

1 R. MARSIL JOHNSON
2 BLAIR STERLING JOHNSON & MARTINEZ
3 A PROFESSIONAL CORPORATION
4 238 ARCHBISHOP FLORES ST STE 1008
5 HAGÁTÑA GU 96910-5205
6 TELEPHONE: (671) 477-7857

7 *Attorneys for Party in Interest Mobil Oil Guam Inc.*

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: Aug. 4, 2015

TIME: 3:25 AM PM BY: gc

FILE NO OPA-PA: 15-06

8 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
9 **PROCUREMENT APPEAL**

10 **In the Matter of**)
11)
12 **IP&E HOLDINGS, LLC.,**)
13)
14 **Appellant,**)
15 **And**)
16 **GUAM POWER AUTHORITY,**)
17)
18 **Purchasing Agency.**)
19)

Docket OPA PA-15-006
INTERESTED PARTY
MOBIL OIL GUAM INC.'S
EXHIBIT LIST

20 Interested Party Mobil Oil Guam Inc. ("Mobil"), hereby
21 submits its Exhibit List for the hearing in this matter.

22 1. Page 857 of the Procurement Record, marked as "Exhibit
23 a".

24 2. Page 872 of the Procurement Record, marked as "Exhibit
25 b".

26 3. Endorsement No. GL-1 (pages 211 and 212 of the
27 Procurement Record), marked as "Exhibit c".
28

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4. The IFB Package (pages 813 to 898 of the Procurement Record), marked as "Exhibit d".

5. Agency Report, marked as "Exhibit e".

6. Protestor Response to Agency Report, marked as "Exhibit f".

7. Comments of Interested Party Mobil Oil Guam, Inc., marked as "Exhibit g".

Enclosed are four copies of the exhibits, as ordered in the Scheduling Order for Hearing re Appellant's Appeal.

Mobil reserves the right to introduce and use any exhibit identified in the exhibit lists submitted by IP&E Holdings, L.L.C. and Guam Power Authority as well as any exhibit that becomes necessary and relevant for the purposes of refreshing recollection, impeachment, rebuttal, or for any other purposes during the hearing in this matter.

Mobil also reserves the right to amend this exhibit list prior to the hearing.

DATED this 4th day of August, 2015.

BLAIR STERLING JOHNSON & MARTINEZ
A PROFESSIONAL CORPORATION

BY: 

R. MARSIL JOHNSON

Attorneys for Party in Interest Mobil Oil Guam Inc.

CERTIFICATE OF SERVICE

I, R. Marsil Johnson, do hereby certify that on the 4th day of August 2015, I caused to be served a copy of **INTERESTED PARTY MOBIL OIL GUAM INC.'S EXHIBIT LIST** to be served upon the following, via hand delivery:

Purchasing Agency: D. Graham Botha
GPA Legal Counsel
1911 Army Drive, Suite 227
Harmon, Guam, 96913

Appellant: Steven Carrara
IP&E Holdings, LLC
646 Chalan San Antonio
Tamuning, Guam 96913-3644

DATED this 4th day of August, 2015.

BLAIR STERLING JOHNSON & MARTINEZ
A PROFESSIONAL CORPORATION

BY: 
R. MARSIL JOHNSON
Attorneys for Party in Interest Mobil Oil Guam Inc.

U68\50556-285
G:\MOGI\PLD\855-EXHIBIT LIST RE IP&E
- GPA OPA PA 15-006.DOCX

Exhibit “a”

PREAMBLE

This **CONTRACT**, shall be executed on the date of the award, by and between Guam Power Authority, a public corporation, hereinafter referred to as "Authority" or "GPA", and _____ hereafter referred to as "Contractor" or "Supplier".

WITNESSETH:

RECITALS

WHEREAS, the Authority has issued an Invitation for Bid, for a THREE (3) year Fleet Fuel Supply Contract, Invitation For Bid, **IFB GPA-005-15**, for the supply of the **AUTHORITY's** Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded, for the Authority's Transportation Fleet; and

WHEREAS, the Authority will award the Contract to the lowest responsible bidder whose bid conforms to the material aspects of the Invitation; and

WHEREAS, if Contractor specified herein has been awarded the **CONTRACT**, Authority and Contractor have agreed upon the terms and conditions of the Contract;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto do hereby agree as follows:

Exhibit “b”

with minimum limits of \$5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of GPA. GPA is to be an additional insured.

F. EXCESS LIABILITY

Excess Liability with limits of \$5,000,000. GPA shall be an additional insured. Contractor shall grant Waiver of Subrogation in favor of GPA.

G. CERTIFICATE OF INSURANCE:

The Contractor shall furnish GPA with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give GPA at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the Contractor shall furnish a Certificates of Insurance evidencing renewal of such coverage to GPA. The Certificates of Insurance shall clearly show this Contract number.

The Contractor shall provide a copy of their Insurance Policy to GPA as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to GPA.

H. SUBCONTRACTOR'S INSURANCE:

The Contractor shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the Contractor under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the Contractor two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph C. above. The Contractor shall furnish one (1) copy of the certificate to GPA.

Exhibit “c”

Endorsement No. GL-1

Named Insured: **IP & E Holdings LLC; IP & E Palau and Mariana Acquisition Corp.**
 Address: **643 Chalan San Antonio, Suite 100, Tamuning, GU, 96913**

CONTRACTUAL LIABILITY

This clause modifies the provisions of Exclusion 7:

It is hereby agreed and understood that this policy applies the "bodily injury" and "property damage" for which the Insured is liable under law and is obligated to pay damages by reasons of the assumption of liability in the following schedules contracts:

Schedule of Insured Contracts:

- (1) Asset Purchase Agreement – Guam
- (2) Asset Purchase Agreement – Palau
- (3) Stock Purchase Agreement – Saipan
- (4) Assignment & Assumption of Contracts, Guam
- (5) Assignment & Assumption of Lease and Terminal Facility Leases, Guam
- (6) Aviation Technical Services Agreement
- (7) Master Bill of Sale and Assignment Lease Agreement, Guam
- (8) Guam License Agreement
- (9) Agreement for Sale & Distribution of Lubricants
- (10) Marine Lubricants Purchase, Sale & Services Agreement
- (11) Guam – Saipan Supply Agreement
- (12) License Agreement, Saipan
- (13) Assignment & Assumption of Contracts, Palau
- (14) Assignment & Assumption of Bases, Palau
- (15) Bill of Sale, Palau
- (16) Amendment License Agreement, Palau
- (17) Supply Agreement, Palau
- (18) Throughput, Operating and Pipeline Use Agreement for LPG
- (19) Throughput, Operating and Pipeline Use Agreement for Wet Stock
- (20) Agreement for the Supply of Aviation Fuel, IP & E and Continental
- (21) Fleet Fuel Supply for Regular Unleaded Gasoline and Diesel Fuel Oil (GPA 010-10)
- (22) Diesel Engine Cylinder Lubrication Oil Supply (Cylinder Oil 019-09)
- (23) Diesel Fuel Supply (GPA-049-09)
- (24) Diesel Fuel Supply (GPA-050-09)
- (25) Petredec/SPPC LPG Contract
- (26) Agreement for Provision of Fixed Facilities and into Plane Services at Guam Airport
- (27) Agreement for the Supply of Aviation Fuel with Philippine Airlines, Inc.
- (28) Aviation Fuel Supply Agreement with Japan Airlines Company, Ltd.
- (29) Aviation Turbine Fuel Contract with Continental Airlines, Inc.
- (30) Lease Agreements – (CNMI), Puerto Rico Inc., Joaquin LG Sablan, Greg & Evelyn Calvo, D & W Saipan Inc., Jose Demapan, Lorenzo LG Cabrera, Juan T. Lizama, Commonwealth Ports Authority
- (31) Lease Agreement – (GUAM) Antonio M Palomo, et. al., Jones & Guerrero Inc., Manuel & Maria Paulino, Henry & Carolyn Simpson, Calvo Enterprises, RCS Enterprises, Vicente P. Camacho, Camacho Family Reality Trust, Micronesia Seven Inc., Alfredo & Carmen Sablan, Laurent F. Duenas.
- (32) Supply & Terminalling Agreement with SPPC
- (33) SPPC LPG Supply and Terminalling Agreement
- (34) Facility User Agreement F1 Dock with Guam Power Authority
- (35) Facility User Agreement F1 Dock with TRISTAR
- (36) Contract of Affreightment Asahi Tanker (S) Pte. Ltd.

- (37) Security Services Agreement (Mengkar Security Co.)
- (38) Tanker Receiving Agreement (Mar-C)
- (39) Shell Fleet Card Contracts
- (40) Commercial Supply Agreements for Fuel/Lubricants
- (41) Auto Lease Agreement (Atkins Kroll, Inc.)
- (42) Shell Terminal Cleanup, Landscaping (N.K. Landscaping)
- (43) Lease Agreements – Palau
 - Fritz Business Lease
 - KSPLA (Koror State Public Lands Authority)
 - MCC Terminal (Malakal Commercial Corporation)
- (44) PPUC Supply Agreement
- (45) Fuel Supply Contract with Itochu Petroleum Co. (Singapore) Pte. Ltd.
- (46) NEX Fuel Supply Contract
- (47) Aviation Fuel Supply Contract with UPS
- (48) Aviation Fuel Supply Contract with EVA Air
- (49) SK Energy (Pending Contract Copy)
- (50) Lubes Warehouse Rental Agreement (Santos Properties)
- (51) Aviation Fuel Supply Contract with United Airlines
- (52) Aviation Fuel Supply Contract with FedEx

Such assumption of liability shall be subject to the coverage, terms and conditions of the Combined General and Products Liability Policy No. GL-PL-GUM-2014-1055.

Nothing herein contained shall be held to vary, alter, waive or change any of the terms, limits or conditions of the policy, except as herein above set forth.

This endorsement is effective as of 09/30/14 and forms part of Policy No. **GL-PL-GUM-2014-1055** of the **Century Insurance Co. (Guam) Ltd.**

Date issued: December 23, 2014

By: _____

Perennial Heij
 Aon Insurance Micronesia (Guam), Inc.
 General Agent

Exhibit “d”



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

January 7, 2015

AMENDMENT NO.: VI

TO

INVITATION FOR BID NO.: GPA-005-15

FOR

**DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED FOR THE GPA
TRANSPORTATION FLEET**

Prospective Bidders are hereby notified of the following changes and response to inquiries received from SPPC dated December 01, 2014 and IP&E Guam dated December 17, 2014:

CHANGES:

1. On page 11 of 68, PART A, Section II, Item 7: **AWARD:**

Delete: "B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e. annual report with audited financial statements) and references for use in evaluating it capabilities."

And replace with: "B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e. most recent annual report with audited financial statements) and references for use in evaluating it capabilities."

SPPC Inquiry dated December 01, 2014:

QUESTION:

1. Bidder Financial Responsibility: Audited financial Statement and annual Report of what year(s)?

RESPONSE:

This Amendment No.: VI changes verbiage from "B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e. annual report with audited financial statements) and references for use in evaluating it capabilities." to now read "B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e.

most recent annual report with audited financial statements) and references for use in evaluating its capabilities."

IP&E inquiry dated December 17, 2014:


QUESTION:


2. Per GPA Amendment II for IFB GPA 005-15 received December 16, 2014, GPA is requiring 'audited financial statements for the past 5 Years'. The request is not consistent with other recent GPA bids and IP&E would request the language be modified to read "most recent annual report with audited financial statements" or "documentation to illustrate its financial position and capability" used most recently GPA 029-14 fuel supply to the diesel-fired power plants.

RESPONSE:

This Amendment No.: VI changes verbiage from "B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e. annual report with audited financial statements) and references for use in evaluating its capabilities." to now read "B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e. most recent annual report with audited financial statements) and references for use in evaluating its capabilities."

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
Interim General Manager





GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

January 5, 2015

AMENDMENT NO.: V

TO

INVITATION FOR BID NO.: GPA-005-15

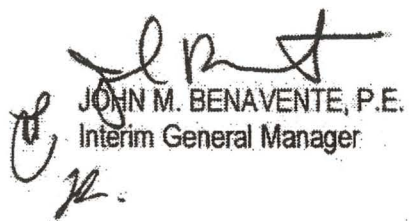
FOR

**DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED FOR THE GPA
TRANSPORTATION FLEET**

Prospective Bidders are hereby notified of the following:

**Bid Opening date is changed from 2:00 P.M., Tuesday, January 06, 2015 to now read 2:00 P.M.,
Tuesday, January 13, 2015.**

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
Interim General Manager



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

January 2, 2015

AMENDMENT NO.: IV

TO

INVITATION FOR BID NO.: GPA-005-15

FOR

**DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED FOR THE GPA
TRANSPORTATION FLEET**

Prospective Bidders are hereby notified of the following changes and response to inquiries received from Mobil Oil Guam dated November 19, 2014 and IP&E Guam dated November 21, 2014 and December 17, 2014:

CHANGES:

1. On page 10 of 68, PART A, Section II, Item 4: **RECEIPTS, REGISTRATION OF BIDS AND CONFIDENTIALITY:**

Delete: "Fuel Oil" and replace with "Fleet Fuels".

2. On page 12 of 68, Item 8: **BID BONDS:**

Delete in its entirety and replace with:

8. BID BONDS:

" A bid bond for an amount of no less than Five Hundred Thousand Dollars (US\$500,000.00) is required and may be in the following form:

- (a) Cash, Bank Draft or Certified Check made payable to the Guam Power Authority;
- (b) By wire transfer to Guam Power Authority. Account information shall be sent to the bidders upon request.
- (c) Letter of Credit;
- (d) Surety Bond – valid if accompanied by:

- (1) Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation;
- (2) Power of Attorney issued by the Surety to the Resident General Agent
- (3) Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bonds submitted as Bid Guarantee without signatures and supporting documents are invalid and bids will be rejected. If a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Part A Section III- Bid Bond.

3. SECTION III: BID BOND

Please remove pages 17, 18, 19 and replace with pages 17a & 18a (attached).

4. On page 23 of 68, PART B, Item II:

Delete: "Fuel Oil" and replace with Fleet Fuels."

5. On page 28 of 68, SECTION 1.01: FUELS TO BE SUPPLIED, FLEET FUEL CARDS:

To include the following:

"Damaged or lost gas station fleet fuel cards shall be replaced by Contractor within five (5) working days upon receipt of notice of request from GPA."

6. On page 44 of 68, SECTION 4.01: FAILURE TO SUPPLY:

Delete: "diesel engine cylinder lubrication oil" and "replace with fleet fuels."

7. On page 44 of 68, SECTION 4.02: FAILURE TO PAY: Item (b):

Delete "Fuel Oil" and replace with "Fleet Fuels."

8. On page 45 of 68, SECTION 4.04: DEFAULT: Item (a) and (b):

Delete "Fuel Oil" and replace with "Fleet Fuels."

9. On page 47 of 68, SECTION 4.06: TERMINATION FOR CONVENIENCE: Item (b): CONTRACTOR's Obligations:

Delete "Fuel Oil" and replace with "Fleet Fuels."

Mobil Oil Guam Inquiry dated November 19, 2014:

QUESTION:

1. Item (a) Diesel Fuel Oil No. 2 is no longer available. The new diesel fuel requirement by Guam Public Law is Ultra Low Sulfur Diesel (ULSD). Can you change the diesel name on the bid package?

RESPONSE:

No change. ULSD still falls under the Diesel Fuel Oil No. 2 category (Ref: ASTM-975-12a).

QUESTION:

2. Bid Bond (page 10) – requires a bid bond of Fifteen Percent (15%). Can you clarify 15% of what?

RESPONSE:

Bid Bond amount shall be changed to \$500,000.00.

QUESTION:

3. Pricing – Invoice Reference Price = Average of Previous Month's Friday MOPS. For delivery (invoiced) month of October, is it acceptable to use August 25 to September 26 as the previous month's Friday MOPS?

RESPONSE:

No.

IP&E Guam Inquiry dated November 21, 2014:**QUESTION:**

4. **Special Reminders to Prospective Bidders** lists three acceptable Bid Bond formats: Cashier or Certified Check, Letter of Credit, or Surety Bond. Page 12 of 68 Part A. Solicitation, Section II, Item 8. **Bid Bond** lists cash, bank draft, certified check, or wire transfer as acceptable Bid Bond formats. It does not reference Letter of Credit or Surety Bond as acceptable formats. Please clarify acceptable formats for bid bond.

RESPONSE:

Bid Bond format will be provided in Amendment No.: IV.

QUESTION:

5. Part A: Solicitation Section II Item 7. **Award A. 6 (b)**, mentions award will be considered whether bidder has satisfactory references. Part A: Solicitation Section II Item 1 mentions "information pertaining to bidder financial responsibility, company profile, history of past GovGuam supply contracts, and others pertinent to this bid."

Please clarify if customer reference letters are a requirement for the above referenced IFB in addition to information pertaining to history of past GovGuam supply contracts.

RESPONSE:

Yes, customer reference letters are a requirement and should be on the customer's official letterhead.

QUESTION:

6. After reviewing documentation, contract provided in the bid package references other products (diesel cylinder lubrication oil, fuel oils, etc) not pertaining to the above bid package on the following pages & sections:

(a) Pg. 10, Part A: Section II, Item 4 Receipts, Registration of Bids, and Confidentiality

RESPONSE:

This Amendment No.: IV changes verbiage from "Fuel Oil" to now read "Fleet Fuels".

(b) Pg. 24, Part B: **Fuel Oil Supply Contract**

RESPONSE:

This Amendment No.: IV changes verbiage from "Fuel Oil" to now read "Fleet Fuels".

(c) Pg. 43 of 68 Part B: Fuel Oil Supply Contract Section 3.13 Insurance Item J, **Indemnity**

RESPONSE:

Please refer to Item 14 of Amendment No.: I.

