute? If so, cite: \_\_\_\_\_  
\_\_\_\_\_
4.   Are the services to be acquired for accountants, physicians, lawyers, dentists, licensed nurses, other licensed health professionals, or other professionals? [5 GCA §5216; 2 GAR, Div. 4 §3114(c)(1)]
- 4.1.   If the answer to #4 is "yes," has a written determination been made in support?
5.   Has a reasonable inquiry been conducted with the appropriate personnel department regarding the availability of personnel to perform the services required? [2 GAR, Div. 4 §3114(c)(2)]
- 5.1.   If the answer to # 5 is "yes," has it been confirmed that the government does not have the personnel or resources to perform the services?
- 5.2.   If the answers to ##'s 5 and 5.1 are "yes," has a written determination been made in support?
6.   Has a written determination been made of the nature of the relationship to be established between the government and the contractor? [2 GAR, Div. 4 §3114(c)(3)]



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yes   no   n/a

        7.   Has a written plan for utilizing the services been developed? [2 GAR, Div. 4 §3114(c)(4)]

        7.1.   Has a written determination been made that the using agency intends to implement the written plan for utilizing the services and include it in the contractual statement of work?

        8.   Are there laws or regulations applicable to this procurement by virtue of this agency's enabling legislation or the requirements imposed by the funding source?

If the answer to # 8 is "yes," list the applicable laws and regulations here:

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**REQUIREMENTS FOR ALL SOLICITATIONS**

        9.   Does RFP advise of disclosure of major shareholders? [5GCA §5233]

        9.1.   Is affidavit form (AG Procurement Form 002) attached to RFP?

        10.   Does RFP advise that submission of price proposal is a certification by offeror that price was independently arrived at without collusion? [2 GAR, Div. 4 §3126(b)]

        10.1.   Is affidavit form (AG Procurement Form 003) attached to RFP?

        11.   Does solicitation conspicuously state prohibition against gratuities and kickbacks? [5GCA §5630(c); 2 GAR, Div. 4 §§11107(3) and 11107(4)(e)]

        11.1.   Is affidavit form (AG Procurement Form 004) attached to RFP?



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yes    no    n/a

- 11.2.    If proposed form of contract is attached to RFP, then prohibition must be stated in proposed contract. Is the prohibition stated? *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*
12.    Does solicitation conspicuously state prohibition against contingent fees and retention of persons to secure contract? [5GCA §5631(c); 2 GAR, Div. 4 §§11108(a)(3), 11108(f), and 11108(h)]
- 12.1.    Is affidavit form (AG Procurement Form 007) attached to RFP?
- 12.2.    If proposed form of contract attached to RFP, then prohibition must be stated in proposed contract. *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*
13.    Does RFP conspicuously state ethical standards? [2 GAR, Div. 4 §11103(b)]
- 13.1.    Is affidavit form (AG Procurement Form 005) attached to RFP?
- 13.2.    If proposed form of contract attached to RFP, then ethical standards must be stated in proposed contract. *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*
14.    Does RFP advise that solicitation for proposals may be cancelled as provided for in the regulations? [5GCA §5225; 2 GAR, Div. 4 §3115(c)]
15.    Does RFP advise that any bid may be rejected in whole or in part in the best interest of territory as provided in the regulations? [2 GAR, Div. 4 § 3115(e) (2)]



yes    no    n/a

        16. Does RFP recite prohibition against employment of sex offenders? [5GCA §5253(c)]

        16.1. If proposed form of contract attached to RFP, then prohibition must be stated in proposed contract. *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*

        17. Does RFP recite wage and benefits determination requirement? [5GCA §5211(b); see also 5 GCA §§ 5801 and 5802]

        17.1. Is the most recent applicable USDOL wage and benefits determination attached to RFP?

        17.2. Is declaration form (AG Procurement Form 006) attached to RFP?

        18. Does RFP specifically provide for multiple or alternate bids?

        18.1. If answer is no, then does solicitation state that multiple or alternate bids will be rejected. [2 GAR, Div. 4 §§ 3102(d)]

19. If contract will be for more than one year, does RFP state:

        19.1. Contract term and conditions of renewal or extension? [5GCA §5237(a); 2 GAR, Div. 4 §§ 3121(e)]

        19.2. The amount of services required for the proposed contract period? [2 GAR, Div. 4 §3121(e) (1) (A)]

        19.3. That contract will be cancelled only if funds not appropriated or are insufficient? [2 GAR, Div. 4 §§3121(e)(1)(C)]

