

The decision being appealed is GSA's denial of IBSS' Protest.

Appeal is made from protest of method, solicitation or award.

Names of competing bidders, offerors, or contractors known to Appellant:

Appellant has no firm knowledge of the identity of any other prospective bidders but has reason to believe, based on the specifications, that Xerox Corporation is expected to be a bidder.

STATEMENT OF GROUNDS FOR APPEAL

A. FACTUAL CONTEXT and CHRONOLOGY:

IFB GSA-028-011 was issued February 18, 2011. (Copy of document attached.)

Bid opening was set for March 7, 2011.

Before bid opening, on March 3, 2011, IBSS wrote to GSA protesting the specifications of the IFB (copy of protest attached). Specifically, IBSS objected to the unduly restrictive nature, as well as the non-standard commercial character of the specifications

On March 11, 2011, GSA CPO Claudia Acfalle advised IBSS that its protest was without merit (copy of denial attached).

B. ISSUES:

The issue here is that GSA is specifying a machine that, based on volumes it specifies, has print speed standards far beyond commercially standard products, making its specified product both anti-competitively over-spec and overly expensive.

This matter is reminiscent of the issues in OPA-PA-10-009, involving a UOG bid. In that case, as here, the government specifications required a print speed of 85 pages per minute (ppm) for machines with a low monthly print volume.¹ In that case, the indicated monthly print volume was a moderate 26,600 pages. In this case, the low volume is half that: 10,000 black copies and

¹ IBSS has anecdotal experience from many GovGuam agencies who have specified 85 or higher ppm print speeds when their monthly volume needs do not justify the added expense. This typically happens in agencies where, as here, Xerox is the incumbent equipment provider.

2,000 color, or, 12,000 pages per month.

In its protest herein, Appellant presented information to GSA from a third party specialist in analysing multi-function machines and related software for the industry, Buyers Lab Inc. (BLI). See, <http://www.buyerslab.com/>. BLI collects data from the multifunction copier industry and calculates the industry standards.

Based on BLI data, the industry standard ppm speed for monthly print volumes in the range required in this IFB (10,000 blk/2,000 clr) is 31-40 ppm.

Its data also indicate that the estimated price of a multifunctional machine with the standard commercial print speed is \$22,100, whereas the price for a machine with the 85 ppm speed required by the instant IFB would be \$31,500, almost 50% higher in price.

The using agency, Department of Public Health, WIC, would not be expected to have a surplus of funds lying around to pay for the extravagantly higher print speed. GSA explained, in its letter denying the protest, that the excessive speed is necessary "in accommodating the continuously high demand of servicing 8,000 WIC clients." Nevertheless, the IFB only requires a monthly print volume of 10,000 black copies and 2,000 color copies. The number of clients does not reflect the number of copies specified.

At 85 ppm, DPH/WIC could print its **entire monthly** expected volume in less than two and a half *hours*. At 40 ppm, the whole month's work would be completed in about twice that amount of time, 5 *hours*. And, it must be appreciated that those speeds assume a continuous print flow.

When a person walks up (or prints from a computer) to get just one copy, the performance difference between a 85 ppm machine and a 40 ppm machine diminishes rapidly because the "first copy out" start up time is far different from the continuous print speed. Even if the start up time for comparable machines is the same, the total difference in time it takes to print one copy at either 85 ppm or 40 ppm is barely measurable.

For instance, a Xerox machine which can reach the 85 ppm specified print speed (ColorQube™ 9201) has a "first-copy-out" time "as fast as" 8.1 seconds. The Canon C5035, at 35 ppm, has a "first-copy-out" time of as fast as 5.5 seconds while model C5045, at 45 ppm, has a "first-copy-out" time as fast as 4 seconds. These speeds assume the machine is warmed up. For the Xerox machine mentioned, warm up time is 47 seconds from low power or 3.5 minutes from sleep mode. For the Canon machines mentioned, warm up time is 38 seconds from "power on".

It is thus highly misleading, indeed almost arbitrary, to distinguish machines based on their ppm print speeds without also considering normal usages.

In OPA-PA-10-009 (vs UOG), IBSS first requested UOG to reconsider its 85 ppm speed specification, which it reflexively denied, then IBSS protested the specification, which it again

denied; it insisted its needs justified the speed. However, when appeal was brought to OPA and the issue drew the attention of more senior managers, UOG saw the light and offered to revise its requirements.

In his letter to IBSS, UOG President Underwood said, “[y]our documentation of potential cost savings to the University should copier print speeds be changed is a compelling reason to reassess the University’s needs and specifications....” (Copy of letter attached.)

In consequence of that admission, IBSS and UOG stipulated to dismiss the Appeal. See, http://www.guamopa.org/docs/procurement_appeals/10-009_Stipulation_to_Settle_and_Withdraw_Appeal.pdf.

In the protest below, GSA has been presented with similar evidence of both the commercial standards in the industry as well as the cost differentials, but it and its using agency rejected both.

C. LAW and ARGUMENT:

This bid is intended to procure commercially standard office equipment, as is evident based on the types of machine and monthly volumes of prints required. Indeed, it would violate Guam procurement policy if the bid intended to procure non-standardized equipment:

“It is the general policy of this territory to procure standard commercial products whenever practicable. *In developing specifications, accepted commercial standards shall be used* and unique requirements shall be avoided to the extent practicable”. (2 GAR § 4102(a)(3).)

To “provide increased economy ... and to maximize ... the purchasing value of the public funds of the Territory” (5 GCA § 5001(b)(5)), the Procurement Act requires that specifications “shall include *only* the essential physical *characteristics and functions* to meet the Territory’s *minimum needs*” (5 GCA § 5268(a)), and further requires that “*specifications shall seek to promote overall economy* for the purposes intended” (5 GCA § 5265) .

To “foster effective broad-based competition” (5 GCA § 5001(b)(6), the Procurement Act requires that “[a]ll specifications ... shall not be unduly restrictive.” (5 GCA § 5265.)

Buyer’s Laboratory, Inc. identifies the commercial standard ppm for machines such as those solicited in the protested IFB. **Given the volumes specified by the IFB, a ppm of 31-40 would be commercially standard.** (See the schedule attached to Appellant’s Protest letter.) “The purpose of a specification is to serve as a basis for obtaining a supply, service, or construction

item adequate and suitable for the territory's needs in a cost effective manner...." (2 GAR 4102(a).) The 85 ppm specification violates that goal.

The speed specifications are arbitrarily over-spec, with the result, if not the intent, that they benefit Xerox Corporation machines, and unfairly discriminate against competitive machines which both cost less and more rationally address the customary commercial needs and standards.

~~The material omission of information required by 5 C.F.R. § 201.17 was brushed aside in the best interests of the University, and "passed behind the bidding process."~~

CONCLUSION:

IBSS urges the Public Auditor to examine the complained-of specifications. IBSS believes they exaggerate needs, far exceed the commercial standards, and do not justify the cost. IBSS believes that there are reasonable alternatives to these specifications which meet the territory's minimum needs and maximize the purchasing value of public funds.

The Public Auditor must review these specifications de novo and determine for herself whether these specifications pass muster². If not, the IFB's specifications should be revised to more accurately reflect commonly accepted commercial standards.

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² See attached copy of comparative print speeds and other advice from BLI attached hereto.