(d) Pg. 43 of 68 Part B: Fuel Oil Supply Contract Section 3.13 Insurance Item K, **Oil Spill Responsibilities**

RESPONSE:

Please refer to Item 14 of Amendment No.: I.

(e) Pg. 44 of 68 Part B: Fuel Oil Supply Contract Section 4.01 **Failure to Supply**

RESPONSE:

This Amendment No.: IV changes verbiage from "diesel engine cylinder lubrication oil" to now read "Fleet Fuels".

(f) Pg. 44 of 68 Part B: Fuel Oil Supply Contract Section 4.02 **Failure to Pay**

RESPONSE:

This Amendment No.: IV changes verbiage from "Fuel Oil" to now read "Fleet Fuels".

(g) Pg. 45 of 68 Part B: Fuel Oil Supply Contract Section 4.04 **Default a & b**

RESPONSE:

This Amendment No.: IV changes verbiage from "Fuel Oil" to now read "Fleet Fuels".

(h) Pg. 46 of 68 Part B: Fuel Oil Supply Contract Section 4.06 **Termination for Convenience b**

RESPONSE:

This Amendment No.: IV changes verbiage from "Fuel Oil" to now read "Fleet Fuels".

QUESTION:

7. GPA is requesting fleet fuel cards in order to identify GPA authorized vehicles and users. Cards may be damaged due to wear and tear. The above mentioned bid does not address fleet fuel card replacement and time frame for cards to be replaced. Should GPA request for new or replacement fleet fuel cards, what is the required time frame to have cards replaced?

RESPONSE:

The required time of Five (5) Working Days.

IP&E inquiry dated December 17, 2014:**QUESTION:**


8. Per GPA Amendment II for IFB GPA 005-15 received December 16, 2014, GPA is requiring 'audited financial statements for the past 5 Years'. The request is not consistent with other recent GPA bids and IP&E would request the language be modified to read "most recent annual report with audited financial statements" or "documentation to illustrate its financial position and capability" used most recently GPA 029-14 fuel supply to the diesel- fired power plants.

RESPONSE:

No change.

Although Volume I of IFB GPA 029-14 states "most recent annual report with audited financial statements", the Qualitative Proposal specified the following requirements: "Brief description of company's financial position and capability; Latest 10-k/Annual Report plus any 10-Qs/quarterly report issued subsequently; Financial Ratio."

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
Interim General Manager

JR.



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Edward J.B. Calvo
Governor

Telephone Nos. (671) 648-3054/55 Fax: 648-3185

Raymond S. Tenorio
Lieutenant Governor

BID BOND

NO.: _____

KNOW ALL MEN BY THESE PRESENTS that _____ as

Principal Hereinafter called the Principal, and (Bonding Company), _____
A duly admitted insurer under the laws of the Territory of Guam, as Surety, hereinafter called the Surety are
Held firmly bound unto the Territory of Guam for the sum of _____ Dollars
(\$ _____), for Payment of which sum will and truly to be made, the said Principal and the said
Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly
by these presents.

WHEREAS, the Principal has submitted a bid for (identify project by number and brief description)

NOW, THEREFORE, if the Territory of Guam shall accept the bid of the Principal and the Principal shall
enter into a Contract with the Territory of Guam in accordance with the terms of such bid, and give such bond or
bonds as may be specified in bidding or Contract documents with good and sufficient surety for the faithful
performance of such Contract Documents with good and sufficient surety for the faithful performance of such
Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event
of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the
Territory of Guam the difference not to exceed the penalty hereof between the amounts specified in said bid
and such larger amount for which the Territory of Guam may in good faith contract with another party to perform
work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this
obligation shall be null and void, otherwise to remain full force and effect.

Signed and sealed this _____ day of _____ 2015.

(PRINCIPAL) (SEAL)

(WITNESS)

(TITLE)

(MAJOR OFFICER OF SURETY)

(TITLE)

(TITLE)

(RESIDENT GENERAL AGENT)

SEE INSTRUCTIONS FOR SUPPORTING DOCUMENTS REQUIRED.

INSTRUCTION TO PROVIDERS:

NOTICE to all Insurance and Bonding Institutions:

The Bond requires the signatures of the Vendor, two (2) major Officers of the Surety and Resident General Agent, if the Surety is a foreign or alien surety.

When the form is submitted to the Guam Power Authority, it should be accompanied with copies of the following:

1. Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation.
2. Power of Attorney issued by the Surety to the Resident General Agent.
3. Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bonds, submitted as Bid Guarantee, without signatures and supporting documents are invalid and Bids will be rejected.



GUAM POWER AUTHORITY

AT-~~RI~~DAT ILEKTRESEDAT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

December 22, 2014

AMENDMENT NO.: III

TO

INVITATION FOR BID NO.: GPA-005-15

FOR

**DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED
FOR THE GPA TRANSPORTATION FLEET**

Prospective Bidders are hereby notified of the following:

**Bid Opening Date is changed from 2:00 P.M., December 23, 2014 to now read 2:00 P.M.,
January 06, 2015.**

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
Interim General Manager



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

December 12, 2014

AMENDMENT NO.: II

TO

INVITATION FOR BID NO.: GPA-005-15

FOR

DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED FOR THE GPA TRANSPORTATION FLEET

Prospective Bidders are hereby notified of the following changes and response to inquiries received from Mobil Oil Guam dated 11/25/14, IP&E Guam dated 12/01/2014, and SPPC dated 12/01/2014:

CHANGES:

1. On page 1 of 68, Description is changed *FROM*: "Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet to NOW read: "Fleet Fuels Supply of Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded Supply."
2. On page 2 of 68, Bid for is changed *FROM*: "Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet to NOW read: "Fleet Fuels Supply of Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded Supply."
3. On page 3 of 68, Description is changed *FROM*: "Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet to NOW read: "Fleet Fuels Supply of Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded Supply."
4. On page 4 of 68: Description is changed *FROM*:

"For Supply of Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded for Transportation Fleet and Heavy Equipment" to *NOW* read:

"For Supply of Fleet Fuels and Automotive Gasoline, Regular Unleaded for Transportation Fleet and Heavy Equipment."
5. **PART A**
On page 8 of 68, **Section I: Background and Summary of Solicitation**: Second paragraph is changed *FROM*: "Diesel Fuel Oil No.2" to *NOW* read:
"For Supply of Fleet Fuels and Automotive Gasoline, Regular Unleaded for Transportation Fleet and Heavy Equipment."
6. On page 8 of 68, **Section II: Item 2: ADDRESS**, on last paragraph:

Delete: "DIESEL FUEL OIL NO.2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED SUPPLY"

And replace with: "FLEET FUELS SUPPLY (DIESEL FUEL OIL NO.2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED)"

7. On page 17 of 68, **Section III: BID BOND**, Delete: "Low Sulfur Diesel Fuel Oil No.2 and Automotive Gasoline Regular (Unleaded)" and replace with: "Fleet Fuels (Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded)."
8. On page 20 of 68, **IV: PERFORMANCE BOND**, Delete: "Low Sulfur Diesel Fuel Oil No.2 and Automotive Gasoline Regular (Unleaded)" and replace with: "Fleet Fuels (Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded)."
9. **PART B**
On page 26 of 68, Item II: Delete: "Fuel Oil" and replace with: "Fleet Fuels."
10. Page 33 of 68, **Section 2.01: Product and Quality, DIESEL FUEL OIL NO.2, Typical Characteristics Table On the Alternate Method column for Sulfur**, Insert: "D7039-13"
11. Page 36 of 68, **Section 3.02: Government Laws and Regulations**
Delete in its entirety and replace with:
"Section 3.02: Government Laws and Regulations
(a) *If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent GPA from utilizing the type of fuel to be supplied hereunder, GPA shall use its best efforts to obtain an exemption. In the event GPA cannot obtain an exemption from such laws and regulations, CONTRACTOR shall use his best efforts to furnish GPA substitute fuel which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute fuel causes an increase or decrease in CONTRACTOR's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of CONTRACTOR for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by CONTRACTOR of the notification of substitute fuel in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Governing Law and Disputes"(Section 5.08). However, nothing in this clause shall excuse the CONTRACTOR from proceeding with the Contract fuel specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the parties cannot mutually agree upon the price at which CONTRACTOR is to furnish such substitute fuel, and CONTRACTOR refuses to provide such substitute fuel at the Contract price set out herein shall GPA then have the option of purchasing from other sources fuel at a lower price than that offered by CONTRACTOR in such negotiations which complies with such laws and regulations, but in any event, the CONTRACTOR shall have no recourse, other than those specified herein.*
(b) **CONTRACTOR shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies."**
12. Page 39 of 68, **Section 3.09: Alternate Supplies**, on the 1st paragraph: Delete: "Fleet's Fuel" and replace with: "Fleet Fuels."
13. Page 39 of 68, **Section 3.11: Disputes**, Delete entire clause.
14. Page 43 of 68, **Section 3.13 : Insurance**, Item J (Indemnity):
Delete: "Diesel Engine Cylinder Lubrication Oil" and replace with: "Fleet Fuels."
15. Page 43 of 68, Item K (Oil Spill Responsibilities), Delete: "Diesel Engine Cylinder Lubrication Oil" and replace with: "Fleet Fuels."

16. Page 51 of 68, Section 5.08: Governing Law, Delete in its entirety and replace with:

"Section 5.08: Governing Law and Disputes:

- (a) All controversies between GPA and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by GPA pursuant to Guam Procurement laws and regulations.
- (b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.
- (c) The **CONTRACTOR** shall comply with any decision of GPA and proceed diligently with performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of GPA has made a written determination that continuation of work under the Contract is essential to the welfare of the territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against GPA to claim consequential, special or punitive damages."

17. Please note, new address for bid submittals:

Guam Power Authority
GPA Procurement Division
1st Floor, Gloria B. Nelson Public Service Building
688 Route 15
Mangilao, Guam 96913

Mobil Oil Guam Inquiry dated November 25, 2014:

QUESTION:

1. Contract Section 1.04: Fleet Fuels to be purchased. At the beginning, it should be all Fleet Fuels.

RESPONSE:

"Fleet Fuels" have been referenced in Amendments 1 & 2.

QUESTION:

2. Contract Section 1.06: Warranties and Claims. The last sentence in this section is incomprehensible and suggest to consider amending to " If Fleet Fuels fail to meet the specification herein, Contractor shall be liable for any direct damages which shall not affect other remedies provided for in the contract"

RESPONSE:

GPA shall maintain the verbiage except for the change of "fuel oil" to "fleet fuels".

QUESTION:

3. Contract Section 3.02: Government Laws and Regulations. The section is, in the first paragraph, duplicative of, and the second paragraph somewhat inconsistent with, Section 5.08 Governing Law.

RESPONSE:

Section 3.02: Government Laws and Regulations will be deleted in its entirety and replaced with:

"Section 3.02: Government Laws and Regulations:

(a) *If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent GPA from burning the type of fuel to be supplied hereunder, GPA shall use its best efforts to obtain an exemption. In the event GPA cannot obtain an exemption from such laws and regulations, CONTRACTOR shall use his best efforts to furnish GPA substitute fuel which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute fuel causes an increase or decrease in CONTRACTOR's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of CONTRACTOR for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by CONTRACTOR of the notification of substitute fuel in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Governing Law and Disputes" (Section 5.08). However, nothing in this clause shall excuse the CONTRACTOR from proceeding with the Contract fuel specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the parties cannot mutually agree upon the price at which CONTRACTOR is to furnish such substitute fuel, and CONTRACTOR refuses to provide such substitute fuel at the Contract price set out herein shall GPA then have the option of purchasing from other sources fuel at a lower price than that offered by CONTRACTOR in such negotiations which complies with such laws and regulations, but in any event, the CONTRACTOR shall have no recourse, other than those specified herein.*

- (b) *CONTRACTOR shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies."*

Section 5.08: Governing Law

The entire clause will be deleted in its entirety and replace with:

"Section 5.08: Governing Law and Disputes:

- (a) *All controversies between GPA and the CONTRACTOR which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by GPA pursuant to Guam Procurement laws and regulations.*
- (b) *CONTRACTOR may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.*
- (c) *The CONTRACTOR shall comply with any decision of GPA and proceed diligently with*

performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the CONTRACTOR shall proceed diligently with the performance of the Contract where the General Manager of GPA has made a written determination that continuation of work under the Contract is essential to the welfare of the territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws,

statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages."

QUESTION:

4. Contract Section 3.09: Alternate Supplies. The reference to fleet's fuels on the third line should be change to Fleet Fuels.

RESPONSE:

Amendment 2 shall delete "Fleet's Fuels" and replaced with "Fleet Fuels".

QUESTION:

5. Contract Section 3.13(K): Oil Spill Responsibilities. The section refers to diesel engines, cylinder lubrication and oil deliveries. It is not applicable to a Fleet Fuels Contract and should be excised from this contract.

RESPONSE:

Amendment 1 deleted "diesel engine cylinder lubrication oil" and replaced with "fleet fuels".

QUESTION:

6. Contract Section 4.1: Failure to Supply. This also deals with diesel engine, cylinder lubrication oil and need to be excised from the contract or substantially revised.

RESPONSE:

Amendment 1 deleted "diesel engine cylinder lubrication oil" and replaced with "fleet fuels".

QUESTION:

7. Contract Section 4.2: Failure to Pay. This section in subsection (b) refers to fuel oil supplies and should either be excised from the contract or revised to refer to Fleet Fuels.

RESPONSE:

Amendment 1 deleted "fuel oil" and replaced with "fleet fuels".

QUESTION:

8. Contract Section 4.4: Default. Throughout this section, there is reference to fuel oil supplies. The reference needs to be changed to Fleet Fuels.

RESPONSE:

Amendment 2 deleted "fuel oil" and replaced with "fleet fuels".

QUESTION:

9. Contract Section 4.6: Termination for Convenience. Subsection (b) need be revised. It refers to fuel oil supplies. The reference need to be changed to Fleet Fuels.

RESPONSE:

Amendment 2 deleted "fuel oil" and replaced with "fleet fuels".

SPPC Inquiry dated December 01, 2014:

QUESTION:

10. Bidder Financial Responsibility: Audited financial Statement & Annual Report of what year(s)?

RESPONSE:

Audited Financial Statement and Annual Report for the last five (5) years.

QUESTION:

11. History of Past GovGuam Supply Contracts: How far back beginning what year?

RESPONSE:

Supply Contracts for the last five (5) years.

QUESTION:

12. Diesel Fuel No.2: No longer supplied on Guam. Guam Law requires supply of Ultra Low Sulfur Diesel Product.

RESPONSE:

No change. ULSD still fall under the Diesel Fuel Oil No.2 category (Ref: ASTM-975-12a).

IP&E Inquiry dated December 01, 2014:

QUESTION:

13.

1). Part II FUEL SUPPLY CONTRACT, SECTION 3.13 Insurance, F. Excess Liability stipulates Contractor must carry Excess Liability of \$5,000,000. Will GPA accept increasing General Liability from \$2,000,000 to \$7,000,000 in lieu of Excess Liability?

RESPONSE:

Please submit a copy of the insurance coverage for GPA's review.

QUESTION:

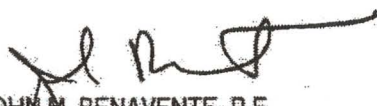

14.

2). Part II FUEL SUPPLY CONTRACT, SECTION 3.13 Insurance, G. Certificate of Insurance requires Contractor to provide two (2) Copies of a Certificate of Insurance in GPA's favor. As part of the bid requirements, GPA is requesting the bidder's Insurance Policy(ies) as part of the bid requirements. Will Certificate of Insurance in GPA's favor with maximum Insurance Limits for Items in paragraphs B, C, D, & E suffice in lieu of Insurance Policy(ies)?

RESPONSE:

No. GPA requires a copy of the insurance policy(ies).

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
Interim General Manager




GUAM POWER AUTHORITY

ATURU DAT ILEKTRESEDAT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

December 03, 2014

AMENDMENT NO.: I

TO

INVITATION FOR BID NO.: GPA-005-15

FOR

**DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED
FOR THE GPA TRANSPORTATION FLEET**

Prospective Bidders are hereby notified of the following:

**Bid Opening Date is changed from 2:00 P.M., December 04, 2014 to now read 2:00 P.M.,
December 23, 2014.**

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
Interim General Manager




SIMON A. SANCHEZ II
CCU Chairman



JOAQUIN C. FLORES, P.E.
General Manager

Telephone Nos. (671) 648-3054/55 or Facsimile (671) 648-3165

Accountability	Impartiality	Competence	Openness	Value
INVITATION FOR BID (IFB) NO.: GPA-005-15				
DESCRIPTION: Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet				

SPECIAL REMINDERS TO PROSPECTIVE BIDDERS

Bidders are reminded to read the Sealed Bid Solicitation and Instructions, and General Terms and Conditions attached to the IFB to ascertain that all of the following requirements checked below are submitted in the bid envelope, two (2) copies of the executed Contract (signed by bidder's authorized representative) and (5) copies of responsive materials, information pertaining to bidder financial responsibility, company profile, history of past GovGuam supply contracts, and others relevant to this bid, at the date and time for bid opening.

(XX) BID GUARANTEE (15%) May be in the form of: (NOTE: Cashier's Check or Certified Check Refunds will be ONLY be made out to the name of the Bidder.)

Reference #11 on the General Terms and Conditions

- a. Cashier's Check or Certified Check
- b. Letter of Credit or
- c. Surety Bond - Valid only if accompanied by:
 1. Current Certificate of Authority issued by the Insurance Commissioner;
 2. Power of Attorney issued by the Surety to the Resident General Agent;
 3. Power of Attorney issued by two (2) major officers of the Surety to whomsoever is signing on their behalf.