        19.4. That, if contract cancelled for lack of funds, government will timely inform contractor; but that neither party's rights under



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yes   no   n/a

termination clause are affected? [2 GAR, Div. 4 §§3121(e)(1)(C) and (D)]

- 19.5. How award will be determined? [2 GAR, Div. 4 §3121(e) (1) (F)]
- 19.6. That, if contract cancelled, contractor will be reimbursed unamortized reasonably incurred non-recurring costs? [2 GAR, Div. 4 §3121(e) (1) (G)]
20. If contract will be for more than one year was a written determination made citing relevant factors? [5 GCA §5237(b); 2 Gar, Div. 4 §3121(d)]  
*[Note: See regulation for relevant factors in making determination.]*

20.1. List relevant factors found in written determination:

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21. If contract is to have an option for renewal or extension, is notice of this provision included in the RFP? [2 GAR, Div. 4 §3119(k)(1)]

### SCOPE OF WORK (SPECIFICATIONS)

22. Were specifications reviewed to confirm that they include only essential functions to meet government's needs? [5GCA §5268(a); 2 GAR, Div. 4 §4102(a)]
23. Were specification reviewed to confirm that they are not unduly restrictive? [5 GCA §§5265]



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yes   no   n/a

24. Is it true that the specifications do not contain features peculiar to services of only one service provider, or have the effect of requiring a sole source procurement? [5GCA §5268(b); 2 GAR, Div. 4 §§4106 (a) and 4102(a)(3)]
- 24.1. If answer is "no," is there a written determination that it is not practicable to use a less restrictive specification, or that peculiar features are essential, stating reasons why similar services without these features do not meet minimum requirements? [5GCA §5268(b); 2 GAR, Div. 4 § 4106(a)]
25. Do specifications describe salient technical requirements or desired performance without restrictions which do not affect requirements or performance? [5GCA §5268(c); 2 GAR, Div. 4 §§4102(a) (2) and 4109(c)]
26. Do specifications permit maximum practicable competition? [5 GCA §5265; 2 GAR, Div. 4 §4102(a) (1)]

### REQUIREMENTS AND CRITERIA

27. Does the RFP set forth, prior to publication, all of the requirements and criteria that will be used to determine the best qualified, responsive offeror? [5 GCA §5216(e)]

### RFP DOCUMENT REQUIREMENTS

28. - 36.6. The following items are mandatory as required by 5GCA §5216(c) and/or 2 GAR, Div. 4 §3114 and must be stated in the RFP:

28. Description of type of services required [5 GCA §5216(c); 2 GAR, Div. 4 §3114(f)(1)(A)]
29. Description of work involved [2 GAR, Div. 4 §3114(f)(1)(B)]



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yes    no    n/a

- |                          |                          |                          |   |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 30. Estimate of when and for how long the services will be required [2 GAR, Div. 4 §3114(f)(1)(C)]  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 31. Description of type of contract to be used [2 GAR, Div. 4 §3114(f)(1)(D)]   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 32. Date by which proposals shall be submitted [2 GAR, Div. 4 §3114(f)(1)(E)]   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 33. Statement that proposals shall be in writing [2 GAR, Div. 4 §3114(f)(1)(F)]   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 34. Statement that offerors must designate those portions of their proposal which contain trade secrets or other proprietary data which offerors want to keep confidential [2 GAR, Div. 4 §3114(f)(1)(G)] |
|                          |                          |                          | 35. Statement that the following is minimum information that proposals must contain:  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.1. Name of offeror , location of principal place of business, and place of performance. [2 GAR, Div. 4 § 3114(f)(1)(H)(i)]   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.2. If deemed relevant, age of offeror's business and average number of employees over a previous period of time as specified. [2 GAR, Div. 4 § 3114(f)(1)(H)(ii)]                                      |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.3. Abilities, qualifications, and experience of all persons who would be assigned to provide required services [2 GAR, Div. 4 §3114(f)(1)(H)(iii)]   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.4. Listing of other contracts under which services similar in scope, size or discipline were performed [2 GAR, Div. 4 §3114(f)(1)(H)(iv)]  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.5. Detailed plan for performance [2 GAR, Div. 4 §3114(f)(1)(H)(v)]   |