STATEMENT SPECIFYING RULING REQUESTED

This Appeal is brought in the context of a pre-award protest, and no bid has been submitted or opened.

5 GCA § 5451(b) authorizes the Public Auditor to revise a solicitation “to comply with the law”.^{*} This could effectively be done by, and Appellant seeks relief by, a ruling:

1. Expanding the range of print speed requirements to include the industry’ common commercial standards specified herein.

Appellant notes that the IFB does not “identify the person responsible for drafting the specifications and any persons, technical literature or manufacturer’s brochures relied upon by the responsible person in drafting the specifications”, as required by 2 GAR § 4108. Appellant has not protested that matter below, but it would not be amiss if the Public Auditor saw fit to encourage GSA to do so.

/// continued...

SUPPORTING EXHIBITS, EVIDENCE, OR DOCUMENTS

With reference to all the matters submitted in the original Appeal as incorporated above, and reserving the right to provide further written material as it may be considered relevant or come to hand, there are attached hereto the following supporting materials:

Copies of:

1. IFB GSA-028-011
2. Protest letter of March 3, 2011, IBSS to GSA
3. Letter Denying Protest of March 11, 2011, GSA to IBSS
4. Letter from UOG President Underwood to IBSS re UOG Bid P041-11, Dec. 30, 2010
5. Copy of Buyer's Laboratory, Inc. report concerning industry standards for ppm

/// continued...

VERIFICATION AND DECLARATION RE COURT ACTION

The undersigned party does hereby verify, to the best of information and belief, the facts stated and confirms that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. The undersigned party agrees to notify the Office of the Public Auditor within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

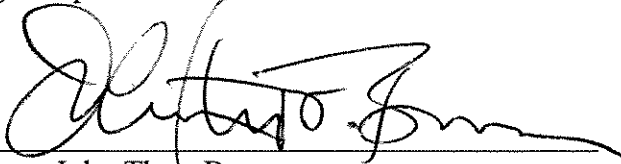
Submitted this 18th day of MARCH 2011

APPELLANT, Town House Department Stores, Inc., dba Island Business Systems & Supplies

By: 

Roland R. Franquez, General Manager - IBSS
authorized representative for Appellant
PO Box 7, Hagåtña, Guam 96932
PH: (671)- 477-7454
Fx: - 477-7660
for Appellant

Legal Representative:



John Thos. Brown
General Counsel for Appellant
PO Box 7, Hagåtña, Guam 96932
PH: (671) - 477-7293
Fx: - 472-6153

OPA Notice of Procurement Appeal: IBSS vs GSA-028-011 for copier

EXHIBIT

1. IFB GSA-028-011

Accountability * Impartiality * Competence * Openness * Value

INVITATION FOR BID NO. : GSA-028-11

DESCRIPTION:
60 MONTH LEASE AGREEMENT OF A COLOR MULTIFUNCTION
COPIER/PRINTER/SCANNER/FAX

SPECIAL REMINDER 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 enveloped, in duplicate, at the date and time for bid opening.

- (X) BID GUARANTEE (15% of Bid Amount) May be in the form of;
Reference #11 on the General Terms and Conditions
- a. Cashier's Check or Certified Check
 - b. Letter of Credit
 - 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 whoever is signing on their behalf.
- (X) BROCHURES/DESCRIPTIVE LITERATURE;
- (X) AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSION
- a. Date of signature of the person authorized to sign the bid and the notary date must be the same.
- (X) OTHER REQUIREMENTS:
Ethical Standard Affidavit, No Gratuities or Kickbacks Affidavit, Restriction Against Sexual Offenders Affidavit, D.O.L. Wage Determination Affidavit, Non-Collusion Affidavit, Affidavit Disclosing Ownership and Commission, and Affidavit re Contingent Fees

This reminder must be signed and returned in the bid envelope together with the bid. Failure to comply with the above requirements may be cause for disqualification and rejection of the bid.

On this _____ day of _____, 2011, I, _____,

authorized representative of _____ acknowledge receipt of this special

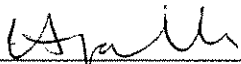
reminder to prospective bidders with the above referenced IFB.

Bidder Representative's Signature

INVITATION FOR BID

ISSUING OFFICE:

GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM
148 ROUTE 1, MARINE DRIVE
PITI, GUAM 96915



CLAUDIA S. ACFALLE
Chief Procurement Officer

DATE ISSUED: 2/18/11

BID INVITATION NO: GSA-028-11

**BID FOR: 60 MONTH LEASE AGREEMENT FOR A COLOR MULTIFUNCTION
COPIER/PRINTER/SCANNER/FAX**

SPECIFICATION: See Attached

DESTINATION: **DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES**

REQUIRED DELIVERY DATE: **30 DAYS AFTER RECEIPT OF PURCHASE ORDER**

INSTRUCTION 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) 10:00am Date: 3/07/11 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 60 calendar days from the date opening to supply any or all 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:

CLAUDIA S. ACFALLE
Chief Procurement Officer

NAME AND ADDRESS OF CONTRACTOR:

SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS CONTRACT:

ETHICAL STANDARDS AFFIDAVIT

AFFIDAVIT
(Bidder)

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 Bidder)

The Offeror making the foregoing Proposal, that neither he or nor of the Bidder's officers, representatives, agents, subcontractors, or employees of the Bidder 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 Bidder 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 Bidder is a sole Proprietorship;
Partner, if the Bidder is a Partnership;
Officer, if the Bidder is a Corporation.

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2011

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

Eddie Baza Calvo
Governor

GENERAL SERVICES AGENCY
Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915

Ray Tenorio
Lt. Governor

Vacant
Director, Dept. of Administration

George A. Santos
Deputy Director

Special Provisions

**Restriction against Sex Offenders Employed by service providers to
Government of Guam from working on Government Property.**

If a contract for services is awarded to the bidder or offeror, then the service provider must warranty that no person in its employment who has been convicted of a sex offense under the provisions of chapter 25 of Title 9 of Guam code Annotated or of an offense defined in Article 2 of chapter 28 of Title 9 of the Guam Code annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry, shall provide services on behalf of the service provider while on government of Guam property, with the exception of public highways. If any employee of a service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four (24) hours of the conviction, and will immediately remove such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four (24) hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service providers fail to take corrective steps within twenty-four (24) hours of notice from the Government, then the Government in its sole discretion may suspend temporarily and contract for services until corrective action has been taken.

Signature of Bidder Date

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

Subscribed and sworn before me this _____ day of _____, 2011

Notary Public

Eddie Baza Calvo

Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)

Government of Guam

148 Route 1 Marine Drive Corp.
Piti, Guam 96915

Ray Tenorio

Lt. Governor

Vacant
Director, Dept. of Admin.

George A. Santos
Deputy Director

**FORM E
DECLARATION RE COMPLIANCE WITH U.S. D.O.L. 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;
- (4) That I have attached the most recent wage determination applicable to Guam issued by the U.S. Department of Labor. [INSTRUCTIONS – Please attach!]