(XX) STATEMENT OF QUALIFICATION;

() SAMPLES;

() BROCHURES/DESCRIPTIVE LITERATURE;

(XX) AFFIDAVIT OF DISCLOSURE OF MAJOR SHAREHOLDERS - Affidavits must comply with the following requirements:

- a. The affidavit must be signed within 60 days of the date the bid is due;
- b. Date of signature of the person authorized to sign the bid and the notary date must be the same.
- c. First time affidavit must be an original - If copy, indicate Bid Number/Agency where original can be obtained.

(XX) NON-COLLUSION AFFIDAVIT;

(XX) NO GRATUITIES OR KICKBACKS AFFIDAVIT;

(XX) ETHICAL STANDARDS AFFIDAVIT;

(XX) WAGE DETERMINATION AFFIDAVIT;

(XX) RESTRICTIONS AGAINST SEX OFFENDERS AFFIDAVIT;

(XX) OTHER REQUIREMENTS:

A Guam Business License and/or Contractor's License with proof of Employer Identification Number (EIN) is not required in order to provide a proposal for this engagement, but is a pre-condition for entering into a contract with the Authority. Bidders MUST comply with PL 26-111 dated June 18, 2002, PL 28-165 dated January 04, 2007 and Wage Determination under the Service Contract Act (www.wdol.gov). Additionally, upon award the successful bidder must provide to GPA the most recently issued Wage Determination by the US Dept. of Labor.

The reminder must be signed and returned in the bid envelope together with the bid. Failure to comply with the above requirements will mean a disqualification and rejection of the bid.

On this _____ day of _____, 2014, I, _____, authorized representative of _____ acknowledge receipt of this special reminder to prospective bidders with the above referenced IFB.

Bidder Representative's Signature

INVITATION FOR BID

ISSUING OFFICE:
Guam Power Authority
Procurement Management Materials Supply
GPA Central Office, 1st Floor
1911 Route 16
Harmon, Guam 96929

[Handwritten signature]
[Handwritten initials] 10/28/14
JOHN M. BENAVENTE, P.E. DATE
Interim General Manager

DATE ISSUED: November 06, 2014 BID INVITATION NO.: GPA-005-15
BID FOR: Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet
SPECIFICATION: See Attached
DESTINATION: See Attached
REQUIRED DELIVERY DATE: See Attached

INSTRUCTIONS TO BIDDERS:
INDICATE WHETHER: INDIVIDUAL PARTNERSHIP CORPORATION
INCORPORATED IN: _____

This bid shall be submitted in duplicate and sealed to the issuing office above no later than (Time) 2:00 P.M.
Date: December 04, 2014 and shall be publicly opened. Bid submitted after the time and date specified above shall be rejected. See attached General Terms and Conditions and Sealed Bid Solicitation for details.

The undersigned offers and agrees to furnish within the time specified, the articles and services at the price stated opposite the respective items listed on the schedule provided, unless otherwise specified by the bidder. In consideration to the expense of the Government in opening, tabulating, and evaluating this and other bids; and other considerations, the undersigned agrees that this bid remain firm and irrevocable within one hundred twenty (120) calendar days from the date opening to supply any or all of the items which prices are quoted.

NAME AND ADDRESS OF BIDDER: _____ SIGNATURE AND TITLE OF PERSON AUTHORIZED TO SIGN THIS BID: _____

AWARD: CONTRACT NO.: _____ AMOUNT: _____ DATE: _____

ITEM NO(S). AWARDED: _____

CONTRACTING OFFICER:

JOHN M. BENAVENTE, P.E. DATE
Interim General Manager

NAME AND ADDRESS OF CONTRACTOR: _____ SIGNATURE AND TITLE OF PERSON



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

October 30, 2014

Dear Interested Bidder:

Attached herewith please find the Invitation for Bid by the **Guam Power Authority (GPA)**, **IFB-GPA-005-15** relative to the supply of **Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet**. The Fuels supply contract shall be for a three (3) year term, to commence on March 01, 2015 and shall continue until the midnight of February 28, 2018, and with **GPA's** option to extend the contract for two (2) additional years renewable annually.

The IFB is divided into two (2) parts:

- PART A : The Solicitation (Instructions to Bidders)
- PART B : Formal Contract and Bid Offer

These documents must be filled out completely by the bidder and must be submitted to **GPA** in response to this IFB. In addition to these documents, the bidder is required to submit as part of his bid, information pertaining to responsibility and other requirements specified in the solicitation. Failure to do so shall be grounds to declare a bid non-responsive.

All interested bidders are advised to read the instructions carefully and tender their offers in conformance to the material aspects of the Invitation.

Sincerely,


JOHN M. BENAVENTE, P.E.
INTERIM GENERAL MANAGER

ATTACHMENTS:



INVITATION FOR BID NO. GPA-005-15

FOR SUPPLY OF

DIESEL FUEL OIL NO.2

AND

AUTOMOTIVE GASOLINE, REGULAR UNLEADED

FOR

TRANSPORTATION FLEET

AND

HEAVY EQUIPMENTS

JOHN M. BENAVENTE, P.E.

Interim General Manager

MELINDA R. CAMACHO, P.E.

Assistant General Manager—Operations

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PART B. BID SUBMITTAL DOCUMENTS

**Article I. GPA FLEET FUELS SUPPLY CONTRACT (DIESEL FUEL OIL No.
2 AN AUTOMOTIVE GASOLINE, REGULAR UNLEADED)**

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Section 5.12	Successors in Interest
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Section 6.01	Binding Effect
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Article II. BID OFFER

Article III. PERFORMANCE BOND

**Article IV. DISCLOSURE OF MAJOR SHAREHOLDERS AFFIDAVIT AND
NON-COLLUSION AFFIDAVIT**

PART A

**INVITATION FOR BIDS TO SUPPLY FLEET FUELS
(DIESEL FUEL OIL No.2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED)
TO THE GUAM POWER AUTHORITY**

SECTION I: BACKGROUND AND SUMMARY OF SOLICITATION

The Guam Power Authority ["GPA" or "Authority"] of Guam is a public corporation and an autonomous agency of the Government of Guam. GPA is the sole non-military supplier of electric service on the Island of Guam. The Authority desires to solicit and secure Fleet Fuels (Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded) supply contract.

GPA is hereby soliciting bids for the supply of Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded, for a three (3) year term period, with delivery to commence on **March 01, 2015**.

SECTION II: INSTRUCTIONS, PROCEDURES AND REQUIREMENTS FOR BIDDERS.

1. TIME AND SCHEDULE.

The deadline for the submission of sealed bids is **December 04, 2014 at 2:00 P.M.** Two (2) copies of the executed Contract (signed by bidder's authorized representative) and (5) copies of responsive materials, information pertaining to bidder financial responsibility, company profile, history of past GovGuam supply contracts, and others relevant to this bid. Submittals should be received by GPA no later than that date and hour as stated in the instructions. It is advisable to use courier services to expedite delivery of your offer.

2. ADDRESS.

Please transmit responsive materials to:

(By Mail)

GUAM POWER AUTHORITY

P.O. Box 2977

Hagatna, Guam 96932-2977

ATTN: Supply Management Administrator

TELEPHONE: (671)648-3054/3055

TELEFAX: (671)648-3165

(By Courier)

GUAM POWER AUTHORITY

Procurement Office

1911 Army Drive

Harmon, Guam 96913

ATTN: Supply Management Administrator

TELEPHONE: (671)648-3054/3055

TELEFAX: (671)648-3165

"The sealed submittal envelope shall be marked on the lower left corner **"SEALED BID"**,
"DIESEL FUEL OIL NO.2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED SUPPLY,
IFB NO. GPA-005-15, BID OPENING, 2:00 P.M., December 04, 2014".

3. FORM.

All bids must be in writing and must be signed by an officer of the bidder having authority to submit such bids. Offers submitted in response to this solicitation shall be in terms of United States Currency and in the English language. The bids should respond in organized fashion to all the requirements of this Invitation for Bids. Bidders must submit along with their bid package, the fully executed (**signed**) and completed Contract and Offer, Bid Bond, and other information pertaining to the responsibility of Bidder. Failure to submit any of these bid documents shall be grounds to declare a bid non-responsive.

4. **RECEIPTS, REGISTRATION OF BIDS AND CONFIDENTIALITY.**

The sealed bids shall be opened publicly on December 04, 2014 at 2:00 P.M. in the Guam Power Authority Procurement Conference Room.

For the purposes of this solicitation and bids submitted thereunder, the laws, rules and regulations of Guam concerning confidentiality shall govern. If the Bidder does not want trade secrets or other proprietary data he submitted disclosed to the public or used by the GPA for any purpose other than the evaluation of his bid, he shall designate such trade secrets or other proprietary data to be confidential and the title page with the following legend; "This data furnished in connection with our bid for supply of fuel oil shall not be disclosed outside the GPA or disclosed in whole or in part or any purpose other than to evaluate the proposal; provided, that if a Contract is awarded to this bidder as a result of, or in connection with the submission of this data, the GPA shall have the right to duplicate, use, or disclose the data to the extent provided in the Contract." This restriction does not limit the GPA's right to use information contained in the data if it is obtained from another source without restriction. The General Manager of GPA or his designee shall examine the bids and determine the validity of any requests for non-disclosure of data as requested by the above legend and he shall take such other action as he is required to by Section 3-202.12.3 of the Guam Procurement Regulations. Bids and modifications shall be time-stamped upon receipt and held in a secure place until the established opening date.

5. **MODIFICATION OR WITHDRAWAL OF BIDS.**

Bids may be modified or withdrawn by written notice received in the office of GPA prior to the time and date set for the opening scheduled for December 04, 2014 at 2:00 P.M. There shall be no modifications and/or withdrawals after the opening date of bids].

6. **LATE BIDS, LATE WITHDRAWALS AND LATE MODIFICATIONS.**

Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after 2:00 P.M., December 04, 2014, is late. No late bid, late modification, or late bid, late modification, or late withdrawal will be considered.

7. AWARD.

Bids will be reviewed and evaluated by GPA and will determine the lowest and most responsive bidder that will be most advantageous to GPA. A written Letter of Award (acceptance of offer) mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the offer shall be deemed to result in a binding Contract without further action by either party. GPA reserves the right to waive informalities and minor irregularities in bids received.

A. In the evaluation process, the following factors will be considered (although not necessarily in the order of importance):

- (1) Price and contract cost;
- (2) Whether the bidder's ultimate offer meets and conforms with the announced requirements of GPA in all material respects;
- (3) Previous Experience in meeting requirements of a similarly sized or larger contract;
- (4) Financial Strength and
- (5) Overall clarity and presentation of bid and plan to supply fuel to GPA, i.e. how supplier will obtain fuel, how fuel will be delivered to GPA, alternative supply source, etc.;
- (6) Whether the bidder has:
 - (a) the appropriate financial, material, equipment, facility, and personnel resources and expertise, necessary to indicate its capability to meet all Contractual requirements;
 - (b) satisfactory references;
 - (c) qualified legally to Contract with the territory; and

B. Bidder is responsible for providing adequate information on operating experience and on financial status (i.e. annual report with audited financial statements) and references for use in evaluating its capabilities.

C. In addition to the evaluation criteria, GPA may require submission of descriptive literature,

technical data, or other material. It may also require accomplishing any of the following prior to award:

- (1) inspection or testing of a product prior to award for such characteristics, as quality or workmanship;
- (2) examination of such product as to compatibility, grade, appearance, texture, or
- (3) other examinations to determine whether it conforms with any other purchase description requirements.

8. **BID BOND.**

All bidders shall submit, together with all the required submittal documents to GPA, a **bid bond** of **FIFTEEN PERCENT (15%)**, made payable to the Guam Power Authority in the form of cash, bank draft, certified check, or by wire transfer to Guam Power Authority. The Account Number details will be provided by GPA to the bidder via e-mail or telephone communication. Unsuccessful bidders will have their bid bonds returned within ten (10) days of the award of Contract. Bid bond will be returned by check unless otherwise agreed to by the Guam Power Authority. The bidder with the successful bid will have bid bond returned within five days of confirmation that a satisfactory performance bond has been received by GPA. For the purposes of this solicitation, the bid bond is being required as a form and indication of "good faith" and it is essential to the best interest of the GPA in accordance with the procurement laws, rules and regulations of the Government of Guam and the Guam Power Authority. Bidders may also be required to furnish financial statements, credit ratings, or other indicators of their financial viability.

9. **PERFORMANCE BONDS.**

The successful bidder shall submit to the GPA a performance bond in the amount equivalent to **ONE HUNDRED PERCENT (100%)** of the total annual cost of the **CONTRACT BID PRICE OFFER** and be made payable to the GPA in the form of a surety issued by a company with a A.M. Best credit rating of "AA"- or better within fifteen (15) days after a Notice of Award is issued to the successful bidder. For the purposes of this solicitation, the requirement of a performance bond is essential to the best interest of GPA. A performance bond is required in order to assure

that **CONTRACTOR** will perform the terms and conditions of the Contract, and that **CONTRACTOR** will provide against direct or indirect damages that may be suffered or claimed on account of such delivery of fuel oil supply throughout the term of the Contract. The required performance bond shall be in substantially the same form as that prescribed in Appendix "A" of this Bid Invitation. Any deviation from the prescribed format must be approved by **GPA** in advance. Failure to furnish a performance bond at the time specified above and in the manner as provided shall immediately void the contract.

10. CANCELLATION OF SOLICITATION; DELAYS.

GPA reserves the right to cancel or to withdraw this Invitation for Bids, to delay determination on this Invitation, to reject all bids or any individual bid in whole or in part, at any time prior to the final award.

In case of cancellation or rejection, bid bonds would be concurrently returned. The reasons for the cancellation, delay or rejection shall be made a part of the procurement file and shall be available for public inspection.

(a) Rejection of all Bids.

Prior to the final award, all bids may be rejected in whole or in part when **GPA** determines in writing that such action is in the Guam's best interest for reasons including, but not limited to:

- (1) the supplies and services being procured are no longer required;
- (2) ambiguous or otherwise inadequate specifications were part of the solicitation;
- (3) the solicitation did not provide for consideration of all factors of significance to the territory.
- (4) prices exceed available funds and it would not be appropriate to adjust quantities to come to within available funds;
- (5) all otherwise acceptable bids received are at clearly unreasonable prices;
- (6) there is reason to believe that the bids may not have been independently arrived at

in open competition, may have been collusive, and may have been submitted in bad faith.

(b) Rejection of Individual Bids.

Any individual bid may be rejected in whole or in part when in the best interest of Guam as determined by GPA in its sole discretion. Reasons for rejecting a bid include, but are not limited to:

- (1) the bidder is non-responsive pursuant to Guam's procurement laws, rules and regulations;
- (2) the bid is not responsive as it does not conform in all material respects to the Invitation for Bids;
- (3) the quantity and/or quality of supply or service offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications set forth in the Invitation for Bids or other acceptability criteria set forth in the Invitation for Bids. Upon request, unsuccessful bidders shall be advised of the reasons for rejection;
- (4) the bid is not the lowest responsible bidder which meets the requirements and criteria set forth in the Invitation for Bids;
- (5) the bidder has failed to submit documents relative to the procurement of necessary licenses, permits and authorizations when requested by the Procurement Officer prior to the award.
- (6) Any changes as initiated by the bidder to the attached Contract form constitute as a basis to declare the bid submittal as non-conformance

11. FUELS TO BE SUPPLIED:

CONTRACTOR agrees to furnish and GPA agrees to pay all of Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded (both fuels referred to in the solicitation as Fleet Fuels) requirement for the Authority's Transportation Fleet for the term of the Contract. Estimated total

quantity for the fleet's fuel shall be:

- (a) **Diesel Fuel Oil No. 2: about 50,000 gallons per year.**
- (b) **Automotive Gasoline, Regular Unleaded: about 75,000 gallons per year.**

The fuel supply shall be based from the "designated service stations" as agreed upon by both the Contractor and GPA Procurement/Supply Management Administrator. The commencement of the Fleet's fuel procurement at the said "designated self-service station" shall be on or about **March 01, 2015 or sooner.**

12. CONTRACT TERM:

The Contract Term shall be for Three (3) years to commence on or about **March 01, 2015** or sooner, and shall continue until midnight of the Three (3) calendar year term with an option to extend the contract for two (2) additional one (1) year term of twelve (12) months per renewal term. The contract price for the EXTENSION TERM shall be at *the same price as contract price offer and all other terms remain unchanged.* The option to extend shall be upon mutual agreement of both parties, unless sooner terminated in accordance with the provisions hereof, or cancelled due to the unavailability of funds. In the event funds are not available for any succeeding months, the remainder of such contract shall be cancelled and the **CONTRACTOR** shall be reimbursed for the reasonable value of any unpaid balance as procured. The Authority shall notify **CONTRACTOR** in writing within sixty (60) days if funds are unavailable.

13. CONTRACT PRICE:

The total price per U.S. gallon provided shall be inclusive of all costs and liabilities incurred prior to the delivery to GPA. Bid price shall be entered on Section 1.03 of Article 1 of the executed Contract.

14. PRODUCT AND QUALITY OF FLEET'S FUEL:

The fleet fuels provided hereunder shall have the typical characteristics described in the Contract.

15. CONTRACT PRINCIPALS:

It is important that Contractor fully identify person and entities having any interest in the Contract. GPA reserves the right to require Contractor complete disclosures of owners or stockholders of any entity having interest in the Contract.

16. CONTRACT CONTROLLING:

The comments contained herein are for the use of the bidders and to the extent there is any conflict between the items set forth in this solicitation and the Contract, the Contract language shall govern.