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yes   no   n/a

36. Description of factors to be used in evaluation and selection process, and their importance, as follows: [2 GAR, Div. 4 §3114(f)(1)(H)(vi)]
- 36.1. Quality of detailed plan for performance [2 GAR, Div. 4 §3114(f)(2)(A)]
- 36.2. Ability to perform [2 GAR, Div. 4 §3114(f)(2)(B)]
- 36.3. Personnel, equipment, and facilities to perform [2 GAR, Div. 4 §3114(f)(2)(C)]
- 36.4. Record of past performance of similar work [2 GAR, Div. 4 §3114(f)(2)(D)]
- 36.5. Other factors, as mentioned in RFP, briefly described:
- \_\_\_\_\_
- \_\_\_\_\_
- 36.6. Is the relative importance of each factor to be considered in evaluating proposals stated in an objective numerical fashion? [5 GCA §5216(c); 2 GAR, Div. 4 §§3114(f)(2) and 3114(j)]
37. If your answer to # 8, above, is "yes," have you applied all applicable laws and regulations to the development and formulation of the RFP?

### **PUBLIC NOTICE AND DISTRIBUTION OF RFP**

38. Was notice of RFP mailed, published, or otherwise furnished to prospective offerors at least ten days before due date? [5GCA §5216(c); 2 GAR, Div. 4 §3114(e) and 3109(f)(2)]
- ///
39. If the procurement is for greater than \$25,000, was notice of RFP published at least ten days before due date in a newspaper of general



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yes no n/a

circulation on Guam, in a newspaper of local circulation in area pertinent to the procurement, in industry media, or in a government publication designed for public notices? [ 2 GAR, Div. 4 §§ 3114(e) and 3109(f) (2)]

39.1. Describe means of publication: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- 40. Was the RFP or Notice of the Availability of RFP mailed or otherwise furnished to a sufficient number of potential bidders in order to secure competition? [2 GAR, Div. 4 §3109(f) (1) as applicable by §3114(e)]
- 41. Was RFP package made publicly available for inspection at the office of the Procurement Officer? [2 GAR, Div. 4 §3109(f)(3) as applicable by §3114(e)]
- 42. Was RFP also distributed to persons interested in performing, if such persons are known to be interested? [2 GAR, Div. 4 §3114(e)]
- 43. Was register or log of distribution of RFP kept?
- 44. Given the nature of the service to be acquired, and of the market place, was adequate notice of the need for these services given by the purchasing agency? [5 GCA §5216(c)]

### PRE-PROPOSAL CONFERENCE AND QUESTIONS

- 45. Was pre-proposal conference conducted? [2 GAR, Div. 4 §3114(g) and 2 GAR, Div. 4 § 3109(g)(4) [editor's note: this section apparently should have been numbered 3109(h), as it is referred to in §3114(g)]]
- 46. Was time, date and place announced to all prospective offerors?



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yes   no   n/a

47. Was summary or minutes of conference prepared?
48. Was summary or minutes of conference distributed to all prospective offerors?
49. Were questions received from any prospective offeror?
50. If answer to #49 was "yes," were written answers provided to each prospective offeror who picked up an RFP package?

### AMENDMENTS TO RFP

51. Were any amendments or addenda to the RFP issued? [see 2 GAR, Div. 4 §3109(i)]
52. How many amendments or addenda were issued? \_\_\_\_\_
53. Was each amendment or addenda distributed to or served on all prospective offerors who received an RFP?
54. Was proof of distribution or service kept in the form of a register or log of distribution?
55. Was proof of service kept in the form of some other documentation? [see 2 GAR, Div. 4 §3109 (i) (2)]. If "yes," please identify form of documentation:
- \_\_\_\_\_
- \_\_\_\_\_

///

### RECEIPT AND OPENING OF PROPOSALS



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yes    no    n/a

- 56. Was register of proposals received kept? [2 GAR, Div. 4 §3114 (h) (1)]
- 57. Was each proposal time-stamped and dated? [2 GAR, Div. 4 §3114 (h) (1)]
- 59. Were the offerors of late proposals notified that their proposal would not be considered? [see 2 GAR, Div. 4 §3109 (k) (3)]
- 60. Were proposals opened privately in the presence of two or more procurement officials? [2 GAR, Div. 4 §3114 (h) (1)]
- 61. Were proposals kept in a secure place until established due date? [2GAR, Div. 4 §3114(h) (1)]
- 62. Were the contents of proposals disclosed to any unauthorized persons? [2 GAR, Div. 4 §3114 (h) (1)]