Signature

Date

1/18/11

PL26 (1) Rev. 6-22-10 05-118,181
 WA 05 2148 (Rev. 11) was first posted on www.wa05.gov on 06/15/2010
 REGISTER OF WAGE DETERMINATIONS UNDER THE SERVICE CONTRACT ACT
 U.S. DEPARTMENT OF LABOR
 EMPLOYMENT STANDARDS ADMINISTRATION
 WAGE AND HOUR DIVISION
 WASHINGTON, D.C. 20210

Wage Determination No.: 005 2148
 Revision No.: 13
 Date of Revision: 06/15/2010

Director: Shirley I. Ibbesen
 Division of Wage Determinations
 States: Guam, Northern Marianas, Wake Island
 Area: Guam Statewide
 Northern Marianas Statewide
 Wake Island Statewide

Fringe Benefits Required follow the Occupational Listing

| OCCUPATION CODE | TITLE | FOOTNOTE | RATE |
|-----------------|---|----------|-------|
| 01000 | Administrative Support and Clerical occupations | | |
| 01011 | Accounting Clerk I | | 12.50 |
| 01012 | Accounting Clerk II | | 13.21 |
| 01013 | Accounting Clerk III | | 15.59 |
| 01020 | Administrative Assistant | | 17.67 |
| 01040 | Court Reporter | | 15.38 |
| 01051 | Data Entry Operator I | | 10.48 |
| 01052 | Data Entry Operator II | | 11.99 |
| 01060 | Dispatcher, Motor Vehicle | | 13.06 |
| 01070 | Document Preparation Clerk | | 12.25 |
| 01090 | Duplicating Machine Operator | | 10.29 |
| 01111 | General Clerk I | | 11.28 |
| 01112 | General Clerk II | | 12.32 |
| 01113 | General Clerk III | | 17.15 |
| 01120 | Routing Referral Assistant | | 10.12 |
| 01141 | Messenger Courier | | 11.23 |
| 01191 | Order Clerk I | | 12.25 |
| 01192 | Order Clerk II | | 13.33 |
| 01261 | Personnel Assistant (Employment) I | | 14.90 |
| 01262 | Personnel Assistant (Employment) II | | 16.09 |
| 01263 | Personnel Assistant (Employment) III | | 17.68 |
| 01270 | Production Control Clerk | | 9.67 |
| 01300 | Receptionist | | 11.40 |
| 01300 | Rental Clerk | | 13.11 |
| 01300 | Refrigerator, Maintenance | | 13.11 |
| 01311 | Secretary I | | 15.18 |
| 01312 | Secretary II | | 17.15 |
| 01313 | Secretary III | | 11.57 |
| 01320 | Service Order Dispatcher | | 17.67 |
| 01410 | Supply Technician | | 15.26 |
| 01420 | Survey Worker | | 11.40 |
| 01531 | Travel Clerk I | | 12.35 |
| 01532 | Travel Clerk II | | 13.47 |
| 01533 | Travel Clerk III | | 14.55 |
| 01611 | Word Processor I | | 12.25 |
| 01612 | Word Processor II | | 13.33 |
| 01613 | Word Processor III | | 15.38 |
| 05000 | Automotive Service Occupations | | |
| 05005 | Automobile Body Repairer, Fiberglass | | 13.05 |
| 05010 | Automobile Electrician | | 11.80 |
| 05040 | Automotive Glass Installer | | 11.86 |
| 05070 | Automotive Worker | | 11.86 |

| | | |
|-------|--|-------|
| 05110 | Mobile Equipment Services | 7.81 |
| 05130 | Motor Equipment Metal Mechanic | 12.80 |
| 05160 | Motor Equipment Metal Worker | 11.86 |
| 05190 | Motor Vehicle Mechanic | 12.80 |
| 05230 | Motor Vehicle Mechanic Helper | 9.92 |
| 05250 | Motor Vehicle Upholstery Worker | 11.86 |
| 05280 | Motor Vehicle Wrecker | 11.86 |
| 05310 | Painter, Automotive | 12.13 |
| 05340 | Radiator Repair Specialist | 11.86 |
| 05370 | Tire Repairer | 7.81 |
| 05400 | Transmission Repair Specialist | 11.86 |
| 07000 | Food Preparation And Service Occupations | |
| 07010 | Baker | 10.17 |
| 07041 | Cook I | 8.67 |
| 07042 | - Cook II | 10.71 |
| 07070 | - Dishwasher | 7.25 |
| 07130 | - Food Service Worker | 7.66 |
| 07210 | Meat Cutter | 11.86 |
| 07260 | - Waiter/waitress | 7.59 |
| 09000 | Furniture Maintenance And Repair Occupations | |
| 09010 | - Electrostatic Spray Painter | 14.30 |
| 09040 | - Furniture Handler | 8.85 |
| 09080 | Furniture Refinisher | 14.30 |
| 09090 | - Furniture Refinisher Helper | 10.41 |
| 09110 | - Furniture Repairer, Minor | 11.96 |
| 09130 | Upholsterer | 13.99 |
| 11000 | General Services And Support Occupations | |
| 11010 | Cleaner, Vehicles | 7.62 |
| 11060 | Elevator Operator | 8.12 |
| 11090 | Gardener | 9.99 |
| 11122 | Housekeeping Aide | 8.33 |
| 11150 | Janitor | 8.12 |
| 11210 | Laborer, Grounds Maintenance | 8.31 |
| 11240 | Maid or Houseman | 7.25 |
| 11260 | Pruner | 8.12 |
| 11270 | Tractor Operator | 9.39 |
| 11330 | Trail Maintenance Worker | 8.31 |
| 11360 | Window Cleaner | 8.31 |
| 12000 | Health Occupations | |
| 12010 | Ambulance Driver | 15.81 |
| 12011 | - Breath Alcohol Technician | 15.81 |
| 12012 | - Certified Occupational Therapist Assistant | 21.70 |
| 12015 | - Certified Physical Therapist Assistant | 21.70 |
| 12020 | Dental Assistant | 13.10 |
| 12025 | Dental Hygienist | 24.85 |
| 12030 | EEG Technician | 25.96 |
| 12035 | Electrocardiographic Technologist | 25.96 |
| 12040 | Emergency Medical Technician | 15.81 |
| 12071 | Licensed Practical Nurse I | 14.14 |
| 12072 | Licensed Practical Nurse II | 15.81 |
| 12073 | Licensed Practical Nurse III | 17.64 |
| 12100 | - Medical Assistant | 11.54 |
| 12130 | - Medical Laboratory Technician | 14.14 |
| 12160 | - Medical Record Clerk | 11.82 |
| 12190 | Medical Record Technician | 13.59 |
| 12195 | Medical Transcriptionist | 14.14 |
| 12210 | - Nuclear Medicine Technologist | 31.75 |
| 12221 | - Nursing Assistant I | 10.05 |
| 12222 | Nursing Assistant II | 11.30 |
| 12223 | Nursing Assistant III | 12.31 |
| 12224 | Nursing Assistant IV | 13.81 |
| 12235 | Optical Dispenser | 15.81 |
| 12236 | Optical Technician | 11.14 |