III. **BID BOND**

BID BOND

The Contractor certifies and agrees that the attached Low Sulfur Diesel Fuel Oil No. 2 and Automotive Gasoline Regular (Unleaded) Supply Contract was signed by a person(s) duly authorized to enter into a Contract on behalf of our company.

Enclosed herewith is a bid bond submitted in the amount of _____ United States Dollars made payable to the Guam Power Authority in the form of:

- CASH
- BANK DRAFT
- CERTIFIED CHECK
- WIRE TRANSFER Bank of Hawaii from our Bank

Name of Bank:

Location:

Account Number:

We agree to forfeit said amount in the event of our company's failure to enter into a Contract and furnish performance bond (format as per Attachment A) in the amount of _____ (\$) Dollars within fifteen (15) days after a Notice of Award has been issued to our company as the lowest responsible bidder.

We offer and certify, as part of our bid, the information pertaining to responsibility as required by

Section II, Paragraph 7 of the Invitation. The information herein provided consist of the following:

(Describe briefly)

See attached letter

The full names and business address of persons and firms interested in the foregoing bid as principals, are as follows:

For the purposes of the disclosure, a principal is considered as any person or entity owning or entitled to own at least a 5% equity interest in the **CONTRACTOR**.

For any publicly held company listed on a stock exchange, please note the exchange and date initially listed. GPA reserves the right to require additional information regarding any principal as provided in Section 21 of the solicitation.

Respectfully submitted,

(SEAL)

ATTEST: _____

BIDDER

WITNESS: _____

ADDRESS

Individual trading in own name _____

Individual trading under firm name _____

Co-partners trading under firm name _____

Corporation-State of _____

Principal Office Address:

IV. PERFORMANCE BOND

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that _____,
 as Principal, hereinafter called **CONTRACTOR**, and _____, a
 corporation hereinafter called Surety, are held and firmly bound unto the Guam Power Authority as
 Obligee, in the amount of ONE HUNDRED PERCENT (100%) OF THE TOTAL ANNUAL COST OF
 the BID PRICE OFFER, and the payment whereof **CONTRACTOR** and Surety bind themselves, their
 heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these
 presents.

WHEREAS, **CONTRACTOR** has by written agreement dated _____, 2014,
 entered into a Low Sulfur Diesel Fuel Oil No.2 and Automotive Gasoline Regular (Unleaded) Supply
 Contract with the Guam Power Authority for supply of fuel oil for the transportation fleet for a THREE
 (3) YEAR term in accordance with forms and specifications prepared by **GPA** which Contract is by
 reference made a part hereof, and is hereinafter referred to as the "Contract".

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if
CONTRACTOR shall promptly and faithfully perform said Contract then this obligation shall be null
 and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any
 alteration or extension provided the same is within the scope of the Contract. Whenever
CONTRACTOR shall be and is declared by **GPA** to be in default under the Contract, **GPA** having

performed its obligations thereunder, the Surety may promptly remedy the default or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions; or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by **GPA** and the Surety jointly of the lowest responsive, responsible bidder, arrange for a Contract between such bidder and the Guam Power Authority and make available as delivery of fuel supply progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of recovery less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price", as used in this paragraph shall mean the total amount payable by **GPA** to **CONTRACTOR** under the Contract and any amendments thereto, less the amount properly paid by **GPA** to **CONTRACTOR**. No right of action shall accrue on this bond to or for the use of any person or corporation other than **GPA** or successors of **GPA**.

Signed and sealed this ____ day of _____, 2014.

(Principal)

(Seal)

(WITNESS)

(TITLE)

(WITNESS)

(TITLE)

(Bonding Company)

IFB-GPA-005-15

PART B: BID SUBMITTAL DOCUMENTS

I. OFFER

II. FUEL OIL SUPPLY CONTRACT

NOTICE

Please find the Formal Contract. This document as well as others must be filled out and returned to GPA as part of your response. Please be also advised of the requirement of furnishing the bid bond in the designated amount and the information pertaining to responsibility and other requirements specified in the Solicitation that must be submitted together with the aforementioned documents. Bidders are not required to submit Part A-the Solicitation Instructions.

I. BID OFFER.

OFFER of _____ (company) DATED _____

TO: GUAM POWER AUTHORITY
GPA Procurement Office, Route 16
Harmon, Guam

_____, the undersigned do hereby declare that _____ have carefully examined Invitation for **Bid IFB-GPA-005-15** and do hereby agree to furnish the supply of fleet fuel (fuel quality as referred to Sect. 2.01 Article 2 of the Contract) GPA official vehicles for a THREE (3) year term, with renewal options, in accordance with the attached Fuel Oil Supply Contract (the "Contract") terms, conditions and specifications. The Contract price per gallon delivered to Guam Power Authority inclusive of all costs and liabilities incurred prior to delivery for the duration of the Contract is offered as follows:

BID OFFER:

(a) Diesel Fuel Oil No. 2:

OFFER: (in words) _____
(in figures) \$ _____ /gal (in three decimal places)

(b) Automotive Gasoline, Regular Unleaded:

OFFER: (in words) _____
(in figures) \$ _____ /gal (in three decimal places)

Respectfully submitted,

(PRINT NAME & Signature)
BIDDER/ OFFEROR, Duly Authorized
REPRESENTATIVE OF COMPANY

DATE

ADDRESS:

II. FUEL OIL SUPPLY CONTRACT

IFB GPA-005-15

GPA FLEET FUELS SUPPLY CONTRACT

DIESEL FUEL OIL NO. 2

AND

AUTOMOTIVE GASOLINE, REGULAR UNLEADED

PREAMBLE

This **CONTRACT**, shall be executed on the date of the award, by and between Guam Power Authority, a public corporation, hereinafter referred to as "Authority" or "GPA", and _____ hereafter referred to as "Contractor" or "Supplier".

WITNESSETH:

RECITALS

WHEREAS, the Authority has issued an Invitation for Bid, for a THREE (3) year Fleet Fuel Supply Contract, Invitation For Bid, **IFB GPA-005-15**, for the supply of the **AUTHORITY's** Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded, for the Authority's Transportation Fleet; and

WHEREAS, the Authority will award the Contract to the lowest responsible bidder whose bid conforms to the material aspects of the Invitation; and

WHEREAS, if Contractor specified herein has been awarded the **CONTRACT**, Authority and Contractor have agreed upon the terms and conditions of the Contract;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto do hereby agree as follows:

SECTION 1

SECTION 1.01: FUELS TO BE SUPPLIED

Contractor agrees to furnish and deliver all the required Fleet Fuels: Diesel Fuel Oil No.2 and Automotive Gasoline, Regular Unleaded, for the Authority's Transportation Fleet and GPA agrees to accept and pay for all Fleet Fuels delivered to GPA, meeting the specifications requirements for the term of the Contract. The estimated requirement for the Authority's Transportation Fleet shall be:

- (c) **Diesel Fuel Oil No.2 : about 50,000 gallons per year**
- (d) **Automotive Gasoline, Regular Unleaded: about 75,000 gallons per year)**

The fuel supply shall be based from the "designated service stations" as agreed upon by both the Contractor and GPA Procurement/ Supply Management Administrator. Notwithstanding any estimated quantity set forth herein, the **CONTRACTOR** shall be responsible in supplying all the Fleet Fuels, reasonably required by **GPA**, even if such quantities exceed the estimates provided above.

FLEET FUEL CARDS. Contractor shall provide gas station fleet cards at no cost to GPA. Only employees carrying valid fleet cards shall be allowed to refuel at the gas stations. The Authority shall provide a list of employees and may add or delete names of employees authorized to use the gas station fleet card. Fleet cards shall be limited and restricted only for use in refueling of GPA official vehicles.

SECTION 1.02: TERM.

The Contract Term shall be for three (3) years to commence on **March 01, 2015** or sooner and shall continue until midnight of the three (3) year contract term and with GPA's option to extend the contract for two (2) additional one (1) year term of twelve (12) months per renewal term upon mutual agreement of both parties, unless earlier terminated in accordance with the provisions hereof or cancelled due to unavailability of funds.

The contractual obligation of **GPA** and **CONTRACTOR** is subject to the availability of funds. In the event funds are not available for any succeeding months, the remainder of such contract shall be cancelled and

the **CONTRACTOR** shall be notified within sixty (60) days if funds are unavailable.

SECTION 1.03: CONTRACT PRICE.

The total contract BID PRICE per gallon at the gas station pump is (in U.S. Dollars, inclusive of all costs and liabilities, please provide three (3) decimal places):

1. BID PRICE OFFER:

(a) Diesel Fuel Oil No. 2: \$ _____ per gallon

(b) Automotive Gasoline, Regular Unleaded: \$ _____ per gallon

The **BID PRICE** is the sum of the **FIXED SERVICE FEE** (per gallon) and the **BID REFERENCE PRICE** as of October 08, 2014 as posted in the Platts' Asia-Pacific Marketscan Oil Prices.

BID REFERENCE PRICE (Table 1):

(a) **Diesel Fuel Oil No.2**

Reference Product Code:	Gasoil 10ppm		
	<u>Low</u>	<u>High</u>	<u>Average</u>
FOB Singapore Posting , \$/bbl	104.13	104.17	104.150

Bid Reference Price = \$2.480 per gallon

(b) **Automotive Gasoline, Regular Unleaded**

Reference Product Code:	Gasoline 92 unleaded		
	<u>Low</u>	<u>High</u>	<u>Average</u>
FOB Singapore Posting , \$/bbl	102.66	104.70	102.680

Bid Reference Price = \$2.445 per gallon

INVOICE PRICE DETERMINATION:

The invoice price for the fuel delivered in any month shall be the average of the effective prices reported for Gasoil 10 ppm (for Diesel Fuel Oil No.2) and Gasoline 92 unleaded (for Automotive Gasoline, Regular Unleaded), for all Fridays of the previous month in the Platt's Asia-Pacific Marketscan, for Singapore cargoes, plus the Service Fee as calculated.

In the event that Friday is a legal holiday and no price is posted for that day, the posted price immediately preceding the Friday holiday (i.e.) Thursday shall be used.

INVOICE PRICE CALCULATION FORMULA

INVOICE PRICE = Invoice Reference Price + Fixed Service Fee

INVOICE REFERENCE PRICE = Average of Previous Month's Fridays MOPS

Sample data:

Sample Product = Diesel Fuel Oil No.2
 Sample Bid Offer = \$2.780 per gallon
 Fixed Service Fee = Bid Offer – Bid Reference Price
 = \$2.780- \$2.480
 Fixed Service Fee = \$0.300 per gallon

Delivery Month: October 2014 (Invoiced month)

Previous Month: September 2014 (preceding delivery month)

(i) Sample Calculation of Platt's Marketscan Fridays for September 2014:

Sample Product: Diesel Fuel Oil No.2

<u>MOPS, Gasoil 10 ppm</u>	<u>Low</u>	<u>High</u>	<u>Average</u>
September 05, 2014	\$116.55	\$116.59	\$116.57
September 12, 2014	\$113.52	\$113.56	\$113.54
September 19, 2014	\$111.15	\$111.19	\$111.17
September 26, 2014	\$110.28	\$110.32	\$110.30

Average Price: \$112.895 per barrel

Invoice Reference Price: \$112.895 per barrel
 : \$ 2.688 per gallon (rounded to three decimal places)

Fixed Service Fee (sample price) = \$0.300 per gallon

(ii) Invoice Price

Invoice Price = Invoice Reference Price + Fixed Service Fee

Diesel Invoice Price = \$2.988 per gallon

These is the invoice price (in three decimal places) for Diesel Fuel Oil No. 2 purchases by

GPA for the sample month of October 2014.

The invoice price for the fuels (a) and (b), shall be the actual gallons received into GPA's fleet multiplied by the invoice price as calculated and determined on a monthly basis in reference to Platts' Asia-Pacific Marketscan Oil Price. All invoices submitted must be accompanied by the product delivery receipts signed by the duly authorized personnel and the service station representative.

SECTION 1.04. FLEET FUELS TO BE PURCHASED- DESIGNATED SERVICE STATIONS:

All Fleet's fuel purchases shall be at the designated self-service GAS SERVICE STATIONS AS AGREED UPON BY AND BETWEEN GPA Supply Administrator and the Contractor's authorized representative. Fuel refilling shall be limited and restricted to GPA official vehicles only. The purchase is effected upon the fleets' fuel refilling at the said "GAS SERVICE STATIONS" AND PROPER DOCUMENTATION IS EXECUTED BY THE GAS SERVICE STATION REPRESENTATIVE AND THE GPA AUTHORIZED PERSONNEL.

SECTION 1.05: TERMS OF PAYMENT.

Invoices for Fleet Fuels purchased pursuant to quantity (receipts) and quality prescribed under the terms of this Contract, shall be submitted on a monthly basis, based on the amount of gallons of fuels purchased by GPA. The payment term is thirty days (net) and the Authority shall promptly make payments within a reasonable time not to exceed a period of THIRTY (30) calendar days from the receipt of the invoice. All payments shall be based upon the received (invoiced) quantity.

SECTION 1.06. WARRANTY AND CLAIMS.

CONTRACTOR shall provide both express and implied warranties of merchantability and warrants that the Fleet Fuels shall meet the specifications prescribed herein under Section 2 of Article I and other pertinent sections. Claims against the **CONTRACTOR** on account of quality and contaminations (defects), loss or damage to product shall be given in writing by GPA within thirty days (30) from date of purchase (delivery) of fuels as specified in Section 1.04. If the fuel oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages including, but not limited to, compensation and such damages shall not affect other remedies provided for in the Contract.

Table 1.

www.platts.com

Asia-Pacific/Arab Gulf Marketscan

October 8, 2014

Singapore	FOB Singapore (\$/barrel)	
	Low-High	Mid
Naphtha	84.49-84.53	84.510
Spot naphtha	84.29-84.33	84.310
Gasoline 97 unleaded	106.70-106.74	106.720
Gasoline 95 unleaded	105.82-105.86	105.840
Gasoline 92 unleaded	102.66-102.70	102.680
Kerosene	104.07-104.11	104.090
Gasoil 10 ppm	104.13-104.17	104.150
Gasoil 50 ppm	103.93-103.97	103.950
Gasoil 0.05% sulfur	103.05-103.09	103.070
Gasoil 0.25% sulfur	102.58-102.62	102.600
Gasoil	103.05-103.09	103.070

Middle East physical oil assessments	FOB Arab Gulf (\$/barrel)	
	Low-High	Mid
Naphtha (\$/mt)	747.23-750.23	748.730
Naphtha LR2 (\$/mt)	750.32-753.32	751.820
Gasoline 95 unleaded	103.01-103.05	103.030
Gasoline 95 unleaded CFR		
Kerosene	101.54-101.58	101.560
Kerosene LR2	101.64-101.68	101.660
Gasoil 0.005% sulfur	100.86-100.90	100.880
Gasoil 0.05% sulfur	100.36-100.40	100.380
Gasoil 0.25% sulfur	100.11-100.15	100.130
Gasoil	100.36-100.40	100.380
Gasoil LR2	100.47-100.51	100.490

SECTION 2**SECTION 2.01: PRODUCT AND QUALITY**

The typical characteristics of the fuels to be supplied under this contract shall be as follows:

A. DIESEL FUEL OIL No.2^A

Typical Characteristics:

Property	ASTM Test Method ^B	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	52 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm ² at 40°C	1.9 Min 4.1 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453		ppm (µg/g)	15 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	35 Max
Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	460 Max
Conductivity	D2624	D4308	pS/m	25 Min
Density @ 15°C	D1298	D4052	Kg/m ³	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.5 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp	Visual			Report
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min

^A Follows the minimum requirements for Ultra-Low Diesel Fuel Oils (ULSD) listed under ASTM 975-10.

B. AUTOMOTIVE GASOLINE, REGULAR UNLEADED

Typical characteristics:

Property	ASTM Test Method	Alternate Method	Unit of Measure	Limits
Appearance @ Ambient Temp.			VISUAL	Clear & Bright
Color			ASTM	Report
Gravity, API @ 60 deg. F.		D - 1298		Report
DISTILLATION IBP, °C		D-86		Report
10% Evaporation				70 Max
20% Evaporation				Report
50% Evaporation				115 Max
90% Evaporation				180 Max
FBP				215 Max
Residue				2 Max
Reid Vapor Pressure @100°F,	D-5191	D-6378	psi	9 Max
SULFUR Content	D-2622	D-5453	Wt. ppm	300 Max.
Existent Gum	D-381		mg/100 ml	4 Max
Doctor Test	D-4952	IP30		Negative
Induction Period @100°C	D-525		minutes	480 Min
Research Octane No. (RON)	D-2885	D-2699MOD		91 Min
Motor Octane No. (MON)	D-2700MOD			Report
Anti-Knock Index (RON +MON)/2			Calculated	87 Min
Copper Corrosion @3 hrs @ 50°C	D-130			1 Max
Lead Content	D-3237	IP-224	g Pb/ USG	NIL
Phosphorus	D-3231		g/USG	0.005 Max
Benzene	UOP 744MOD	JM63	Wt%	Report
Ethylbenzene	UOP 744 MOD	JM63	Wt%	Report
Toluene	UOP 744 MOD	JM63	Wt%	Report
Total Aromatics	UOP 744 MOD	JM63	Wt%	Report
Xylene	UOP 744 MOD	JM63	Wt%	Report

Note: The Authority may require the supplier to conduct additional test as may be necessary.

SECTION 3

SECTION 3.01. SECURITY.

For security of supply, **CONTRACTOR** reserves the right to supply the Fleet Fuels meeting **GPA** specifications from any lawful source. In the event that supplies are taken from such other places, then the price as invoiced to **GPA** will remain the same as established in Section 1.03.