**DISCUSSIONS, EVALUATIONS AND SELECTION OF BEST QUALIFIED OFFEROR**

- 63. Were discussions held with any offeror? [5GCA §5216(d), and 2 GAR, Div. 4 §3114(i) (1)]
- 64. If answer to #63 was "yes," was care taken that information from other proposals was not disclosed to the offeror with whom discussions were being held? [2 GAR, Div. 4 §3114(i) (2)]
- 65. As a result of discussions, did any offeror decide to modify or withdraw its proposal? [2 GAR, Div. 4 §3114 (i) (3)]
- 66. If any proposals were modified, was a log of modifications kept? [2 GAR, Div. 4 §3114(h) (1)]
- 67. Were proposals evaluated and ranked, and were the top three offerors designated? [2 GAR, Div. 4 §3114(j)]



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yes no n/a

68. Were the factors and process used in evaluating proposals consistent with RFP? [5GCA §5216(e); 2 GAR, Div. 4 §3114(j)]
69. Were any proposals rejected because the offeror was found to be non-responsible? [2 GAR, Div. 4 §3115(e) (3) (B)]
70. Were any proposals rejected because the proposal ultimately failed to meet announced requirements? [2 GAR, Div. 4 §3115(e) (3) (B)]
71. Were any proposals rejected because the price is clearly unreasonable? [2 GAR, Div. 4 §3115(e) (3) (B)]
- 71.1. If the answer to # 69, #70 or #71 was "yes," was a written determination prepared for each rejection? [2 GAR, Div. 4 §3115(d)(3), 3116(a), and 3116(b)(5)]
- 71.2. If the answer to # 69, #70 or #71 was "yes," was each unsuccessful offeror notified in writing about the rejection and reasons? [see 2 GAR, Div. 4 §§3115(e)(4), and 3116(b)(5)]
72. After the top three offerors were designated, were all offerors given written notice of their proposal's status?
73. Was best qualified offeror asked to submit cost or pricing data for negotiations to begin? [2 GAR, Div. 4 §3114(k)]
74. Has best qualified offeror requested in writing non-disclosure of trade secrets and proprietary data? [2 GAR, Div. 4 §3114(h)(2)]
- 74.1. If the answer to # 74 is "yes," has procurement officer examined designated material to validate request for nondisclosure?
- 74.1.1. If the answer to #74.1 is "yes," has procurement officer agreed with the request of offeror claiming confidentiality?



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yes    no    n/a

- 74.1.2.    If the procurement officer does not agree with the request of the offeror, is there a record that the offeror was informed in writing of decision, the effect of decision, and of appeal rights?

### NEGOTIATIONS AND AWARD

75.    Were negotiations with the best qualified offeror successful, and were all terms and price agreed to?
76.    Were contract negotiations directed toward:    [2 GAR, Div. 4 §§3114 (1) (2) and (3)]
- 76.1.    Assuring offeror has clear understanding of scope of work, including essential requirements to providing required services?
- 76.2.    Determining offeror will make necessary personnel and facilities available?
- 76.3.    Agreeing upon compensation that is fair and reasonable by taking account of value, scope, complexity and nature of required services?
- 76.4.    Agreeing upon contract requirements and documents?
77.    Is there a written determination that negotiated price is fair and reasonable? [5GCA §5216(e) and 2 GAR, Div. 4 §3114(1)(1)]
78.    Is negotiated price sufficient to comply with the wage and benefit requirements of 5 GCA §§ 5801 and 5802? [5GCA §5211(g)]
79.    If negotiations with best qualified offeror were not successful, was such offeror advised immediately that negotiations were being terminated? [2 GAR, Div. 4 §3114(l) (4) (A)]



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yes   no   n/a

80. Regarding #79, was written confirmation of the termination of negotiations given within three days of the verbal notice? [2 GAR, Div. 4 §3114(l) (4) (A)]
81. Was written record kept of reasons why negotiations failed? [2 GAR, Div. 4 §3114(l) (4) (A)]
82. At conclusion of successful negotiations, was memorandum of evaluations and negotiations prepared setting forth basis for award, to specifically include 1) how evaluation factors were applied to determine best qualified offers, and 2) principle elements of negotiation and significant considerations of price and terms? [2 GAR, Div. 4 §3114(m)]
83. Was written notice of award made? [2 GAR, Div. 4 §3114(l) (5)]
84. If your answer to # 8, above, is "yes," have you applied all applicable laws and regulations to the receipt and handling of proposals, and to the evaluation and negotiation of an agreement in this acquisition ?