| | | |
|-------|---|---------|
| 1220 | Pharmacy Technician | 13.41 |
| 12280 | Phlebotomist | 13.34 |
| 12305 | Radiologic Technologist | 20.58 |
| 12311 | Registered Nurse I | 20.70 |
| 12312 | Registered Nurse II | 25.42 |
| 12313 | Registered Nurse II, Specialist | 25.42 |
| 12314 | Registered Nurse III | 30.04 |
| 12315 | Registered Nurse III, Anesthetist | 30.04 |
| 12316 | Registered Nurse IV | 36.72 |
| 12317 | Scheduler (Drug and Alcohol Testing) | 19.59 |
| 13000 | Information And Arts Occupations | |
| 13011 | Exhibits Specialist I | 14.45 |
| 13012 | Exhibits Specialist II | 17.92 |
| 13013 | Exhibits Specialist III | 21.93 |
| 13041 | Illustrator I | 14.45 |
| 13042 | Illustrator II | 17.92 |
| 13043 | Illustrator III | 21.93 |
| 13047 | Librarian | 19.82 |
| 13050 | Library Aide/Clerk | 11.51 |
| 13054 | Library Information Technology Systems Administrator | 17.90 |
| 13058 | Library Technician | 14.95 |
| 13061 | Media Specialist I | 13.09 |
| 13062 | Media Specialist II | 14.63 |
| 13063 | Media Specialist III | 16.32 |
| 13071 | Photographer I | 11.65 |
| 13072 | Photographer II | 13.02 |
| 13073 | Photographer III | 16.14 |
| 13074 | Photographer IV | 19.75 |
| 13075 | Photographer V | 23.91 |
| 13110 | Video Teleconference Technician | 11.74 |
| 14000 | Information Technology Occupations | |
| 14041 | Computer Operator I | 13.65 |
| 14042 | Computer Operator II | 15.76 |
| 14043 | Computer Operator III | 17.56 |
| 14044 | Computer Operator IV | 19.50 |
| 14045 | Computer Operator V | 21.81 |
| 14071 | Computer Programmer I | (see 1) |
| 14072 | Computer Programmer II | (see 1) |
| 14073 | Computer Programmer III | (see 1) |
| 14074 | Computer Programmer IV | (see 1) |
| 14101 | Computer Systems Analyst I | (see 1) |
| 14102 | Computer Systems Analyst II | (see 1) |
| 14103 | Computer Systems Analyst III | (see 1) |
| 14150 | Peripheral Equipment Operator | 14.05 |
| 14160 | Personal Computer Support Technician | 16.70 |
| 15000 | Instructional Occupation | |
| 15010 | Aircrew Training Devices Instructor (Crew Chief) | 21.33 |
| 15020 | Aircrew Training Devices Instructor (Cabin) | 20.32 |
| 15030 | Aircrew Training Devices Instructor (Pilot) | 24.30 |
| 15050 | Computer Based Training Specialist - Instructor | 22.82 |
| 15060 | Educational Technologist | 33.30 |
| 15070 | Flight Instructor (Pilot) | 18.61 |
| 15080 | Graphic Artist | 17.65 |
| 15090 | Technical Instructor | 21.58 |
| 15095 | Technical Instructor/Course Developer | 21.58 |
| 15110 | Test Proctor | 13.87 |
| 15120 | Tutor | 13.87 |
| 16000 | Laundry, Dry Cleaning, Pressing And Related Occupations | |
| 16010 | Assembler | 7.65 |
| 16030 | Counter Attendant | 9.17 |
| 16040 | Dry Cleaner | 7.68 |
| 16070 | Finisher, Flatwork, Machine | 7.68 |

| | | |
|-------|--|-------|
| 16090 | Presser, Hand | 7.68 |
| 16110 | Presser, Machine, Drycleaning | 7.68 |
| 16130 | Presser, Machine, Shirts | 7.68 |
| 16160 | Presser, Machine, Sewing Apparel, Laundry | 7.68 |
| 16190 | Sewing Machine Operator | 9.68 |
| 16220 | Tailor | 10.15 |
| 16250 | Washer, Machine | 8.17 |
| 19000 | Machine Tool Operation And Repair Occupations | |
| 19010 | - Machine Tool Operator (Tool Room) | 14.49 |
| 19040 | Tool And Die Maker | 18.20 |
| 21000 | Materials Handling And Packing Occupations | |
| 21020 | Forklift Operator | 12.23 |
| 21030 | Material Coordinator | 17.68 |
| 21040 | Material Expediter | 17.68 |
| 21050 | Material Handling Laborer | 9.68 |
| 21071 | Order Filler | 9.66 |
| 21080 | - Production Line Worker (Food Processing) | 12.23 |
| 21110 | Shipping Packer | 13.33 |
| 21130 | Shipping/Receiving Clerk | 13.33 |
| 21140 | - Store Worker I | 17.94 |
| 21150 | Stock Clerk | 12.23 |
| 21210 | Tools And Parts Attendant | 12.23 |
| 21410 | - Warehouse Specialist | 18.81 |
| 23000 | Mechanics And Maintenance And Repair Occupations | |
| 23010 | - Aerospace Structural Welder | 18.81 |
| 23021 | Aircraft Mechanic I | 17.91 |
| 23022 | Aircraft Mechanic II | 18.81 |
| 23023 | Aircraft Mechanic III | 19.76 |
| 23040 | Aircraft Mechanic Helper | 12.45 |
| 23050 | Aircraft Painter | 16.82 |
| 23060 | Aircraft Servicer | 14.63 |
| 23080 | Aircraft Worker | 15.80 |
| 23110 | Appliance Mechanic | 14.49 |
| 23120 | Bicycle Repairer | 9.74 |
| 23125 | Cable Splicer | 15.43 |
| 23130 | Carpenter, Maintenance | 11.00 |
| 23140 | Carpet Layer | 13.55 |
| 23160 | - Electrician, Maintenance | 14.99 |
| 23181 | Electronics Technician Maintenance I | 14.72 |
| 23182 | Electronics Technician Maintenance II | 15.05 |
| 23183 | Electronics Technician Maintenance III | 18.31 |
| 23260 | Fabric Worker | 12.60 |
| 23290 | Fire Alarm System Mechanic | 15.43 |
| 23310 | Fire Extinguisher Repairer | 11.07 |
| 23411 | Fuel Distribution System Mechanic | 15.43 |
| 23412 | Fuel Distribution System Operator | 13.01 |
| 23370 | General Maintenance Worker | 11.67 |
| 23380 | Ground Support Equipment Mechanic | 17.91 |
| 23381 | Ground Support Equipment Operator | 14.63 |
| 23382 | - Ground Support Equipment Worker | 15.80 |
| 23391 | Gunsmith I | 11.67 |
| 23392 | - Gunsmith II | 13.55 |
| 23393 | - Gunsmith III | 15.43 |
| 23410 | - Heating, Ventilation And Air Conditioning Mechanic | 15.76 |
| 23411 | Heating, Ventilation And Air Conditioning Mechanic (Research Facility) | 16.55 |
| 23430 | Heavy Equipment Mechanic | 14.88 |
| 23440 | Heavy Equipment Operator | 13.73 |
| 23460 | Instrument Mechanic | 15.43 |
| 23465 | Laboratory/Shop/Service Mechanic | 14.49 |
| 23470 | Laborer | 9.68 |
| 23510 | Locksmith | 14.49 |