SECTION 3.02: GOVERNMENT LAWS AND REGULATIONS

This Contract as executed shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam, for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The Contractor agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims. The Contractor waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 3.03: TAXES and OTHER GOVERNMENT CHARGES

All forms of taxes, fees, charges, duty, or other form of amount equivalent thereto, now or hereafter imposed, levied, or assessed by the United States Government, the Government of Guam, or any instrumentality or agency thereof, in connection with and as a result of the sale of such goods herein provided for, if collectible or payable, shall be the responsibility of the Contractor.

SECTION 3.04. SPECIFICATIONS.

Should **GPA** wish to alter any of the specifications set out under Section 2.01 of Article I, terms of delivery, for good cause, it shall give written notice to **CONTRACTOR** within thirty (30) days. If such changes cause an increase or decrease in **CONTRACTOR**'s cost of performance of Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim by

CONTRACTOR for adjustment under this section must be asserted in writing within thirty (30) days from the date of receipt by **CONTRACTOR** of the notification of changed specifications.

CONTRACTOR and **GPA** shall, in good faith, negotiate an equitable adjustment pursuant to the change in specifications. If **CONTRACTOR** and **GPA** fail to agree on the adjustment to be made within thirty (30) days after **CONTRACTOR** receives notice of altered specifications, or if **CONTRACTOR** is unwilling to meet the altered specifications, the parties shall be subject to "Disputes" clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract specifications as changed.

SECTION 3.05. PERMITS AND RESPONSIBILITIES.

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance by **CONTRACTOR**.

SECTION 3.06. FORCE MAJEURE.

No failure or omission to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract if the same shall be caused by or arise out of:

- (a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;
- (b) Restraints. Arrest or restraint of princes, rulers or peoples;
- (c) Confiscation. Expropriation, requisition, confiscation or nationalization;
- (d) Rationing. Embargoes, export or import restrictions or rationing or allocation, whether imposed by law or regulation or by voluntary cooperation of industry at the insistence or request of any governmental **AUTHORITY** or person purporting to act therefore;
- (e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;

- (f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;
- (g) Loss for Tankers. Loss of tanker tonnage due to sinking by belligerents or to governmental taking whether or not by formal requisition;
- (h) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;
- (i) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;
- (j) Taking by Government. Unavailability of fuel because of the election of the government of the country of its origin to take royalty product in kind;

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach of the Contract from the time of and to the extent occasioned by the Force Majeure.

SECTION 3.07. NOTICE TO OTHER PARTY.

Either party whose obligations may be affected by any of the forces or causes set out in Section 3.06, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 3.08. PAYMENT REQUIRED.

Notwithstanding the provisions of Section 3.06, GPA shall not be relieved of any obligation to make payments for any Fleet Fuels delivered to/ purchased by GPA, however, during the force majeure condition the obligation shall be suspended, except for all fuels purchased prior to the force majeure condition.

SECTION 3.09. **ALTERNATE SUPPLY.**

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on part of the Contractor OR FAILURE TO MEET GPA's requirement, GPA may at its sole discretion seek an alternative source for the fleet's fuels from other petroleum suppliers. If the cost of fuels during such period exceeds the Contract price as provided in Section 1.03, the **CONTRACTOR** shall be liable to **GPA** for the difference in cost and GPA must be reimbursed for such equitable amount as calculated and agreed between both parties.

SECTION 3.10. **RESUMPTION OF PERFORMANCE.**

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any Of the Fleet Fuels, to be purchased under the Contract for the reasons which fall within the provisions of Section 3.06, then the party so prevented shall, as to the remainder of the Fleet Fuels not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 3.06, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 3.11 **DISPUTES.**

- (a) All controversies between **GPA** and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by **GPA** pursuant to Guam Procurement laws and regulations.
- (b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.
- (c) **CONTRACTOR** shall comply with any decision of **GPA** and proceed diligently with performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of **GPA** has made a written determination that continuation of work under the Contract is essential to the welfare of the territory.

SECTION 3.12. INDEMNITY.

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder.

SECTION 3.13: INSURANCE.

A. INSTRUCTIONS: Contractor shall not commence work under this contract until he has obtained all insurance required under this section and such insurance has been approved by GPA, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

B. WORKMEN'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE: The Contractor shall take out and maintain during the life of this Contract the applicable statutory Workmen's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable State or Territory covering all his employees, and in the case of any work sublet, the Contractor shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees. The Contractor shall secure and maintain, during the life of this Contract, Employer's Liability Insurance with a limit of \$500,000 with an insurance company authorized to write such insurance in all states or territories where the Contractor will have employees located in the performance of this Contract. Contractor shall provide a Waiver of Subrogation in favor of GPA via endorsement to the Workers Compensation policy.

C. COMMERCIAL GENERAL LIABILITY:

1. The Contractor shall maintain, during the life of this Contract, such Commercial General Liability as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from operations under this Contract whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided Liability Insurance shall be as follows:

- (a) Bodily Injury Limits: \$ 1,000,000 Each Person
- (b) Property Damage Limits: \$ 1,000,000 Each Occurrence

\$ 2,000,000 Aggregate

2. The Commercial General Liability required by the preceding Subparagraph 1 shall include the following extensions of coverage:

- (a) The property damage coverage shall include a Broad Form Property Damage Endorsement.
- (b) Contractual Liability coverage shall be included.
- (c) Protective Liability coverage shall be included to protect the Contractor against claims arising out of operations performed by his Subcontractors.
- (d) Products Liability and/or Completed Operations coverage shall be included.
- (e) GPA shall be an additional insured on Commercial General Liability policy.
- (f) Contractor shall grant Waiver of Subrogation in favor of GPA.

D. AUTOMOBILE LIABILITY INSURANCE:

The Contractor shall take out and maintain during the life of the Contract, such Automobile Liability insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this Contract. GPA shall be an additional insured on Auto Liability policy. Contractor will grant Waiver of Subrogation in favor of GPA. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits:	\$ 1,000,000 Each Person \$ 1,000,000 Each Occurrence
Property Damage Limits:	\$ 1,000,000 Each occurrence

E. POLLUTION LIABILITY INSURANCE:

The Contractor shall take out and maintain during the life of the Contract, Pollution Liability Insurance

with minimum limits of \$5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of GPA. GPA is to be an additional insured.

F. EXCESS LIABILITY

Excess Liability with limits of \$5,000,000. GPA shall be an additional insured. Contractor shall grant Waiver of Subrogation in favor of GPA.

G. CERTIFICATE OF INSURANCE:

The Contractor shall furnish GPA with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give GPA at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the Contractor shall furnish a Certificates of Insurance evidencing renewal of such coverage to GPA. The Certificates of Insurance shall clearly show this Contract number.

The Contractor shall provide a copy of their Insurance Policy to GPA as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to GPA.

H. SUBCONTRACTOR'S INSURANCE:

The Contractor shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the Contractor under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the Contractor two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph C. above. The Contractor shall furnish one (1) copy of the certificate to GPA.

I. INSURANCE COMPANY AND AGENT:

All insurance policies herein required of the Contractor shall be written by a company duly authorized to do business in the Territory where supply under this Contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

J. INDEMNITY:

The Contractor shall indemnify and hold GPA free and harmless from all injuries and damages to persons or properties as a result of and relative to diesel engine cylinder lubrication oil deliveries, including the cost of enforcement of the indemnity, actually and proximately caused by the Contractor or its agents and employees in the performance of the terms of the Contract.

K. OIL SPILL RESPONSIBILITIES:

The Contractor shall be responsible for any and all oil spills caused by or as a result of the performance of diesel engine cylinder lubrication oil deliveries. The Contractor shall recover or remove, or cleanup as appropriate, any diesel engine cylinder lubrication oil spilled by the contractor, its agents or assigns upon the performance of this Contract. Clean-up operations shall commence immediately within twelve (12) hours and be completed within a reasonable time. In the event the Contractor fails to complete the clean-up operations within reasonable time, GPA may conduct such clean up and the Contractor shall reimburse the Authority for any and all costs reasonably incurred for the clean-up operations. All clean-up operations shall be in accordance with applicable Federal or Territorial laws, rules and regulations, and will only be acceptable upon the approval of Guam EPA.

In the event of an oil spill, the Contractor shall immediately notify GPA and Guam EPA authorities and said Contractor shall immediately initiate clean up and continue such clean up until completion.

SECTION 4**SECTION 4.01: FAILURE TO SUPPLY.**

(a) Should Contractor fail to perform any of the terms, provisions or conditions of this Contract, the contractor shall be in default of the Contract agreement. In this event, GPA will provide a written notice to the Contractor of such default, and provide the contractor an opportunity to cure the default within thirty (30) calendar days after the notice of default. GPA, during this period, in its discretion and in accordance with whatever action, reserves the right to secure similar diesel engine cylinder lubrication oil from other sources; in such event, the contractor shall be responsible for any costs, expenses, fees, and monetary amounts of any nature whatsoever, including but not limited to diesel engine cylinder lubrication oil handling fees, administrative, labor, and operations costs, and all other amounts associated with or related to the securing of such diesel engine cylinder lubrication oil supply by the Authority.

(b) Should the Contractor fail to cure such default within thirty (30) calendar days after the notice of default thereof, GPA may terminate the Contract in whole or in part. In the event that GPA terminates the Contract by default, then the provisions of the performance bond shall be in effect.

SECTION 4.02. FAILURE TO PAY.

Failure to pay an invoice and any late penalties, if any, within a period of thirty (30) days from the due date of such invoice, shall be a default and should such a default not be cured within thirty (30) days after notice of default, **CONTRACTOR** may, at its option, do either of the following:

- (a) terminate the Contract effective thirty (30) days after receipt by GPA of written notice if not first cured; or
- (b) continue to supply fuel oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 4.03. **FAILURE TO COMPLY WITH LAWS.**

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR's** performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon 30 days written notice.

SECTION 4.04. **DEFAULT.****(a)** **Default.**

In addition to default under the provision of Section 4.01, if the **CONTRACTOR** refuses or fails to perform any of the provisions of this contract with such diligence as will ensure the timely delivery of fuel oil supply or commits any other substantial breach of this contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within thirty (30) days of the date of notification, **GPA** may terminate the contract in whole or such part or parts of the contract as to which there has been a delay or a failure to properly perform. However, in any event, and without the necessity of first issuing a Notice of Default, **GPA** may obtain an alternate source of fuel oil if **CONTRACTOR** fails to fully deliver any shipment of fuel oil within 15 days of the scheduled delivery date specified in the final notice. In the event of termination in whole or in part, **GPA** may procure fuel oil supply from another source whenever it deems appropriate. The **CONTRACTOR** shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar fuel oil supply.

(b) **Compensation.**

GPA shall pay for fuel oil delivered to **GPA** and shall be obliged to accept delivery of, and pay for, cargo in transit to **GPA** provided such cargo is received at the time of receipt of **GPA's** notice of termination for default.

(c) Erroneous Termination for Default.

If, after notice of termination of the **CONTRACTOR'S** right to proceed under the provisions of this clause, it is determined for any reason that the **CONTRACTOR** was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Section 3.06 relating to Force Majeure of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination for convenience had been issued pursuant to Section 4.05.

(d) Additional Rights and Remedies.

The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

SECTION 4.05. ATTORNEYS FEES.

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorneys fees from the defaulting party.

SECTION 4.06. TERMINATION FOR CONVENIENCE.

(a) Termination.

The supply of Fleets Fuels under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part, whenever **GPA** shall determine that such termination is in the best interest of **GPA**, or whenever **GPA** because of technological developments ceases to use the said Fleet Fuels, as described in the specifications contained in Section 2.01.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which the Contract is terminated, and the Contract shall be terminated effective sixty (60) days after receipt of notice by **CONTRACTOR**.

(b) CONTRACTOR's Obligations.

The **CONTRACTOR** shall incur no further obligations in connection with the terminated fuel oil supply delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of fuel oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and contracts, if any, as they relate to the terminated Contract for fuel oil supply. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and contracts, if any, connected with the terminated fuel oil supply delivery. The **CONTRACTOR** must still deliver fuel oil supply not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) Compensation.

(1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within one (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.

(2) **GPA** and the **CONTRACTOR** may agree to a settlement provided the **CONTRACTOR** has filed a termination claim supported by cost or pricing data to the extent required by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Guam Uniform Commercial Code, and the Contract price of the Fleet Fuel not terminated.

(3) Absent complete agreement under subparagraph (1) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:

- (i) Fleet Fuels Contract prices for supplies or services accepted under the Contract by **GPA**;
- (ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of Fleet Fuels plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted

fuels supplies or services; provided, however, that if it appears that the **CONTRACTOR** would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

- (iii) costs of settling and paying claims arising out of the termination of Contracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(ii) of this paragraph;
- (iv) the reasonable settlement costs of the **CONTRACTOR** including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of contracts hereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the **CONTRACTOR** under this subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the **CONTRACTOR** reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the Uniform Commercial clause.

SECTION 4.06. REMEDIES CUMULATIVE.

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 5

SECTION 5.01. COVENANT AGAINST CONTINGENT FEES.

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 5.02. NOTICE.

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the United States mail. Either party may change its address by giving fifteen (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932
TELEFAX: (671) 648-3224

CONTRACTOR: _____

Telefax: _____

SECTION 5.03. INTEREST OF OTHER PARTIES.

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the contract.

SECTION 5.04. ASSIGNMENT.

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the contract, and such assignment shall not alter **CONTRACTOR's** obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the contract without **GPA's** written consent which may be given or refused at **GPA's** absolute discretion.

SECTION 5.05. TIME.

Time is of the essence in the contract and in every part hereof.

SECTION 5.06. AMENDMENT AND WAIVER.

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this contract, the signature of the Chairman of the Consolidated Commission on Utilities is required to bind the **AUTHORITY**. Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 5.07. DESCRIPTIVE HEADINGS.

The descriptive headings of the several Sections and Subsections in this contract are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 5.08. GOVERNING LAW.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 5.09. DEFINITIONS.

- (a) "Barrel" shall mean 42 gallons.

- (b) "Day" and "month" mean a calendar day and month respectively.
- (c) "Fleet Fuels" means Diesel Fuel Oil No.2 or Automotive Gasoline, Regular Unleaded, consistent with the specifications set forth in Section 2.01.
- (d) "Gallon": As used in the Contract, "gallon" shall mean a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.
- (e) "Receiving facility" means the GPA transportation fleet.
- (f) "GPA" or "Authority" shall mean the Guam Power Authority.
- (g) "Ton" means a metric ton of 2204.62 English pounds.
- (h) "\$" refers to United States Dollars.

SECTION 5.10. RELATIONSHIP OF PARTIES.

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 5.11. NUMBER AND GENDER.

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 5.12. SUCCESSORS IN INTEREST.

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 5.13. PARTIAL INVALIDITY.

Should any part of the contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in full force and effect as if the contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 5.14. EQUAL OPPORTUNITY CLAUSE.

During the performance of the Contract the **CONTRACTOR** agrees as follows:

- (a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.
- (b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 6

SECTION 6.01. BINDING EFFECT.

This Contract is binding upon the Contractor only if Contractor has been awarded the Contract in response to the **IFB GPA-005-15**. This Contract is subject to the approval of the Consolidated Commission on Utilities (CCU), and shall be binding only upon such approval is made as evidenced by the signatories below.

JOHN M. BENAVENTE, P.E.
Interim General Manager
Guam Power Authority

Date

SIMON SANCHEZ
Chairman, Consolidated Commission on
Utilities

Date

Contractor's duly Authorized
Representative

Date

Attested as to form:

GRAHAM BOTHA
Legal Counsel
Guam Power Authority

Date



GUAM POWER AUTHORITY
ATURIDAT ILEKTRESEDAT GUAHAN
P O BOX 2977, AGANA, GUAM 96932-2977

**SPECIAL PROVISION
FOR
MAJOR SHAREHOLDERS DISCLOSURE AFFIDAVIT**

All Bidders/Offerors are required to submit a current affidavit as required below. Failure to do so will mean disqualification and rejection of the bid/rfp.

5 GCA §5233 (Title 5, Section 5233) states:

"Section 5233 Disclosure of Major Shareholders. As a condition of submitting a bid or offer, any partnership, sole proprietorship or corporation doing business with the government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of a bid, or, that it is a not for profit organization that qualifies for tax exemption under the Internal Revenue Code of the United States or the Business Privilege Tax law of Guam, Title 12, Guam Code Annotated, Section 26203C. With the exception of not for profit organizations, the affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid or offer and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying."

1. If the affidavit is a copy, indicate the BID/RFP number and where it is filed.
2. Affidavits must be signed within 60 days of the date the bids or proposals are due.

MAJOR SHAREHOLDERS OF DISCLOSURE AFFIDAVIT

TERRITORY OF GUAM)

HAGATNA, GUAM)

I, undersign, _____
(partner or officer of the company of, etc.)
being first duly sworn, deposes and says:

1. That the person who have held more than ten percent (10%) of the company's shares during the past twelve (12) months are as follows:

<u>Name</u>	<u>Address</u>	<u>Percentage of Shares Held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
Total number of shares:		_____

2. Persons who have received or are entitled a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid/rfp for which this Affidavit is submitted are as follows:

<u>Name</u>	<u>Address</u>	<u>Amount of Commission Gratuity or other Compensation</u>
_____	_____	_____
_____	_____	_____

Further, affiant sayeth naught.

Date: _____

Signature of individual if bidder/offeror is a sole Proprietorship; Partner, if the bidder/offeror is a Partnership Officer, if the bidder/offeror is a corporation.