### MANDATORY REQUIREMENTS FOR ALL CONTRACTS

85. Did the procurement officer certify in writing and under penalty of perjury that a complete procurement record exists before award was made? [5GCA §5250; 2 GAR, Div. 4 §3130] The certification should be in the following form or in substantially similar language:

"CERTIFICATION: Pursuant to 5 G.C.A. §5250, I hereby certify under penalty of perjury that I am the procurement officer responsible for administering the solicitation of the attached contract, and that I have caused to be prepared and now maintain a full and complete record of the procurement as required by law."

86. Identify contract type by checking one [2 GAR, Div. 4 §3119]:

\_\_\_\_\_ fixed price contract - firm fixed price

\_\_\_\_\_ fixed price contract - with price adjustment



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yes no n/a

- \_\_\_\_\_ cost-reimbursement - cost contract
- \_\_\_\_\_ cost reimbursement - cost-plus-fixed fee contract
- \_\_\_\_\_ cost incentive contract - fixed-price cost incentive
- \_\_\_\_\_ cost incentive contract - cost-reimbursement contract with cost incentive fee
- \_\_\_\_\_ performance incentive contract
- \_\_\_\_\_ time and materials contract - time and materials contract
- \_\_\_\_\_ time and materials contract - labor hour contract
- \_\_\_\_\_ lease
- \_\_\_\_\_ other: \_\_\_\_\_

- 87. For contracts which are not firm fixed price, has a written determination been made that the contractor's accounting system is adequate to allocate costs and will permit timely development of all cost data? [5GCA §5236; 2 GAR, Div. 4 §3119(e) (2)]
- 88. Can an assurance be made that contract is not a "cost-plus-a-percentage-of-cost" contract? [5GCA §5235; 2 GAR, Div. 4 §3119(b)]
- 89. If this is a cost-reimbursement contract, then has a written determination been made that the contract is likely to be less costly than other types of contracts, and meets further conditions set out at 2 GAR, Div. 4 § 3119(e) (2)? [5GCA §5235]
- ///
- 90. Does the contract conspicuously state the prohibition against gratuities and kickbacks? [5GCA §5630(c); 2 GAR, Div. 4 §11107(3)]
- 91. Does the contract conspicuously state contractor's representation that contractor has not retained a person to solicit or secure contract, or paid a





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yes no n/a

contingent fees, commissions, or brokerage fees? [5GCA §5631(a); 2 GAR, Div. 4 §11108(a) (3)]

92. Does contract conspicuously state ethical standard? [2 GAR, Div. 4 §11103(b)]

93. Does contract recite prohibition against employment of sex offenders? [5GCA §5253]

94. If contract is for multiple years, does contract state exactly the same term provision and renewal provision that were stated in the RFP? [5GCA §5237(a)]

95. For multi-year contracts, are funds available for the first year at time of contracting? [5GCA §5237(a)]

96. For multi-year service contract, and/or service contract with renewal clause, is there a stipulation to apply the Wage and Benefits Determination for Guam promulgated by the U.S. Department of Labor on a date most recent to the renewal date? [5 GCA §§5801, 5802]

97. If the contract is not a firm fixed price contract, does the contract state that the contractor shall maintain its books and records for three years from the date of final payment, and that this provision must be included in subcontracts? [5GCA §5241; 2 GAR, Div. 4 §3124]

98. If cost or pricing data was required, then does contract include provision that government may, at reasonable times and places, audit books and records relative to cost or pricing data, and that contractor shall maintain such records and books for three years from date of final payment? [5GCA §5241; 2 GAR, Div. 4 §3124]

///

99. A Disputes Clause is mandated in each contract by 2 GAR, Div. 4 §9103(g). The language proposed by §9103(g) is not adequate in light of the amendment to the procurement law by P.L.28-068:IV:68 [codified at 5 GCA §5427(e)] providing for an administrative appeal to the Public Auditor, and in light of *Pacific Rock v. Department of Education*, 2001 Guam 21, confirming that disputes for money owed to or from the



Enter Today's Date Here  
Agency: *Enter Agency's Name Here*  
Ref No.: *ABCD ##-####*  
RFP Description: *Enter Description Provided by Agency Here*  
RFP Reference No.: *Enter Reference No. Here*

yes no n/a

government of Guam are to be resolved pursuant to the Government Claims Act. Representatives of government agencies should contact the Office of the Attorney General at [paag@guamag.org](mailto:paag@guamag.org) for assistance and guidance.