| | | |
|-------|---|---------|
| 23430 | Machinery Maintenance Mechanic | 17.88 |
| 23450 | Machinist, Maintenance | 15.43 |
| 23480 | Maintenance Trades Helper | 9.92 |
| 23491 | Metrology Technician I | 15.43 |
| 23492 | Metrology Technician II | 16.11 |
| 23493 | Metrology Technician III | 17.37 |
| 23640 | Millwright | 15.43 |
| 23710 | Office Appliance Repairer | 14.90 |
| 23760 | Painter, Maintenance | 13.55 |
| 23790 | Pipefitter, Maintenance | 15.02 |
| 23810 | Plumber, Maintenance | 14.22 |
| 23820 | Pneumatic Systems Mechanic | 15.43 |
| 23850 | Rigger | 15.43 |
| 23870 | Scale Mechanic | 11.55 |
| 23890 | Sheet Metal Worker, Maintenance | 15.21 |
| 23910 | Small Engine Mechanic | 13.55 |
| 23941 | Telecommunications Mechanic I | 19.01 |
| 23937 | Telecommunications Mechanic II | 19.76 |
| 23950 | Telephone Lineman | 18.24 |
| 23960 | Welder, Combination, Maintenance | 14.49 |
| 23965 | Well Driller | 15.43 |
| 23970 | Woodcraft Worker | 15.43 |
| 23980 | Woodworker | 11.67 |
| 24000 | Personal Needs Occupations | |
| 24570 | Child Care Attendant | 10.09 |
| 24580 | Child Care Center Clerk | 12.58 |
| 24610 | Chore Aide | 11.30 |
| 24620 | Family Readiness And Support Services Coordinator | 11.93 |
| 24630 | Homemaker | 16.12 |
| 25000 | Plant And System Operations Occupations | |
| 25010 | Boiler Tender | 15.43 |
| 25040 | Sewage Plant Operator | 14.49 |
| 25070 | Stationary Engineer | 15.43 |
| 25190 | Ventilation Equipment Tender | 10.73 |
| 25210 | Water Treatment Plant Operator | 14.49 |
| 27000 | Protective Service Occupations | |
| 27004 | Alarm Monitor | 10.90 |
| 27007 | Baggage Inspector | 7.35 |
| 27008 | Corrections Officer | 12.05 |
| 27010 | Court Security Officer | 12.05 |
| 27030 | Detection Dog Handler | 10.90 |
| 27040 | Detention Officer | 12.05 |
| 27070 | Firefighter | 15.95 |
| 27081 | Guard I | 7.35 |
| 27082 | Guard II | 10.90 |
| 27111 | Police Officer I | 11.05 |
| 27112 | Police Officer II | 13.40 |
| 28000 | Recreation Occupations | |
| 28041 | Carnival Equipment Operator | 9.53 |
| 28042 | Carnival Equipment Repairer | 10.08 |
| 28043 | Carnival Equipment Worker | 7.78 |
| 28210 | Gate Attendant/Gate Tender | 13.18 |
| 28310 | Lifeguard | 11.01 |
| 28350 | Park Attendant (Aide) | 14.74 |
| 28510 | Recreation Aide/Health Facility Attendant | 10.26 |
| 28515 | Recreation Specialist | 18.26 |
| 28630 | Sports Official | 1174.00 |
| 28690 | Swimming Pool Operator | 17.71 |
| 29000 | Svedoring/Longshorem Occupational Services | |
| 29010 | Blocker And Bracer | 15.02 |
| 29020 | Hatch Tender | 15.02 |
| 29030 | Line Handler | 15.02 |

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|-------|--|-------|
| 29041 | Stevordor I | 14.22 |
| 29042 | Stevordor II | 16.05 |
| 30000 | Technical Occupations | |
| 30010 | Air Traffic Control Specialist, Center (HFD) (see 2) | 35.15 |
| 30011 | Air Traffic Control Specialist, Station (HFD) (see 2) | 24.24 |
| 30012 | Air Traffic Control Specialist, Terminal (HFD) (see 2) | 26.69 |
| 30021 | Archeological technician I | 17.49 |
| 30022 | Archeological technician II | 19.56 |
| 30023 | Archeological technician III | 24.21 |
| 30030 | Cartographic Technician | 23.18 |
| 30040 | Civil Engineering Technician | 21.93 |
| 30061 | Drafter/CAD Operator I | 17.49 |
| 30062 | Drafter/CAD Operator II | 19.56 |
| 30063 | Drafter/CAD Operator III | 20.74 |
| 30064 | Drafter/CAD Operator IV | 24.21 |
| 30081 | Engineering Technician I | 19.62 |
| 30082 | Engineering Technician II | 16.41 |
| 30083 | Engineering technician III | 18.36 |
| 30084 | Engineering Technician IV | 27.83 |
| 30085 | Engineering Technician V | 33.65 |
| 30086 | Engineering Technician VI | 21.10 |
| 30090 | Environmental Technician | 20.74 |
| 30210 | Laboratory Technician | 23.34 |
| 30240 | Mathematical Technician | 23.34 |
| 30361 | Paralegal/Legal Assistant I | 19.06 |
| 30362 | Paralegal/Legal Assistant II | 21.53 |
| 30363 | Paralegal/Legal Assistant III | 26.35 |
| 30364 | Paralegal/Legal Assistant IV | 30.80 |
| 30490 | Photo Optics Technician | 21.93 |
| 30461 | Technical writer I | 22.17 |
| 30462 | Technical writer II | 27.10 |
| 30463 | Technical writer III | 32.79 |
| 30491 | Unexploded Ordnance (UXO) Technician I | 22.34 |
| 30492 | Unexploded Ordnance (UXO) Technician II | 27.03 |
| 30493 | Unexploded Ordnance (UXO) Technician III | 32.40 |
| 30494 | Unexploded (UXO) Safety Escort | 22.34 |
| 30495 | Unexploded (UXO) Sweep Personnel | 22.34 |
| 30620 | Weather Observer, Combined Upper Air Dr (see 2) | 20.74 |
| | Surface Programs | |
| 30621 | Weather Observer, Senior (see 2) | 23.00 |
| 31000 | Transportation/Mobile Equipment Operation Occupations | |
| 31020 | Bus Aide | 7.75 |
| 31030 | Bus Driver | 9.69 |
| 31012 | Driver Courier | 8.07 |
| 31260 | Parking and Lot Attendant | 7.75 |
| 31290 | Shuttle Bus Driver | 8.10 |
| 31310 | Taxi Driver | 8.07 |
| 31361 | Truckdriver, Light | 8.97 |
| 31362 | Truckdriver, medium | 10.56 |
| 31363 | Truckdriver, heavy | 12.17 |
| 31364 | Truckdriver, tractor trailer | 12.17 |
| 09000 | Miscellaneous Occupations | |
| 09030 | Cashier | 7.25 |
| 09050 | Desk Clerk | 8.82 |
| 09095 | Embalmer | 22.34 |
| 09251 | Laboratory Animal Caretaker I | 14.76 |
| 09252 | Laboratory Animal Caretaker II | 15.10 |
| 09310 | Urtician | 22.34 |
| 09410 | Pest Controller | 12.07 |
| 09510 | Photofinishing worker | 11.74 |
| 09710 | Recycling Laborer | 10.76 |
| 09711 | Recycling Specialist | 16.27 |
| 09730 | Refuse collector | 10.24 |

| | | |
|-------|---------------------------------|-------|
| 99810 | Sales Clerk | 8.95 |
| 99820 | School Crossing Guard | 14.87 |
| 99830 | Survey Party Chief | 19.95 |
| 99831 | Surveying Aide | 11.34 |
| 99832 | Surveying Technician | 14.74 |
| 99840 | Vending Machine Attendant | 18.45 |
| 99841 | Vending Machine Repairer | 21.43 |
| 99842 | Vending Machine Repairer Helper | 18.35 |

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: Life, accident, and health insurance plans, sick leave, pension plans, civic and personal leave, severance pay, and savings/investment plan. Minimum employer contributions costing an average of \$3.50 per hour computed on the basis of all hours worked by service employees employed on the contract.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; and 4 weeks after 3 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (Reg. 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) **COMPUTER EMPLOYEES:** under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rate may not be listed in this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families, if the employer can demonstrate that the prevailing wage rate for the occupation(s) is less than \$27.63 per hour, conformance may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

- (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
- (2) The design, development, documentation, analysis, creation, testing or

modification of computer systems or programs, including prototypes, located on and related to one or more system design specifications;

(1) the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills (19 CFR, 511.100).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS (REGULAR PAY & SUNDAY PAY): If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full time employee (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 2% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, drying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry house activities involving propellants or explosives.

Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to, ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

UNIFORM ALLOWANCE

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, or by the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms) an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination, the Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or 5.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", 13th Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A link to the Directory may be found on the main home page at <http://www.dhs.gov/osa/whd/> or through the Wage Determinations On Line (WDOL) web site at <http://wdol.gov/>

REGIONS FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE (Standard Form 1444 (SF 1444))

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. [See Section 4.6 (C)(vi)] when multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed classification(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report (listing in order proposed classification title(s), a federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the Agency's recommendation and pertinent information including the position of the contractor and the employee(s), to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor for review. (See Section 4.6(b)(1) of regulation for more detail.)
- 4) Within 30 days of receipt, the wage and hour division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, and notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the wage and hour decision to the contractor. The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444. In addition, when preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed on the wage determination. Remember, it is not the job title, but the required tasks that

99.26.211 received by 21.08.18
determine whether a class is included in the established wage determination of
and/or any other class in the established wage determination of the class
classification listed in the wage determination

Eddie Baza Calvo

GENERAL SERVICES AGENCY

Ray Tenorio

Governor



(Ahensian Setbision Hinirat)

Lt. Governor

Government of Guam

148 Route 1, Marine Corp Drive

Piti Guam 96915

Vacant

Director, Dept. of Administration

George A. Santos

Deputy Director

FORM OF NON-COLLUSION AFFIDAVIT

AFFIDATE

(Prime Proposer)

STATE OF _____)
) SS.
CITY OF _____)

_____, being first duly sworn

That he/she is _____
(a Partner or Officer of the Firms of, etc.)

The party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham, that said bidder 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, 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 price of affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the General Services Agency or any person interested in the proposed contract, and that all statements in said proposal or bid are true.

Signature of Bidder Date

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

Subscribed and sworn before me this _____ day of _____, 2011

Notary Public

AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSION

CITY OF GUAM _____)
) SS:
 STATE OF _____)

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

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

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

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

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

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

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

 Signature of one of the following:
 Offeror, if the offeror is an individual;
 Partner, if the offeror is a partnership;
 Officer, if the offeror is a corporation.

Subscribed and sworn to before me
 this ____ day of _____, 2011

 NOTARY PUBLIC
 My commission expires _____

AFFIDAVIT re CONTINGENT FEES

CITY OF GUAM _____)
) SS:
STATE OF _____)

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

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

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

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

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

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
this ____ day of _____, 2011

NOTARY PUBLIC
My commission expires _____

GOVERNMENT OF GUAM

GENERAL SERVICES AGENCY
148 Route 1, Marine Corp. Drive
Piti, Guam 96915

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 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 _____ 2011

(PRINCIPAL)

(SEAL)

(WITNESS)

(TITLE)

(MAJOR OFFICER OF SURETY)

(TITLE)

(MAJOR OFFICER OF SURETY)

(TITLE)

(RESIDENT GENERAL AGENT)

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 General Services Agency, 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.

**GOVERNMENT OF GUAM
GENERAL TERMS AND CONDITIONS**

SEALED BID SOLICITATION AND AWARD

Only those Boxes checked below are applicable to this bid.

1. **AUTHORITY:** This solicitation is issued subject to all the provision of the Guam Procurement Act (5GCA, 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 General Services Agency). It requires all parties involved in the Preparation, negotiation, performance, or administration of contracts to act in good faith.
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.
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.
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.
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 (5GCA, Chapter 5) and Section 1-104 of the Guam Procurement Regulations.
6. **COMPLIANCE WITH SPECIFICATIONS AND OTHER SOLICITATION REQUIREMENTS:**
Bidders shall comply with all specifications and other requirements of the Solicitation.
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 bided or none at all. **The Government will not award on an itemized basis.** Reference: Section 3-101.06 of the Guam Procurement Regulations.
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.
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.
10. **BID ENVELOPE:** Envelope shall be sealed and marked with the bidder's name, Bid number, time, date and place of Bid Opening.
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 Treasure of Guam 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.**
12. **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.
13. **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] 14. **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] 15. **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] 16. **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] 17. **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).
- [X] 18. **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.
- [X] 19. **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.
- [] 20. **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.
- [] 21. **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] 22. **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 a 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
- [] 23. **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.
- [X] 24. **SCHEDULE FOR DELIVERY:** Successful bidder shall notify the General Services Agency, Telephone Nos. 475-1707 or 475-713, at least twenty-four (24) hours before delivery of any item under this solicitation.
- [X] 25. **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.
- [] 26. **MANUFACTURER'S CERTIFICATE:** Successful bidder is required, upon delivery of any item under this contract, to furnish a certificate from the manufacturer indication 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.
- [X] 27. **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.

- [X] 28 **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.
- [X] 29. **SAFETY INSPECTION:** All motor vehicles delivered under this contract must pass the Government of Guam Vehicle Inspection before delivery at destination.
- [X] 30. **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] 31. **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.
- [X] 32. **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).
- [X] 33. **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.
- [X] 34. **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.
- [] 35. **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.
- [] 36. **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.
- [] 37. **TERMINATION FOR CONVENIENCE:** Any termination order for the convenience of the Government issued relative to awards 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] 38. **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.
- [X] 39. **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.

[X] 40. **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 the territory. The contractor remains liable for damages caused other than by delay (GPR Section 6-101-09.1).

[X] 41. **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.