Subscribe and sworn to before me this _____ day of: _____

20 _____

Notary Public _____

In and for the Territory of Guam:

My Commission expires _____

NON-COLLUSION AFFIDAVIT

Guam)
)ss:
Hagatna)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1. That I am the _____ of _____
(Title) (Name of Bidding/RFP Company)
2. That in making the foregoing proposal or bid, that such proposal or bid is Genuine and not collusive or sham, that said bidder/offeror has not colluded, Conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham or to refrain from bidding or submitting a proposal and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid of affiant or any other bidder, or to secure any overhead, project or cost element of said bid price, or of that of any bidder, or to secure any advantage against the GUAM POWER AUTHORITY or any person interested in the proposed contract; and
3. That all statements in said proposal or bid are true.

(Declarant)

SUBSCRIBED AND SWORN to me before this _____ day of _____, 2014.

)Seal(

Notary Public

NO GRATUITIES OR KICKBACKS AFFIDAVIT

AFFIDAVIT
(Offeror)

TERRITORY OF GUAM)

HAGATNA, GUAM)

SS:

_____, being first duly sworn, deposes and says:

As the duly authorized representative of the Offeror, that neither I nor of the Offeror's officers, representatives, agents, subcontractors, or employees has or have offered, given or agreed to give any government of Guam employee or former employee, any payment, gift, kickback, gratuity or offer of employment in connection with Offeror's proposal.

Signature of Individual if Proposer is a Sole Proprietorship;
Partner, if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public
In and for the Territory of Guam
My Commission Expires:

ETHICAL STANDARDS AFFIDAVIT

AFFIDAVIT
(Proposer)

TERRITORY OF GUAM)

HAGATNA, GUAM)

SS:

_____, being first duly sworn, deposes and says:

That I am (the Sole Proprietor, a Partner or Officer of the Offeror)

That Offeror making the foregoing Proposal, that neither he or nor of the Offeror's officers, representatives, agents, subcontractors, or employees of the 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, and promises that neither he nor any officer, representative, agent, subcontractor, or employee of Offeror will knowingly influence any government of Guam employee to breach any ethical standard set for in 5 GCA Chapter 5 Article 11.

Signature of Individual if Proposer is a Sole Proprietorship;
Partner, if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014.

Notary Public
In and for the Territory of Guam
My Commission Expires:

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

Procurement No.: _____

Name of Offeror Company: _____

_____ hereby certifies under penalty of perjury:

(1) That I am _____ (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;

Signature of Individual if Proposer is a Sole Proprietorship;
Partner, if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2014.

Notary Public
In and for the Territory of Guam
My Commission Expires:



GUAM POWER AUTHORITY
ATURIDAT ILEKTRESEDAT GUAHAN
P O BOX 2977, AGANA, GUAM 96932-2977

SPECIAL PROVISIONS

Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property

GCA 5 §5253(b) restricts the OFFEROR against employing convicted sex offenders from working at Government of Guam venues. It states:

(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

Signature of Bidder Date

Proposer, if an individual;
Partner, if a partnership;
Officer, if a corporation.

Subscribed and sworn before me this _____ day of _____, 2014.

Notary Public



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 * AGANA, GUAM U.S.A. 96932-2977

Edward J.B. Calvo
Governor

Telephone Nos. (671) 648-3054/55 Fax: 648-3165

Raymond S. Tenorio
Lieutenant Governor

Accountability

Impartiality

Competence

Openness

Value

LOCAL PROCUREMENT PREFERENCE APPLICATION

Based on the law stipulated below, please place a checkmark or an "X" on the block indicating the item that applies to your business:

5GCA, Chapter 5, Section 5008, "Policy in Favor of Local Procurement" of the Guam Procurement Law states:

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

- () (a) A licensed bonafide manufacturing business that adds at least twenty-five percent (25%) of the value of an item, not to include administrative overhead, suing workers who are U.S. Citizens or lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their former citizenship in the Trust Territory for the Pacific Islands; or
- () (b) A business that regularly carries an inventory for regular immediate sale of at least fifty percent (50%) of the items of supplies to be procured; or
- () (c) A business that has a bonafide retail or wholesale business location that regularly carries an inventory on Guam of a value of at least one half of the value of the bid or One Hundred Fifty Thousand Dollars (\$150,000.0) whichever is less, of supplies and items of a similar nature to those being sought; or
- () *(d) A service actually in business, doing a substantial business on Guam, and hiring at least 95% U.S. Citizens, lawfully admitted permanent residents or national of the Unites States, or persons who lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

- Bidders indicating qualification under (d) may be considered QUALIFIED for the Local Procurement Preference only if the Government's requirement is for service. Service is defined Pursuant to 5 GCA Government Operations Subparagraph 5030 entitled DEFINITIONS under Chapter 5 of the Guam Procurement Law.

1. I _____ representative for _____ have read the requirements of the law cited above and do hereby qualify and elect to be given the LOCAL PROCUREMENT PREFERENCE for Bid No.: GPA _____. By filling in this information and placing my signature below, I understand that the Guam Power Authority will review this application and provide me with a determination whether or not the 15% preference will be applied to this bid.

2. I _____ representative for _____ have read the requirements of the law cited above, and do not wish to apply for the Local Procurement Preference for Bid No.: GPA _____.

Bidder Representative Signature

Date

GOVERNMENT OF GUAM
GENERAL TERMS AND CONDITIONS
SEALED BID SOLICITATION AND AWARD

Only those Boxes checked below are applicable to this bid.

- [X] 1. **AUTHORITY:** This solicitation is issued subject to all the provision of the Guam Procurement Act (SGCA, Chapter 5) And the Guam Procurement Regulations (copies of both are available at the Office of the Complier of laws, Department of Law, copies available for inspection at the Guam Power Authority). It requires all parties involved in the Preparation, negotiation, performance, or administration of contracts to act in good faith.
- [X] 2. **GENERAL INTENTION:** Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and conditions for the bidder to provide the Government of Guam (Government) with specified services or with materials, supplies or equipment completely assembled and ready for use.
- [X] 3. **TAXES:** Bidders are cautioned that they are subject to Guam Income Taxes as well as all other taxes on Guam Transactions. Specific information on taxes may be obtained from the Director of Revenue and Taxation.
- [X] 4. **LICENSING:** Bidders are cautioned that the Government will not consider for award any offer submitted by a bidder who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.
- [X] 5. **LOCAL PROCUREMENT PREFERENCE:** All procurement of supplies and services where possible, will be made from among businesses licensed to do business on Guam in accordance with section 5008 of the Guam Procurement Act (SGCA, Chapter 5) and Section 1-104 of the Guam Procurement Regulations.
- [X] 6. **COMPLIANCE WITH SPECIFICATIONS AND OTHER SOLICITATION REQUIREMENTS:** Bidders shall comply with all specifications and other requirements of the Solicitation.
- [X] 7. **"ALL OR NONE" BIDS:** Unless otherwise allowed under this Solicitation, "all or none" bids may be deemed to be non-responsive. If the bid is so limited, the Government may reject part of such proposal and award on the remainder.
- NOTE:** By checking this item, the Government is requesting all of the bid items to be bid or none at all. The Government will not award on an itemized basis. Reference: Section 3-101.06 of the Guam Procurement Regulations.
- [X] 8. **INDEPENDENT PRICE DETERMINATION:** The bidder, upon signing the Invitation for Bid, certifies that the prices in his bid were derived at without collusion, and acknowledge that collusion and anti-competitive practices are prohibited by law. Violations will be subject to the provision of Section 5651 of that of the Guam Procurement Act. Other existing civil, criminal or administrative remedies are not impaired and may be in addition to the remedies in Section 5651 of the Government code.
- [X] 9. **BIDDER'S PRICE:** The Government will consider not more than two (2) (Basic and Alternate) item prices and the bidder shall explain fully each price if supplies, materials, equipment, and/or specified services offered comply with specifications and the products origin. Where basic or alternate bid meets the minimum required specification, cost and other factors will be considered. Failure to explain this requirement will result in rejection of the bid.
- [X] 10. **BID ENVELOPE:** Envelope shall be sealed and marked with the bidder's name, Bid number, time, date and place of Bid Opening.
- [X] 11. **BID GUARANTEE REQUIREMENT:** Bidder is required to submit a Bid Guarantee Bond or standby irrevocable Letter of Credit or Certified Check or Cashier's Check in the same bid envelope to be held by the Government pending award. The Bid Guarantee Bond, Letter of Credit, Certified Check or Cashier's Check must be issued by any local surety or banking institution licensed to do business on Guam and made payable to the Guam Power Authority in the amount of fifteen percent (15%) of his highest total bid offer. The Bid Bond must be submitted on Government Standard Form BB-1 (copy enclosed). Personal Checks will not be accepted as Bid Guarantee. If a successful Bidder (contractor) withdraws from the bid or fails to enter into contract within the prescribed time, such Bid guarantee will be forfeited to the Government of Guam. Bids will be disqualified if not accompanied by Bid Bond, Letter of Credit, Certified Check or Cashier's check. Bidder must include in his/her bid, valid copies of a Power of Attorney from the Surety and a Certificate of Authority from the Government of Guam to show proof that the surety company named on the bond instrument is authorized by the Government of Guam and qualified to do business on Guam. For detailed information on bonding matters, contact the Department of Revenue and Taxation. Failure to submit a valid Power of Attorney and Certificate of Authority on the surety is cause for rejection of bid. (GPR Section 3-202.03.3) Pursuant to Public Law 27-127, all competitive sealed bidding for the procurement of supplies or services exceeding \$25,000.00 a 15% Bid Security of the total bid price must accompany the bid package.
- [X] 12. **PERFORMANCE BOND REQUIREMENT:** The Bidder may be required to furnish a Performance Bond on Government Standard Form BB-1 or standby irrevocable Letter of Credit or Certified Check or Cashier's Check payable to the Guam Power Authority issued by any of the local Banks or Bonding Institution in the amount One Hundred Percent (100%) as security for the faithful performance and proper fulfillment of the contract. In the event that any of the provisions of this contract are violated by the contractor, the Chief Procurement Officer shall serve written notice upon both the contractor and the Surety of its intention to terminate the contract. Unless satisfactory arrangement or correction is made within ten (10) days of such notice the contract shall cease and terminate upon the expiration of the ten (10) days. In the event of any such termination, the Chief Procurement Officer shall immediately serve notice thereof upon the Surety. The Surety shall have the right to take over and perform the contract, provided, however, that if the Surety does not commence performance thereof within 10 days from the date of the mailing of notice of termination, the Government may take over and prosecute the same to complete the contract or force account for the account and at the expense of the contractor, and the contractor and his Surety shall be liable to the Government for any excess cost occasioned the Government thereby (GPR Section 3-202.03.4).

- [X] 13. **PERFORMANCE GUARANTEE:** Bidders who are awarded a contract under this solicitation, guarantee that goods will be delivered or required services performed within the time specified. Failure to perform the contract in a satisfactory manner may be cause for suspension or debarment from doing business with the Government and to enforce Section 23 of these General Terms and Conditions. In addition, the Government will hold the Vendor liable and will enforce the requirements as set forth in Section 41 of these General Terms and Conditions.
- [X] 14. **SURETY BONDS:** Bid and Performance Bonds coverage must be signed or countersigned in Guam by a foreign or alien surety's resident general agent. The surety must be an Insurance Company, authorized by the government of Guam and qualified to do business in Guam. Bids will be disqualified if the Surety Company does not have a valid Certificate of Authority from the Government of Guam to conduct business in Guam.
- [X] 15. **COMPETENCY OF BIDDERS:** Bids will be considered only from the such bidders who, in the opinion of the Government, can show evidence of their ability, experience, equipment, and facilities to render satisfactory service.
- [X] 16. **DETERMINATION OF RESPONSIBILITY OF BIDDERS:** The Chief Procurement Officer reserves the right for securing from bidders information to determine whether or not they are responsible and to inspect plant site, place of business, and supplies and services as necessary to determine their responsibility in accordance with Section 15 of these General Terms and Conditions (GPR Section 3-401).
- [X] 17. **STANDARD FOR DETERMINATION OF LOWEST RESPONSIBLE BIDDER:** In determining the lowest responsible offer, the Chief Procurement Officer shall be guided by the following:
- a) Price of items offered.
 - b) The ability, capacity, and skill of the Bidder to perform.
 - c) Whether the Bidder can perform promptly or within the specified time.
 - d) The quality of performance of the Bidder with regards to awards previously made to him.
 - e) The previous and existing compliance by the Bidder with laws and regulations relative to procurement.
 - f) The sufficiency of the financial resources and ability of the Bidder to perform.
 - g) The ability of the bidder to provide future maintenance and services for the subject of the award.
 - h) The compliance with all of the conditions to the Solicitation.
- [X] 18. **TIE BIDS:** If the bids are for the same unit price or total amount in the whole or in part, the Chief Procurement Officer will determine award based on Section 3-202.15.2. or to reject all such bids (GPR Section 3-202.15.2).
- [] 19. **BRAND NAMES:** Any reference in the Solicitation to manufacturer's Brand Names and number is due to lack of a satisfactory specification of commodity description. Such preference is intended to be descriptive, but not restrictive and for the sole purpose of indicating prospective bidders a description of the article or services that will be satisfactory. Bids on comparable items will be considered provided the bidder clearly states in his bid the exact articles he is offering and how it differs from the original specification.
- [] 20. **DESCRIPTIVE LITERATURE:** Descriptive literature(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The literature furnished must clearly identify the item(s) in the Bid. The descriptive literature is required to establish, for the purpose of evaluation and award, details of the product(s) the bidder proposes to furnish including design, materials, components, performance characteristics, methods of manufacture, construction, assembly or other characteristics which are considered appropriate. Rejection of the Bid will be required if the descriptive literature(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the descriptive literature(s) by the time specified in the Solicitation will require rejection of the bid.
- [] 21. **SAMPLES:** Sample(s) of item(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The sample(s) should represent exactly what the bidder proposes to furnish and will be used to determine if the item(s) offered complies with the specifications. Rejection of the Bid will be required if the sample(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the sample(s) by the time specified in the Solicitation will require rejection of the Bid.
- [] 22. **LABORATORY TEST:** Successful bidder is required to accompany delivery of his goods with a Laboratory Test Report indicating that the product he is furnishing the Government meets with the specifications. This report is on the bidder's account and must be from a certified Testing Association.
- [X] 23. **AWARD, CANCELLATION, & REJECTION:** Award shall be made to the lowest responsible and responsive bidder, whose bid is determined to be the most advantageous to the Government, taking into consideration the evaluation factors set forth in this solicitation. No other factors or criteria shall be used in the evaluation. The right is reserved as the interest of the Government may require to waive any minor irregularity in bid received. The Chief Procurement Officer shall have the authority to award, cancel, or reject bids, in whole or in part for any one or more items if he determines it is in the public interest. Award issued to the lowest responsible bidder within the specified time for acceptance as indicated in the solicitation, results in a bidding contract without further action by either party. In case of an error in the extension of prices, unit price will govern. It is the policy of the Government to award contracts to qualified local bidders. The government reserves the right to increase or decrease the quantity of the items for award and make additional awards for the same type items and the vendor agrees to such modifications and additional awards based on the bid prices for a period of thirty (30) days after original award. No award shall be made under this solicitation which shall require advance payment or irrevocable letter of credit from the government (GPR Section 3-202.14.1).
- [] 24. **MARKING:** Each outside container shall be marked with the Purchase Order number, item number, brief item description and quantity. Letter marking shall not be less than 3/4" in height.
- [] 25. **SCHEDULE FOR DELIVERY:** Successful bidder shall notify the Guam Power Authority Dededo Warehouse at (671) 653-2073 and/or Guam Power Authority Cabras Warehouse at (671) 475-3319, at least twenty-four (24) hours before delivery of any item under this solicitation.