### CONTRACT CLAUSES

100. Does the contractual statement of work implement the written plan for utilizing the services prepared at the initiation of this acquisition? [2 GAR, Div. 4 §3114(c) (4)]

101 - 109. The following are contract clauses that should be used only if the subject matter is applicable. If applicable, the clause in the regulation is to be used verbatim unless the provisions of the regulations at 2 GAR, Div. 4 §6101(2) are followed. [5GCA § 5350 (a) and (c); 2 GAR, Div. 4 § 6101(2)]:

101. "Changes" clause [2 GAR, Div. 4 §6101(3)(a)]

102. "Stop work order" clause [R 6101(4)(c)]

103. "Variation in quantity" clause for definite quantity contracts [2 GAR, Div. 4 §6101(5)(a)]

104. "Price adjustment" clause [2 GAR, Div. 4 §6101(6)]

105. "Claims based on government's actions or omissions" clause [2 GAR, Div. 4 §6101(7); referring one to 2 GAR, Div. 4 § 5106(8)]

106. "Termination for default" clause [2 GAR, Div. 4 §6101(8)]

107. "Liquidated damages" clause [2 GAR, Div. 4 §6101(9)(a); see also 2 GAR, Div. 4 §6101(9)(b)]

108. "Termination for convenience" clause [2 GAR, Div. 4 §6101(10)]



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Agency: *Enter Agency's Name Here*  
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RFP Reference No.: *Enter Reference No. Here*

yes no n/a

109. "Remedies" clause [2 GAR, Div. 4 §6101(12); referring one to 2 GAR, Div. 4 §5106(12)]
110. With respect to items 101 through 109, if the clauses were applicable, but not quoted in the contract verbatim from the rule, then was a written determination made to justify each deviation? [5GCA §5350(d); 2 GAR, Div. 4 §6101(2)]

### MISCELLANEOUS

111. If for legal services, has the AG's approval been obtained? [5GCA §5121(b) and 2 GAR, Div. 4 §3114 (n)]
112. If your answer to # 8, above, is "yes," have you applied all applicable laws and regulations to the development and award of the contract?

### CERTIFICATION

**I am the undersigned Special Assistant Attorney General for this procurement, and I certify that I have done due diligence in reviewing this procurement with respect to the foregoing requirements and any other legal requirements not listed, and to the best of my knowledge, all laws and regulations have been followed for this procurement.**

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_



# AFFIDAVIT DISCLOSING OWNERSHIP AND COMMISSIONS

CITY OF \_\_\_\_\_ )  
  ) SS.  
ISLAND OF GUAM   )

A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the offeror and that [*please check only one*]:

The offeror is an individual or sole proprietor and owns the entire (100%) interest in the offering business.

The offeror is a corporation, partnership, joint venture, or association known as \_\_\_\_\_ [*please state name of offeror company*], and the persons, companies, partners, or joint venturers who have held more than 10% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows [*if none, please so state*]:

<u>Name</u>	<u>Address</u>	<u>% of Interest</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Further, I say that the persons who have received or are entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or proposal for which this affidavit is submitted are as follows [*if none, please so state*]:

<u>Name</u>	<u>Address</u>	<u>Compensation</u>
_____	_____	_____

C. If the ownership of the offering business should change between the time this affidavit is made and the time an award is made or a contract is entered into, then I promise personally to update the disclosure required by 5 GCA §5233 by delivering another affidavit to the government.

\_\_\_\_\_  
Signature of one of the following:

Offeror, if the offeror is an individual;  
Partner, if the offeror is a partnership;  
Officer, if the offeror is a corporation.

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_



**AFFIDAVIT RE GRATUITIES OR KICKBACKS**

CITY OF \_\_\_\_\_ )  
 ) SS.  
 ISLAND OF GUAM )

\_\_\_\_\_ [state name of affiant signing below], being first duly sworn, deposes and says that:

1. The name of the offering firm or individual is [state name of offeror company] \_\_\_\_\_. Affiant is \_\_\_\_\_ [state one of the following: the offeror, a partner of the offeror, an officer of the offeror] making the foregoing identified bid or proposal.