[X] 42. **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 General Services Agency (EO 86-24).
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 initialed 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. SELLER' 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 non

| ITEM NO. | DESCRIPTION | QTY | UNIT | UNIT PRICE | EXTENSION |
|----------|---|-----|------|------------|-----------|
| 1.1 | 60 Month Lease Agreement for a Color Multifunction Copier/Printer/Scanner/Fax To include Maintenance, Parts, Labor, and Supplies (Except Paper & Staples) | 60 | MOS. | \$ _____ | \$ _____ |

NOTE: Charges for overage of copies exceeding the monthly allowance prints.

| | | |
|---------------------------------|----------|----------|
| 10,000 Black/White Print Copies | \$ _____ | \$ _____ |
| 2,000 Color Print Copies | \$ _____ | \$ _____ |

SPECIFICATIONS:

BIDDING ON OR REMARKS:

- *Minimum of 85 print copies per minute in black/white _____
- *Minimum of 70 print copies per minute In color _____
- *Handles up to 11 X 17 paper _____
- *Handles paper weight up to 220gsm _____
- *3,300 total sheet capacity _____
- *4 paper trays _____
- *By-Pass tray holding 100 sheets or greater _____
- *2 Sided duplexing _____
- *Two-sided printing, copying, faxing & scanning up to 11 X 17 from document feeder & glass _____
- *Automatic stapling up to 100 sheets in 2 positions _____
- *Minimum of 75 images per minute B&W _____
- *Minimum of 51 images per minute in color _____
- *Reduction/Enlargement 25% to 400% _____
- *Must be able to fax from computer _____
- *PCL & PS print drivers required _____
- *Minimum of 1 GHz processor speed _____
- *Minimum of 80 GB/512MB hard drive/RAM _____
- *10/100/1000 Base Ethernet _____
- *Secure print or scan using SSL or IPsec. _____
- *Built in firewall to prohibit unauthorized users _____

*Image overwrite

*Must be able to track print, copy, fax & scan created by individual end users

*Scan to any PC on the network (Network Scanning), scan to mailbox & e-mail

*Must be able to compress scan files using JBIG2

*Machine scanning to Tiff, multi-page TIFF, JPEG, PDF, PDF/A and text-searchable PDF

*Ability to scan & create PDF/A (achievable format)

*Ability to automatically scan & create text searchable PDS files from the copier

*Energy star certified

*Print on envelopes up to 9 X 12

*To include training & complete analyst services to support installation

*Bidder shall replace machine w/identical machine if machine cannot be satisfactorily repaired or maintained at Agency's discretion /request

*Must include all consumables/supplies such as toners cartridges, drums

Bidding on:

Manufacturer: _____

Make: _____

Model: _____

Place of Origin: _____

Date of Delivery: _____

OPA Notice of Procurement Appeal: IBSS vs GSA-028-011 for copier

EXHIBIT

2. Protest letter of March 3, 2011, IBSS to GSA

RECEIVED
3/4/11 3:40



Island Business Systems & Supplies

Canon

Authorized Dealer

Guam Office:

P.O. Box 7 Hagatna, Guam 96932

• Tel (671) 477-7454, 472-2200 • Fax: (671) 477-7660 •
email: support@ibssguam.com

Saipan Office:

P.O. Box 167 CK Saipan MP 96950

• Tel (670) 234-8002, 234-5155 • Fax: (670) 234-8050 •
email: support@ibssguam.com

Date: March 3, 2011

To: General Services Agency

Attn: Ms. Claudia S. Acfalle
Chief Procurement Officer

Re: Letter of Protest for GSA-028-011

IBSS (Island Business Systems and Supplies), is a division of Town House Department Stores, Inc., a J&G affiliate, a locally owned and operated Guam corporation. IBSS provides document management services and equipment and is a potential bidder for the referenced GSA IFB.

The IFB is issued to procure a copier with its own specifications.

The hardware specifications are overly restrictive by deviating unnecessarily over competitive common industry standards, in a manner that both costs the government far more than necessary and favors Xerox products above others. The specifications thus violate the policy of 5 GCA § 5001(b)(5) and (6) and the requirements of 5 GCA §§ 5268(a) and (b), and 2 GAR §§ 4102(a)(1) and (a)(3).

“It is the general policy of this territory to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided to the extent practicable.” (2 GAR § 4103(a)(3).)

Having carefully reviewed the specifications, attached is our comparative cost analysis showing commercial standards and the tremendous savings that can be realized by modifying the copying speed/pages per minute in accordance with commercial standards published by independent analytical group Buyers Lab/Feature by Segment Chart.

Given the relatively low volume requirements in the IFB, the print speed requirements are excessively high over the commercial standards, resulting in a disproportionately high cost to the government and noncompetitive requirements. The commercial standard print speed for the indicated volume is only 31-40 ppm, which is less than half the speed you require. The indicated cost of a machine for your required print speed is \$31,500, whereas the indicated cost of a machine that meets the commercial standard print speed is only \$9,400. The thousands of dollars that could be saved, based on the suggested retail prices, can be used for other DPHSS Projects that could include improvements in its facilities.

Sincerely,



Roland R. Franquez
General Manager

Cc: Attorney John Thos. Brown

GSA-028-11 Cost Analysis using Buyer's Laboratory, Inc. Data

| | | | | | | | |
|----------------|----------------|---|---|---|---|--|-----------------------------|
| GSA's Item No. | UOG's Quantity | GSA's Copier Speed Specifications- Pages-Per-Minute (PPM) | GSA's Monthly Print Volume Black- Color | Buyers Lab Inc.'s (BLI) Suggested Retail Price Based on GSAs Copier Speed Specifications | BLI's Copier Speed Recommendation Based on Monthly Print Volume | BLI's Average Suggested Retail Price Based on the BLI's Recommended Copier Speed | DPHSS's Estimated Savings) |
| 1 | 1 | 85/75ppm | 10,000-2,000 | \$31,500.00 | 31-40ppm | \$9,400.00 | \$22,100.00 |

The chart, which cannot be reproduced or reprinted without BLI's approval, can be viewed from their website www.buyerslab.com.

RECEIVED
 JUN 11/11
 3:40

OPA Notice of Procurement Appeal: IBSS vs GSA-028-011 for copier

EXHIBIT

3. Letter Denying Protest of March 11, 2011, GSA to IBSS

Eddie Baza Calvo
Governor

GSA

GENERAL SERVICES AGENCY

(Ahensian Setbision Hlnirat)
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Ray Tenorio
Lieutenant Governor

Benita A. Manglona
Acting Director

George A. Santos
Deputy Director

March 11, 2011

Roland R. Franquez
General Manager
Island Business Systems & Supplies
P.O. BOX 7
Hagatna, Guam 96932

Re: **Invitation for Bid No.: GSA-028-11**
(60 Months Lease Agreement for Color Copier/Printer/Scan/Fax Machine)

Dear Mr. Franquez:

Hafa Adai! This is in reference to your protest letter dated March 03, 2011 that was lodged on the above referenced bid number.

Upon review of your protest it has been determined that your protest is without merit based on the following:

Issue

Given the relatively low volume requirements in the IFB, the print speed requirements are excessively high over the commercial standards, resulting in a disproportionately high cost to the government and noncompetitive requirements. The commercial standard print speed for the indicated volume is only 31-40 ppm, which is less than half the speed you require. The indicated cost of a machine for your required print speed is \$31,500, whereas the indicated cost of a machine that meets the commercial standard print speed is only \$9,400.

Response:

The department needs more than a commercial standard print speed. The department has justified the need to acquire the speed of higher level of utilization the copier has to be able to print at a higher rate of speed to maximize availability in accommodating the continuously high demand of servicing 8,000 WIC clients. Therefore, the minimum speed indicated on the invitation for bid remains the same.

ACKNOWLEDGMENT COPY

Please print/sign & fax back to
Inez @ 475-1716

RECEIVED BY: *Frank L. Cruz*

COMMITTED TO EXCELLENCE DATE: *3/15/11 12:43pm*
Island Business System fax 477-76

Based on the above, it is our determination that your protest is without merit. Upon receipt of this letter, you are, therefore, notified of our determination and that you have a right to seek administrative and or judicial review.