- [] 26. **BILL OF SALE:** Successful supplier shall render Bills of Sale for each item delivered under this contract. Failure to comply with this requirement will result in rejection of delivery. The Bill of Sale must accompany the items delivered but will not be considered as an invoice for payment. Supplier shall bill the Government in accordance with billing instructions as indicated on the Purchase Order.
- [] 27. **MANUFACTURER'S CERTIFICATE:** Successful bidder is required, upon delivery of any item under this contract, to furnish a certificate from the manufacturer indicating that the goods meet the specifications. Failure to comply with this request will result in rejection of delivery payment. Supplier shall bill the Government in accordance with billing instructions as indicated on the Purchase Order.
- [] 28. **INSPECTION:** All supplies, materials, equipment, or services delivered under this contract shall be subject to the inspection and/or test conducted by the Government at destination. If in any case the supplies, materials, equipment, or services are found to be defective in material, workmanship, performance, or otherwise do not conform with the specifications, the Government shall have the right to reject the items or require that they be corrected. The number of days required for correction will be determined by the Government.
- [] 29. **MOTOR VEHICLE SAFETY REQUIREMENTS:** The Government will only consider Bids on motor vehicles which comply with the requirements of the National Traffic and Motor Vehicle safety Act of 1966 (Public Law 89-563) and Clean Air Act as amended (Public Law 88-206), that are applicable to Guam. Bidders shall state if the equipment offered comply with these aforementioned Federal Laws.
- [] 30. **SAFETY INSPECTION:** All motor vehicles delivered under this contract must pass the Government of Guam Vehicle Inspection before delivery at destination.
- [X] 31. **GUARANTEE:**
- a) **Guarantee of Vehicle Type of Equipment:**
The successful bidder shall guarantee vehicular type of equipment offered against defective parts, workmanship, and performance, for a period of not less than one (1) year after date of receipt of equipment. Bidder shall also provide service to the equipment for at least one (1) year. Service to be provided shall include, but will not be limited to tune ups (change of spark plugs, contact points and condensers) and lubrication (change of engine and transmission oil). All parts and labor shall be at the expense of the bidder. All parts found defective and not caused by misuse, negligence or accident within the guarantee period shall be repaired, replaced, or adjusted within six (6) working days after notice from the Government and without cost to the Government. Vehicular type of equipment as used in this context shall include equipment used for transportation as differentiated from tractors, backhoes, etc.
- b) **Guarantee of Other Type of Equipment:**
The successful bidder shall guarantee all other types of equipment offered, except those mentioned in 31a, above, against defective parts, workmanship, and performance for a period of not less than three (3) months after date of receipt of equipment. Bidder shall also provide service to the equipment for at least three (3) months. All parts found defective within that period shall be repaired or replaced by the Contractor without cost to the Government. Repairs, adjustments or replacements of defective parts shall be completed by the contractor within six (6) working days after notice from the Government.
- c) Compliance with this Section is a condition of this Bid.
- [X] 32. **REPRESENTATION REGARDING ETHICS IN PUBLIC PROCUREMENT:** The bidder or contractor represents that it has not knowingly influenced and promises that it will not knowingly influence a Government employee to breach any of the ethical standards and represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth on Chapter 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.
- [] 33. **REPRESENTATION REGARDING CONTINGENT FEES:** The contractor represents that it has not retained a person to solicit or secure a Government contract 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 (GPR Section 11-207).
- [] 34. **EQUAL EMPLOYMENT OPPORTUNITY:** Contractors shall not discriminate against any employee or applicant of employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that employees are treated equally during employment without regards to their race, color, religion, sex, or national origin.
- [] 35. **COMPLIANCE WITH LAWS:** Bidders awarded a contract under this Solicitation shall comply with the applicable standard, provisions, and stipulations of all pertinent Federal and/or local laws, rules, and regulations relative to the performance of this contract and the furnishing of goods.
- [] 36. **CHANGE ORDER:** Any order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-03.1 of the Guam Procurement Regulations.
- [] 37. **STOP WORK ORDER:** Any stop work order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-04.1 of the Guam Procurement Regulations.
- [] 38. **TERMINATION FOR CONVENIENCE:** Any termination order for the convenience of the Government issued relative towards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101.10 of the Government Procurement Regulations.
- [X] 39. **TIME FOR COMPLETION:** It is hereby understood and mutually agreed by and between the contractor and the Government that the time for delivery to final destination or the timely performance of certain services is an essential condition of this contract. If the contractor refuses or fails to perform any of the provisions of this contract within the time specified in the Purchase Order (from the date Purchase Order is acknowledged by vendor), then the contractor is in default. Defaults will be treated subject to and in accordance with the provisions of Section 6-101-08 of the Guam Procurement Regulations.

40. **JUSTIFICATION OF DELAY:** Bidders who are awarded contracts under this Solicitation, guarantee that the goods will be delivered to their destination or required services rendered within the time specified. If the bidder is not able to meet the specified delivery date, he is required to notify the Chief Procurement Officer of such delay. Notification shall be in writing and shall be received by the Chief Procurement Officer at least twenty-four (24) hours before the specified delivery date. Notification of delay shall include an explanation of the causes and reasons for the delay including statement(s) from supplier or shipping company causing the delay. The Government reserves the right to reject delay justification if, in the opinion of the Chief Procurement Officer, such justification is not adequate.

41. **LIQUIDATED DAMAGES:** When the contractor is given notice of delay or nonperformance as specified in Paragraph 1 (Default) of the Termination for Default Clause of this contract and fails to cure in the time specified, the contractor shall be liable for damages for delay in the amount of one-fourth of one percent (1%) of outstanding order per calendar day from date set for cure until either the territory reasonable obtains similar supplies or services if the contractor is terminated for default, or until the contractor provides the supplies or services if the contractor is not terminated for default. To the extent that the contractor's delay or nonperformance is excused under Paragraph 40 (Excuse for Nonperformance or Delayed Performance) of the Termination for Default Clause of this contract, liquidated damages shall not be due to the territory. The contractor remains liable for damages caused other than by delay (GPR Section 6-101-09.1).

42. **PHYSICAL LIABILITY:** If it becomes necessary for the Vendor, either as principal, agent or employee, to enter upon the premises or property of the Government of Guam in order to construct, erect, inspect, make delivery or remove property hereunder, the Vendor hereby covenants and agrees to take, use, provide and make all proper, necessary and sufficient precautions, safeguards and protections against the occurrence of any accidents, injuries or damages to any person or property during the progress of the work herein covered, and to be responsible for, and to indemnify and save harmless the Government of Guam from the payment of all sums of money by reason of all or any such accidents, injuries or damages that may occur upon or about such work, and fines, penalties and loss incurred for or by reasons of the violations of any territorial ordinance, regulations, or the laws of Guam or the United States, while the work is in progress. Contractor will carry insurance to indemnify the Government of Guam against any claim for loss, damage or injury to property or persons arising out of the performance of the Contractor or his employees and agents of the services covered by the contract and the use, misuse or failure of any equipment used by the contractor or his employees or agents, and shall provide certificates of such insurance to the Government of Guam when required.

43. **CONTACT FOR CONTRACT ADMINISTRATION:** If your firm receives a contract as a result of this Solicitation, please designate a person whom we may contact for prompt administration.

Name: _____ Title: _____

Address: _____ Telephone: _____

GOVERNMENT OF GUAM

SEALED BID SOLICITATION INSTRUCTIONS

1. **BID FORMS:** Each bidder shall be provided with two (2) sets of Solicitation forms. Additional copies may be provided upon request. Bidders requesting additional copies of said forms will be charged per page in accordance with Section 6114 of the Government Code of Guam. All payments for this purpose shall be by cash, certified check or money order and shall be made payable to the Guam Power Authority.
2. **PREPARATIONS OF BIDS:**
 - a) Bidders are required to examine the drawings, specifications, schedule, and all instructions. Failure to do so will be at bidder's risk.
 - b) Each bidder shall furnish the information required by the Solicitation. The bidder shall sign the solicitation and print or type his name on the Schedule. Erasures or other changes must be initiated by the person signing the bid. Bids signed by an agent are to be accompanied by evidence of this authority unless such evidence has been previously furnished to the issuing office.
 - c) Unit price for each unit offered shall be shown and such price shall include packing unless otherwise specified. A total shall be entered in the amount column of the Schedule for each item offered. In case of discrepancies between a unit price and extended price, the unit price will be presumed to be correct.
 - d) Bids for supplies or services other than those specified will not be considered. Time, if stated as a number of days, means calendar days and will include Saturdays, Sundays, and holidays beginning the day after the issuance of a Notice to Proceed. Time stated ending on a Saturday, Sunday or Government of Guam legal holiday will end at the close of the next business day.
3. **EXPLANATION TO BIDDERS:** Any explanation desired by a bidder regarding the meaning or interpretation of the Solicitation, drawings, specifications, etc., must be submitted in writing and with sufficient time allowed for a written reply to reach all bidders before the submission of their bids. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective bidder concerning a Solicitation will be furnished to all prospective bidders in writing as an amendment to the Solicitation if such information would be prejudicial to uninformed bidders.
4. **ACKNOWLEDGEMENT OF AMENDMENTS TO SOLICITATIONS:** Receipt of an amendment to a Solicitation by a bidder must be acknowledged by signing an acknowledgement of receipt of the amendment. Such acknowledgement must be received prior to the hour and date specified for receipt of bids.
5. **SUBMISSION OF BIDS:**
 - a) Bids and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the Solicitation. The bidder shall show the hour and date specified in the Solicitation for receipt, the Solicitation number, and the name and address of the bidder on the face of the envelope.
 - b) Telegraphic bids will not be considered unless authorized by the Solicitation. However, bids may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt (see paragraph 6 of these instructions).
 - c) Samples of items, when required, must be submitted within the time specified, unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at bidder's request and expense, unless otherwise specified by the Solicitation.
 - d) Samples or descriptive literature should not be submitted unless it is required on this solicitation. Regardless of any attempt by a bidder to condition the bid, unsolicited samples or descriptive literature will not be examined or tested at the bidder's risk, and will not be deemed to vary any of the provisions of this Solicitation.
6. **FAILURE TO SUBMIT BID:** If no bid is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard shall be sent to the issuing office advising whether future Solicitations for the type of supplies or services covered by this Solicitation are desired.
7. **LATE BID, LATE WITHDRAWALS, AND LATE MODIFICATIONS:**
 - a) Definition: Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated for opening is late (Guam Procurement Regulations Section 3-202)
 - b) Treatment: No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of territorial personnel directly serving the procurement activity.
8. **DISCOUNTS:**
 - a) Notwithstanding the fact that prompt payment discounts may be offered, such offer will not be considered in evaluating bids for award unless otherwise specified in the Solicitation. However, offered discounts will be taken if payment is made within the discount period, even though not considered in the evaluation of bids.
 - b) In connection with any discount offered, time will be computed from date of delivery and acceptance of the supplies to the destination as indicated in the purchase order or contract. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

9. **GOVERNMENT FURNISHED PROPERTY:** No material, labor or facilities will be furnished by the Government unless otherwise provided for in the Solicitation.
10. **SELLERS' INVOICES:** Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified. Invoices shall be "certified true and correct" and shall contain the following information: Contract and order number (if any), item numbers, description of supplies or services, sizes, quantities, unit prices, and extended total. Bill of lading number and weight of shipment will be shown for shipments made on Government bills of lading.
11. **RECEIPT, OPENING AND RECORDING OF BIDS:** Bids and modifications shall be publicly opened in the presence of one or more witnesses, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be read aloud and recorded, or otherwise made available. The names and addresses of required witnesses shall be recorded at the opening. The opened bids shall be available for public inspection except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in accordance with Section 12 below. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Prices, makes and models or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary (Guam Procurement Regulations Section 3-202.12.2).
12. **CONFIDENTIAL DATA:** The Procurement Officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, the Procurement Officer shall inform the bidders in writing what portions of the bid will be disclosed and that, unless the bidders protest under Chapter 9 of the Guam Procurement Act (P.L. 16-124), the bids will be so disclosed. The bids shall be opened to public inspection subject to any continuing prohibition on the disclosure of confidential data (Guam Procurement Regulations Section 3-202.12.3).
13. **MULTI-STEP SEALED BIDDING:**
- a. It is defined as two-phase process consisting of a technical first-phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the territory, and a second-phase in which those bidders whose technical offers are determined to be acceptable during the first-step have their priced bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of technical offers.
 - b. In addition to the requirements set forth in the General Terms and Conditions and the Special provisions, the following applies:
 - 1) only unpriced technical offers are requested in the first phase;
 - 2) priced bids will be considered only in the second phase and only from bidders whose unpriced technical offers are found acceptable in the first phase;
 - 3) the criteria to be used in the evaluation at those specified in the Special Provisions and the General Terms and Conditions;
 - 4) the territory, to the extent the Procurement Officer finds necessary, may conduct oral or written discussion of the unpriced technical offers;
 - 5) the bidders, may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and,
 - 6) the service being procured shall be furnished generally in accordance with bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.
 - c. **RECEIPT AND HANDLING OF UNPRICED TECHNICAL OFFERS.**
Unpriced technical offers shall not be opened publicly, but shall be opened in front of two or more procurement officials. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.
 - d. **EVALUATION OF UNPRICED TECHNICAL OFFERS.**
The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:
 - 1) acceptable;
 - 2) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
 - 3) unacceptable. The Procurement Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The Procurement Officer may initiate Phase Two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds such is not the case, the Procurement Officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in Subsection 3-202.20.5 of this Section.
 - e. Upon the completion of Phase One, the Procurement Officer shall invite each acceptable bidder to submit a price bid. Upon submission of prices, the Procurement Officer shall prepare the final evaluation and reconsideration for the Chief Procurement Officer's approval.

Exhibit “e”

DATE: 5/14/15

TIME: 1400 AM PM BY: ca

FILE NO OPA-PA: 15-006

STATEMENT ANSWERING ALLEGATIONS OF APPEAL

(As required by 2 G.A.R. §12105(g))

I. RELEVANT BACKGROUND

A. GPA SOLICITS BIDS FOR MULTI-STEP BID GPA-005-15, DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED FOR THE GPA TRANSPORTATION FLEET

On October 28, 2014, Guam Power Authority ("GPA") issued Invitation for Bid, GPA-005-15, Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded for the GPA Transportation Fleet. Procurement Record, Tab "3". Three companies submitted bids in response to the IFB, IP&E Holdings, LLC (IP&E), South Pacific Petroleum Corp. (SPPC), and Mobil Oil Guam Inc. (Mobil). Prior to submission of the sealed price proposals, the three bidders had an opportunity to submit questions regarding the IFB. GPA issued amendments I to VI in response to these questions, and other amendments to clarify the IFB. Procurement Record, Tab "7-17".

Amendment IV, dated January 2, 2015, clarified certain questions raised by IP&E and Mobil, with IP&E asking specific questions regarding bid bond formats and audited financial statements. (Tab "13"). Other amendments notified prospective bidders of the changes to Bid Milestone dates.

On January 13, 2015, the sealed bid proposals of the three qualified bidders were opened in the presence of company representatives. The representatives were provided a copy of the Abstract of Bids which lists the line item bids for 1A and 1B. The bid abstract, containing the SPPC, IP&E and Mobil Price Proposals, are contained in the procurement record at Tab "22." Each of the three bidders submitted detailed price proposals in accordance with the bid documents.

On January 29, 2015, the evaluation committee met and requested clarification from Mobil, IP&E and SPPC regarding confirmation of insurance requirements. (Tab 28). On January 29, January 30, and February 2, 2015, GPA received response letters from SPPC, IP&E and Mobil regarding insurance. (Tab 29, 31, 32). On February 6, 2015, GPA provided the bidders with a Notice of Intent of Possible Award for items 1A and 1B to Mobil. (Tab 35). On or about February 13, 2015, IP&E sent a protest letter to GPA. GPA denied the protest on April 17, 2015, Procurement Record, Tab "37". IP&E filed a protest with the Office of Public Auditor on April 29, 2015. Tab "42".

II. DISCUSSION

- A. THE MOBIL BID WAS RESPONSIVE, AND THE AWARD FOR DIESEL FUEL OIL NO. 2 AND AUTOMOTIVE GASOLINE, REGULAR UNLEADED FOR THE GPA TRANSPORTATION FLEET WAS PROPERLY AWARDED TO MOBIL FOR LINE ITEMS 1A and 1B.

Procurement law requires that GPA award to the lowest responsible and **responsive** bidders. A responsive bidder is a person who has submitted a bid which conforms in all material respects to the Invitation for Bid. 5 GCA §5201(g) and 2 GAR, Div. 4, Chap. 3, §3109(n)(2). Further, any bidder's offering which does not meet the acceptability requirements shall be rejected as non-responsive. 2 GAR, Div. 4, Chap. 3, §3109(n)(3)(c).

IP&E contends that GPA improperly awarded items 1A and 1B to Mobil, as IP&E states that the Mobil bid is non-compliant with the insurance documentation required by the bid. The actual items required at the time of the IFB submission are indicated in the Special Reminders to Prospective Bidders and include the bid guarantee, statement of qualification, and various affidavits regarding shareholders, non-collusion, no gratuities, ethical standards, wage determination, and sex offenders. There is no requirement anywhere in the Special Reminders to

Prospective Bidders to provide any insurance certificates or policies. Section 3.13 of the supply contract form states that "the contractor shall not commence work under this contract until he has obtained all insurance required under this section and **such insurance has been approved by GPA**, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained." GPA requires any winning bidder to provide the appropriate insurance policies to GPA upon notification of the award of the contract. An insurance policy which lists GPA as an insured party can't be provided until after a contract is awarded.

The Abstract of Bids lists the price proposals for all three bidders for the two different line items. Specifically, it is clear the Mobil provided the lowest responsive price for items 1A and 1B, and GPA made the evaluation according to the evaluation criteria specified in the IFB.

GPA properly made an award to Mobil for line items 1A and 1B, as it deemed Mobil the lowest, **responsive** and responsible bidder for each line item in 1A and 1B as specified in the IFB.

CONCLUSION

GPA requests that the appeal of IP&E be dismissed, and that the Public Auditor award all legal and equitable remedies that GPA may be entitled to as a result.

RESPECTFULLY SUBMITTED this 14th day of May, 2015, by:



D. GRAHAM BOTHA, ESQ.
GPA Legal Counsel

Exhibit “f”

Steven Carrara
General Counsel
IP&E Holdings LLC
P.O. Box 2881
Barrigada, Guam 96921
Telephone No. (671) 646-1222
Fax No. (671) 646-4723
E-mail: Steven.Carrara@itehq.net

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS
DATE: 5/26/15
TIME: 16:20 AM PM BY: CP
FILE NO OPA-PA: 15-006

Attorney for Appellant
IP&E Holdings, LLC

THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Procurement Appeal of)
) PROTESTOR RESPONSE TO AGENCY
) REPORT
IP&E HOLDINGS, LLC.,)
) Docket No. OPA-PA-15-006
Appellant.)
)

It is a matter of Guam procurement law that a government “contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and the criteria set forth in the Invitation for Bids and whose bid amount is sufficient to comply with Article 13 ...” 5 CGA § 5210(g). It is IP&E’s position that under the criteria set forth in the IFB that proof of the required insurance was to be submitted at the time of bid. Whether intentional or not GPA has made the requirement of insurance a “responsiveness” factor than a “responsibility” factor. Having made the insurance a matter of “responsiveness” it was improper to allow Mobil to submit additional documentation after bid opening. Had it truly been an issue of “responsibility” there would have been issue for GPA to ask the others two bidders to confirm compliance as they submitted the requested information in the bid package as instructed.

While the proposed awardee may have submitted a lower price, that in and of itself, does not excuse the failure to adhere to the stated requirements as the integrity of the procurement system must be maintained.

Respectfully submitted this 26th day of September 2015.