2. To the best of affiant's knowledge, neither affiant, nor any of the offeror's officers, representatives, agents, subcontractors, or employees have violated, are violating the prohibition against gratuities and kickbacks set forth in 2 GAR Division 4 § 11107(e). Further, affiant promises, on behalf of offeror, not to violate the prohibition against gratuities and kickbacks as set forth in 2 GAR Division 4 § 11107(e).

3. To the best of affiant's knowledge, neither affiant, nor any of the offeror's officers, representatives, agents, subcontractors, or employees have offered, given or agreed to give, any government of Guam employee or former government employee, any payment, gift, kickback, gratuity or offer of employment in connection with the offeror's proposal.

4. I make these statements on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

\_\_\_\_\_  
 Signature of one of the following:

Offeror, if the offeror is an individual;  
 Partner, if the offeror is a partnership;  
 Officer, if the offeror is a corporation.

Subscribed and sworn to before me  
 this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC  
 My commission expires \_\_\_\_\_, \_\_\_\_\_.

**AFFIDAVIT RE ETHICAL STANDARDS**

CITY OF \_\_\_\_\_ )  
 ) ss.  
 ISLAND OF GUAM )

\_\_\_\_\_ [state name of affiant signing below], being first duly sworn, deposes and says that:

The affiant is \_\_\_\_\_ [state one of the following: *the offeror, a partner of the offeror, an officer of the offeror*] making the foregoing identified bid or proposal. To the best of affiant’s knowledge, neither affiant nor any officers, representatives, agents, subcontractors or employees of offeror have knowingly influenced any government of Guam employee to breach any of the ethical standards set forth in 5 GCA Chapter 5, Article 11. Further, affiant promises that neither he or she, nor any officer, representative, agent, subcontractor, or employee of offeror will knowingly influence any government of Guam employee to breach any ethical standards set forth in 5 GCA Chapter 5, Article 11. These statements are made pursuant to 2 GAR Division 4 § 11103(b).

\_\_\_\_\_  
 Signature of one of the following:

- Offeror, if the offeror is an individual;
- Partner, if the offeror is a partnership;
- Officer, if the offeror is a corporation.

Subscribed and sworn to before me  
 this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC  
 My commission expires \_\_\_\_\_, \_\_\_\_\_.

**DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION**

CITY OF \_\_\_\_\_ )  
) SS.  
ISLAND OF GUAM )

Procurement No.: \_\_\_\_\_

Name of Offeror Company: \_\_\_\_\_

I, \_\_\_\_\_ hereby **certify under penalty of perjury:**

(1) That I am \_\_\_\_\_ [*please select one: the offeror, a partner of the offeror, an officer of the offeror*] making the bid or proposal in the foregoing identified procurement;

(2) That I have read and understand the provisions of 5 GCA § 5801 and § 5802 which read:

**§ 5801. Wage Determination Established.**

In such cases where the government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation ("contractor") for the provision of a service to the government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the government of Guam.

The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

**§ 5802. Benefits.**

In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.

(3) That the offeror is in full compliance with 5 GCA § 5801 and § 5802, as may be applicable to the procurement referenced herein;

(4) That I have attached the most recent wage determination applicable to Guam issued by the U.S. Department of Labor. [*INSTRUCTIONS - Please attach!*]

\_\_\_\_\_  
Signature



**AFFIDAVIT RE CONTINGENT FEES**

CITY OF \_\_\_\_\_ )  
 ) SS.  
 ISLAND OF GUAM )

\_\_\_\_\_ [state name of affiant signing below], being first duly sworn, deposes and says that:

1. The name of the offering company or individual is [state name of company] \_\_\_\_\_.

2. As a part of the offering company's bid or proposal, to the best of my knowledge, the offering company has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. This statement is made pursuant to 2 GAR Division 4 11108(f).

3. As a part of the offering company's bid or proposal, to the best of my knowledge, the offering company has not retained a person to solicit or secure a contract with the government of Guam upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. This statement is made pursuant to 2 GAR Division 4 11108(h).

4. I make these statements on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

\_\_\_\_\_  
 Signature of one of the following:

Offeror, if the offeror is an individual;  
 Partner, if the offeror is a partnership;  
 Officer, if the offeror is a corporation.

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC  
 My commission expires \_\_\_\_\_, \_\_\_\_\_.