Sincerely,


CLAUDIA S. ACFALLE
Chief Procurement Officer

cc: Office of the Attorney General

OPA Notice of Procurement Appeal: IBSS vs GSA-028-011 for copier

EXHIBIT

4. Letter from UOG President Underwood to IBSS re UOG Bid P041-11, Dec. 30, 2010



UNIVERSITY OF GUAM
UNIBETSEDÁT GUAHAN
OFFICE OF THE PRESIDENT
UOG Station, Mangilao, Guam 96923
Telephone: (671) 735-2990 • Fax: (671) 734-2296

December 30, 2010

Roland R. Franquez
General Manager
Island Business Systems & Supplies
P.O. Box 7
Hagátña, Guam 96932
Email: support@ibssguam.com

Re: UOG Bid No. P04-11

Dear Mr. Franquez:

This responds to your letter dated December 23, 2010 and received by the Office of the President on the same date.

After careful review of your letter and supporting documentation, the University believes it is in its best interest to cancel the bid in whole to allow for a thorough review process, and to thereafter issue a new solicitation. Your documentation of potential cost savings to the University should copier print speeds be changed is a compelling reason to reassess the University's needs and specifications and to issue a new solicitation, as provided for in the University's Procurement Manual Section 3.15.4.1.

Before resoliciting the bid, the University will provide draft specifications to interested bidders for comment and will arrange a meeting on campus for interested bidders and affected University personnel, to allow for full transparency, open communication and greater understanding of bid specifications.

IBSS will be given an opportunity to participate in the above and to compete on the resolicitation or any future procurements of similar supplies or services.

Pursuant to Guam law, you have a right to administrative and judicial review.

The University complies with the Guam Procurement Law and the University of Guam Procurement Manual, and is committed to the fair and equitable treatment of all qualified bidders.

Should you have any further inquiries or concerns, please direct them to Vicente (Ben) Borja, Supply Management Administrator, UOG Procurement Office.

Thank you for your attention to this matter.

Sincerely,

Robert A. Underwood
President

Copy: Legal Counsel
SMA Ben Borja

OPA Notice of Procurement Appeal: IBSS vs GSA-028-011 for copier

EXHIBIT

5. Copy of Buyer's Laboratory, Inc. report concerning industry standards for ppm

Feature by Segment (Monochrome)

| Monochrome Segment | Average SRP | Range for Scheduled Maintenance (impressions) | BLI Optimum Monthly Volume (impressions) | Paper Capacity Standard | Paper Capacity Max | Optional Finishing |
|--------------------|--|--|--|--|--|---------------------------------------|
| 1 (11-20 ppm) | \$2000 legal \$3000 ledger | 25k-45k legal 40k-150k ledger | 3600 | 305 legal 380 ledger | 730 legal 1550 ledger | None legal Some ledger |
| 2 (21-30 ppm) | \$3,700 up to 23 ppm \$7,000 up to 30 ppm | 60k-200k up to 23 ppm 60k-300k up to 30 ppm | 9000 | 600 up to 23 ppm 1,000 up to 30 ppm | 1,800 up to 23 ppm 3,100 up to 30 ppm | Some up to 23 ppm All up to 30 ppm |
| 3 (31-40 ppm) | \$9,400 | 75k-500k | 17,000 | 1,050 | 3,850 | All |
| 4 (41-59 ppm) | \$16,000 | 60k-500k | 26,500 (41-49 ppm) 37,250 (50-59 ppm) 55,000 (60-69 ppm) | 2,250 | 5,350 | All |
| 5 (70-90 ppm) | \$31,500 | 250k-600k | 82,000 (70-79 ppm) 135,000 (80-89 ppm) 175,000 (90 ppm) | 3,600 | 7,250 | All |
| 6 (91 ppm+) | \$56,500 | 500k-750k | 175,000 | 3,500 | 8,300 | All |

↑ PPM ↓

Feature by Segment (Color)

↑ MONTHLY ↓
↓ VOL. ↓

| Color | Average SRP | Range for Scheduled Maintenance (impressions) | BLI Optimum Monthly Volume (impressions) | Paper Capacity Standard | Paper Capacity Max | Optional Finishing |
|---------------|-------------|---|--|-------------------------|--------------------|--------------------|
| 1 (11-20 ppm) | \$8,000 | Information not available | 3,000 up to 15 ppm 13,500 16-20 ppm | 780 | 2,550 | Majority |
| 2 (21-30 ppm) | \$13,000 | 40k-300k | 13,500 21-25 ppm 15,000 26-30 ppm | 1,000 | 3,500 | All |
| 3 (31-40 ppm) | \$15,000 | 40k-300k | 15,000 31-36 ppm 28,000 37-40 ppm | 975 | 3,600 | All |
| 4 (41-59 ppm) | \$29,000 | 70k-200k | 28,000 41-46 ppm 36,500 46 ppm + | 2,400 | 5,500 | All |
| 5 (70-90 ppm) | \$36,000 | Information not available | 36,500 | 3,250 | 6,700 | All |

Image Quality Ratings

Each product submitted for BLI testing has its print and copy output carefully inspected by our team of industry experts, who use both visual evaluations and sophisticated lab test instruments to determine image quality in key areas including text, fine lines, halftones, curved lines, business graphics and photographic images.

BLI technicians also use a spectrophotometer to measure how accurate color output remains over time during the test. Halftone output is measured and analyzed for range of tone as well as the distinction between shades. Even the density of printed and copied output is measured and compared against competing units. What this adds up to is a clear and detailed evaluation of the strengths and weaknesses of each product's output quality, and how it stacks up against the competition.

- ▶ If the machine goes down for any reason, how fast does the dealer get it fixed?
- ▶ Does the dealer offer solutions software (and training) that can help you use your MFP to link to your existing software and workflow?

These are all questions you'll want to consider during your "test drive" period.

Look One Step Up and One Step Down

Before making your final decision, it's worth it to take a last look at the copiers, printers and MFPs that are 5-10 ppm faster (and also those that are 5-10 ppm slower) than the device you're leaning toward.

Not only will these products offer a number of capabilities that are similar to the one you're considering, but by examining products one segment up the food chain might also show you useful, increased capabilities (such as better finishing options that let users create booklets in-house instead of sending them out to copy shops). Similarly, you might find it worthwhile to look at a slightly slower machine that still offers the feature set you want, but at a lower price. Take a look at productivity data for any OEM's product you buy to make sure not only that it prints the speed you need, but it does so for the kinds of jobs you produce (e.g. duplex). At times for some products, you might find the difference in productivity for your set of work to be so slight that you can buy a less expensive model with a slower rated engine without much loss in productivity. Ask your sales rep to provide you with BLI or other independent productivity studies. You can [also see a comparison of capabilities by segment](#).

In every market segment, color devices are priced higher than monochrome ones, but even if you currently use only black and white printers and copiers, color is still a capability that you might find useful over the course of your new MFP's lifetime. More and more businesses are using color to create livelier presentations, sales materials that "pop," and more professional-looking output. Some even create their own letterhead and business cards, saving those printing costs over the life of the machine.

With the ability to control who uses color, and how much color they use, more and more offices are installing at least one color-capable device. Even printers, copiers and MFPs that print only in monochrome may offer color scanning capabilities, so this capability is creeping into even the "monochrome-only" end of the marketplace.