By: _____



Steven Carrara
IP&E General Counsel

Exhibit “g”

1 R. MARSIL JOHNSON
2 BLAIR STERLING JOHNSON & MARTINEZ
3 A PROFESSIONAL CORPORATION
4 238 ARCHBISHOP FLORES ST STE 100B
5 HAGATÑA GU 96910-5205
6 TELEPHONE: (671) 477-7857

7 *Attorneys for Party in Interest Mobil Oil Guam Inc.*

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 5/26/15

TIME: 1315 AM PM BY: cf

FILE NO OPA-PA: 15-006

8 **IN THE OFFICE OF PUBLIC ACCOUNTABILITY**
9 **PROCUREMENT APPEAL**

10 In the Matter of) Docket OPA PA-15-006
11 IP&E HOLDINGS, LLC.,)
12)
13 Appellant,)
14 And) **COMMENTS**
15 GUAM POWER AUTHORITY,) **OF INTERESTED PARTY**
16 Purchasing Agency.)
17)

18 On May 14, 2015, MOBIL OIL GUAM INC. ("Mobil") received GUAM
19 POWER AUTHORITY'S ("GPA") Agency Report in the present procurement
20 appeal filed by IP&E HOLDINGS, LLC ("IP&E"). This appeal concerns
21 the invitation for multi-step bid on GPA-005-15, a contract to
22 provide diesel fuel and automotive gasoline for the GPA
23 transportation fleet. Mobil hereby submits the following
24 comments.

25 **A. GPA CORRECTLY STATES THAT THE INSURANCE POLICY WAS NOT PART OF**
26 **THE REQUIRED DOCUMENTS AT THE TIME OF THE IFB SUBMISSION**

27 As noted by GPA, "the actual items required at the time of
28 the IFB submission are indicated in the Special Reminders to

1 Prospective Bidders and include the bid guarantee, statement of
2 qualification, and various affidavits regarding shareholders,
3 non-collusion, no gratuities, ethical standards, wage
4 determination, and sex offenders." See Agency Report. The
5 parties were not required to submit insurance policies and, in
6 fact, could not have submitted valid policies without GPA first
7 awarding the contract to the successful bidder.
8

9 In its Notice of Procurement Appeal, IP&E seeks to confuse
10 what was actually required under the bid solicitation with what
11 is required of the successful bidder under the terms of the
12 contract. In doing so, IP&E characterizes the insurance policy
13 provision as "Section G of the IFB GPA-005-15" in order to make
14 it seem as though it is a part of the "Invitation for Bids to
15 Supply Fleet Fuels (Diesel Fuel, Oil No. 2 and Automotive
16 Gasoline, Regular Unleaded) to the Guam Power Authority". See
17 IP&E's Notice of Procurement Appeal. The copy of Paragraph G
18 submitted by IP&E in Exhibit A of its Notice of Procurement
19 Appeal is even presented without the rest of the page and the
20 IFB page number, which further confuses where in the bid packet
21 it appeared. In reality, Paragraph G is part of Section 3.13 of
22 the Fuel Oil Supply Contract.
23

24 Pursuant to the terms of the Fuel Oil Supply Contract, "the
25 contractor shall not commence work under this contract until he
26 has obtained all insurance required under this section and such
27
28

1 insurance has been approved by GPA, nor shall the Contractor
2 allow any Subcontractor to commence work on this subcontractor
3 until all similar insurance required of the Subcontractor has
4 been so obtained." Furthermore, the first page of the contract
5 defines the term "Contractor" to mean the party with whom GPA
6 executes the contract, on the date of the award, whomever that
7 party shall be. ("This CONTRACT, shall be executed on the date
8 of the award, by and between Guam Power Authority, a public
9 corporation, hereinafter referred to as 'Authority' or 'GPA',
10 and _____ herein referred to as 'Contractor' or
11 'Supplier'.") See Exhibit 1 (Page 857 of the Procurement
12 Record). The contract does not define "Contractor" to mean any
13 or all of the prospective bidders, but the one bidder with whom
14 GPA executes the contract on the date of the award. As a result,
15 none of the prospective bidders could be obligated under the
16 terms of the contract until the contract was awarded and executed
17 as none them could meet the requirements of the definition until
18 that date. Those terms, which none of the prospective bidders
19 could be obligated under until the award and execution, include
20 Paragraph G of Section 3.13 of the Fuel Oil Supply Contract.

23 **B. IT WAS IMPOSSIBLE FOR THE BIDDERS TO SUBMIT THE SUPPOSEDLY**
24 **REQUIRED INSURANCE POLICIES WITH THEIR BIDS, BECAUSE NONE OF**
25 **THEM WOULD HAVE HAD AN INSURABLE INTEREST IN CONNECTION WITH**
26 **THE CONTRACT AT THE TIME OF BID SUBMITTAL**

27 None of the bidders could have complied with the
28 requirements of Paragraph G before the award and execution of

1 the contract, because none of them had an insurable interest in
2 connection with the contract. Only the party awarded the
3 contract could have such an interest, following the contract's
4 execution.

5 Under Guam law, a party must have an insurable interest in
6 order to enter into a valid insurance contract. "Every interest
7 in property, or any relation thereto, or any liability in respect
8 thereto, of such a nature that a contemplated peril might
9 directly damnify the insured, is an insurable interest." 22
10 G.C.A. § 18204(a). Furthermore, "[a] mere contingent or
11 expectant interest in anything, not founded upon an actual right
12 to or in the thing, nor upon any valid contract for it, is not
13 insurable." *Id.* An insurable interest also cannot be a mere
14 contingent or expectant interest to qualify. *Id.* To be an
15 insurable interest, "[a]n interest in property insured must
16 exist when the insurance takes effect and when the loss occurs
17 but need not exist in the meantime." 22 G.C.A. § 18207. Even
18 if an entity were to obtain an insurance policy without having
19 an insurable interest, the contract would be void. 22 G.C.A. §
20 18204(c) ("If the insured has no insurable interest, the contract
21 is void.>").
22
23

24 Following Guam law, none of the parties bidding on GPA-005-
25 15 could have an insurable interest in connection with the
26 contract until the contract was awarded and executed. Pursuant
27
28

1 to the clear language of 18 G.C.A. § 18204(a), a contingent or
2 expectant interest, not founded upon a valid contract is not
3 insurable. Prior to the execution of the contract, the bidders
4 have at most a contingent or expectant interest in the contract,
5 which is not insurable under the clear language of 22 G.C.A.
6 § 18204(c). Without such an insurable interest, any supposed
7 insurance policy submitted by any bidder would be void under 22
8 G.C.A. § 18204(c), including the policy IP&E claims to have
9 submitted.
10

11 **C. IP&E'S LACK OF AN INSURABLE INTEREST IS CLEAR ON THE FACE OF THE**
12 **POLICY IT SUBMITTED, A POLICY THAT FAILS TO MEET THE**
13 **REQUIREMENTS OF PARAGRAPH G**

14 Assuming, for the sake of argument, that the reading IP&E
15 proposes GPA should have applied to the bid is correct, IP&E's
16 insurance certificate does not comply with Paragraph G. Under
17 the proposed contract, the parties are not required to provide
18 GPA with a copy of just any insurance certificate. Instead, the
19 insurance certificate must meet the requirements set forth in
20 Paragraph G.

21 One of those requirements is that "[t]he Certificates of
22 Insurance shall clearly show this Contract number." See Exhibit
23 2 (Page 872 of the Procurement Record). The insurance policy
24 submitted by IP&E does not. See Exhibit 3 ("Endorsement No. GL-
25 1"). The contract number is GPA-005-15. Endorsement No. GL-1
26 of the IP&E policy does show contract numbers for other contracts
27 between GPA and IP&E. Specifically, the endorsement states that
28

1 "[i]t is hereby agreed and understood that this policy applies
2 the 'bodily injury' and 'property damage' for which the insured
3 is liable under law and is obligated to pay damages by reasons
4 of the assumption of liability in the following schedules [sic]
5 contracts:". The schedule of contracts includes GPA 010-10,
6 GPA-049-09, and GPA-050-09, three other contracts IP&E actually
7 had with GPA at the time the parties submitted their bids.
8 However, GPA-005-15 is clearly not included in the schedule of
9 contracts. Thus, the insurance policy submitted by IP&E has
10 absolutely no bearing on the contract up for bid and does not
11 even purport to cover any potentially insurable interest in
12 connection with the contract. As described above, it was
13 impossible for IP&E to have submitted a valid insurance policy
14 with its bid, because it did not have an insurable interest.
15 That is why the insurance policy that IP&E submitted with its
16 bid, which had nothing to do with the contract, could not
17 possibly comply with the Requirements of Paragraph G.
18
19

20 **D. CONCLUSION**

21 The award made by GPA was made properly as it was made to
22 the lowest responsible and responsive bidder, which was Mobil.
23 The insurance policy that IP&E claims was required at the time
24 of the IFB submission was actually required of the winning bidder
25 once the contract was awarded and executed. Given Guam's
26 insurance law, none of the bidders could have submitted a valid
27
28

1 insurance policy that met the specifications set forth in
2 Paragraph G and the policy submitted by IP&E failed to do so.
3 For these reasons, as explained above, Mobil respectfully
4 requests that the Public Auditor deny IP&E's appeal.

5 DATED this 26th day of May, 2015.

6
7 **BLAIR STERLING JOHNSON & MARTINEZ**
A PROFESSIONAL CORPORATION

8
9 BY: 

R. MARSIL JOHNSON

Attorneys for Party in Interest Mobil Oil Guam Inc.

10
11 **ATTACHMENTS:**
12 **EXHIBITS 1, 2, & 3**

13 U56\50556-285
14 G:\MOGI\PLD\850-MOGI'S COMMENTS OF INTERESTED PARTY
RE IP&E HOLDINGS AND GPA OPA PA-15-006.DOCX

LAW OFFICES
BLAIR STERLING JOHNSON & MARTINEZ
A PROFESSIONAL CORPORATION
238 ARCHBISHOP FLORES ST STE 1008
HAGATNA GU 96910-5205

CERTIFICATE OF SERVICE

I, **R. MARSIL JOHNSON**, do hereby certify that on the 26th day of May, 2015, I caused to be served a copy of **COMMENTS OF INTERESTED PARTY** to be served upon the following, via hand delivery:

Purchasing Agency: Joaquin C. Flores
General Manager
Guam Power Authority
1911 Rte 16
Harmon, Guam

Appellant: Steven Carrara
IP&E Holdings, LLC
646 Chalan San Antonio
Tamuning, Guam 96913-3644

DATED this 26th day of May, 2015.

BLAIR STERLING JOHNSON & MARTINEZ
A PROFESSIONAL CORPORATION

BY: 
R. MARSIL JOHNSON
Attorneys for Party in Interest Mobil Oil Guam Inc.

U56\50556-285
G:\MOGI\PLD\850-MOGI'S COMMENTS OF INTERESTED PARTY RE
IP&E HOLDINGS AND GPA OPA PA-15-006.DOCX

PREAMBLE

This **CONTRACT**, shall be executed on the date of the award, by and between Guam Power Authority, a public corporation, hereinafter referred to as "Authority" or "GPA", and _____ hereafter referred to as "Contractor" or "Supplier".

WITNESSETH:

RECITALS

WHEREAS, the Authority has issued an Invitation for Bid, for a THREE (3) year Fleet Fuel Supply Contract, Invitation For Bid, **IFB GPA-005-15**, for the supply of the **AUTHORITY's** Diesel Fuel Oil No. 2 and Automotive Gasoline, Regular Unleaded, for the Authority's Transportation Fleet; and

WHEREAS, the Authority will award the Contract to the lowest responsible bidder whose bid conforms to the material aspects of the Invitation; and

WHEREAS, if Contractor specified herein has been awarded the **CONTRACT**, Authority and Contractor have agreed upon the terms and conditions of the Contract;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto do hereby agree as follows:

with minimum limits of \$5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of GPA. GPA is to be an additional insured.

F. EXCESS LIABILITY

Excess Liability with limits of \$5,000,000. GPA shall be an additional insured. Contractor shall grant Waiver of Subrogation in favor of GPA.

G. CERTIFICATE OF INSURANCE:

The Contractor shall furnish GPA with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs B, C, D, E, and F above. Such certificates shall specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph C., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give GPA at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the Contractor shall furnish a Certificates of Insurance evidencing renewal of such coverage to GPA. The Certificates of Insurance shall clearly show this Contract number.

The Contractor shall provide a copy of their Insurance Policy to GPA as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to GPA.

H. SUBCONTRACTOR'S INSURANCE:

The Contractor shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the Contractor under Paragraphs B, C, D, E, and F above, including the extensions of coverage required under Paragraph C., Subparagraph 2, above. Each Subcontractor shall furnish to the Contractor two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph C. above. The Contractor shall furnish one (1) copy of the certificate to GPA.

Endorsement No. GL-1

Named Insured: **IP & E Holdings LLC; IP & E Palau and Mariana Acquisition Corp.**
Address: **643 Chalan San Antonio, Suite 100, Tamuning, GU, 96913**

CONTRACTUAL LIABILITY

This clause modifies the provisions of Exclusion 7:

It is hereby agreed and understood that this policy applies the "bodily injury" and "property damage" for which the Insured is liable under law and is obligated to pay damages by reasons of the assumption of liability in the following schedules contracts:

Schedule of Insured Contracts:

- (1) Asset Purchase Agreement – Guam
- (2) Asset Purchase Agreement – Palau
- (3) Stock Purchase Agreement – Saipan
- (4) Assignment & Assumption of Contracts, Guam
- (5) Assignment & Assumption of Lease and Terminal Facility Leases, Guam
- (6) Aviation Technical Services Agreement
- (7) Master Bill of Sale and Assignment Lease Agreement, Guam
- (8) Guam License Agreement
- (9) Agreement for Sale & Distribution of Lubricants
- (10) Marine Lubricants Purchase, Sale & Services Agreement
- (11) Guam – Saipan Supply Agreement
- (12) License Agreement, Saipan
- (13) Assignment & Assumption of Contracts, Palau
- (14) Assignment & Assumption of Bases, Palau
- (15) Bill of Sale, Palau
- (16) Amendment License Agreement, Palau
- (17) Supply Agreement, Palau
- (18) Throughput, Operating and Pipeline Use Agreement for LPG
- (19) Throughput, Operating and Pipeline Use Agreement for Wet Stock
- (20) Agreement for the Supply of Aviation Fuel, IP & E and Continental
- (21) Fleet Fuel Supply for Regular Unleaded Gasoline and Diesel Fuel Oil (GPA 010-10)
- (22) Diesel Engine Cylinder Lubrication Oil Supply (Cylinder Oil 019-09)
- (23) Diesel Fuel Supply (GPA-049-09)
- (24) Diesel Fuel Supply (GPA-050-09)
- (25) Petredec/SPPC LPG Contract
- (26) Agreement for Provision of Fixed Facilities and into Plane Services at Guam Airport
- (27) Agreement for the Supply of Aviation Fuel with Philippine Airlines, Inc.
- (28) Aviation Fuel Supply Agreement with Japan Airlines Company, Ltd.
- (29) Aviation Turbine Fuel Contract with Continental Airlines, Inc.
- (30) Lease Agreements – (CNMI), Puerto Rico Inc., Joaquin LG Sablan, Greg & Evelyn Calvo, D & W Saipan Inc., Jose Demapan, Lorenzo LG Cabrera, Juan T. Lizama, Commonwealth Ports Authority
- (31) Lease Agreement – (GUAM) Antonio M Palomo, et. al., Jones & Guerrero Inc., Manuel & Maria Paulino, Henry & Carolyn Simpson, Calvo Enterprises, RCS Enterprises, Vicente P. Camacho, Camacho Family Reality Trust, Micronesia Seven Inc., Alfredo & Carmen Sablan, Laurent F. Duenas.
- (32) Supply & Terminalling Agreement with SPPC
- (33) SPPC LPG Supply and Terminalling Agreement
- (34) Facility User Agreement F1 Dock with Guam Power Authority
- (35) Facility User Agreement F1 Dock with TRISTAR
- (36) Contract of Affreightment Asahi Tanker (S) Pte. Ltd.

- (37) Security Services Agreement (Mengkar Security Co.)
- (38) Tanker Receiving Agreement (Mar-C)
- (39) Shell Fleet Card Contracts
- (40) Commercial Supply Agreements for Fuel/Lubricants
- (41) Auto Lease Agreement (Atkins Kroll, Inc.)
- (42) Shell Terminal Cleanup, Landscaping (N.K. Landscaping)
- (43) Lease Agreements – Palau
 - Fritz Business Lease
 - KSPLA (Koror State Public Lands Authority)
 - MCC Terminal (Malakal Commercial Corporation)
- (44) PPUC Supply Agreement
- (45) Fuel Supply Contract with Itochu Petroleum Co. (Singapore) Pte. Ltd.
- (46) NEX Fuel Supply Contract
- (47) Aviation Fuel Supply Contract with UPS
- (48) Aviation Fuel Supply Contract with EVA Air
- (49) SK Energy (Pending Contract Copy)
- (50) Lubes Warehouse Rental Agreement (Santos Properties)
- (51) Aviation Fuel Supply Contract with United Airlines
- (52) Aviation Fuel Supply Contract with FedEx


Such assumption of liability shall be subject to the coverage, terms and conditions of the Combined General and Products Liability Policy No. GL-PL-GUM-2014-1055.

Nothing herein contained shall be held to vary, alter, waive or change any of the terms, limits or conditions of the policy, except as herein above set forth.

This endorsement is effective as of 09/30/14 and forms part of Policy No. GL-PL-GUM-2014-1055 of the **Century Insurance Co. (Guam) Ltd.**

Date issued: December 23, 2014

By: _____


Aon Insurance Micronesia (Guam), Inc.
General Agent