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**RECEIVED**  
 OFFICE OF PUBLIC ACCOUNTABILITY  
 PROCUREMENT APPEALS  
 DATE: Jun 10, 2019  
 TIME: 10:45  AM  PM BY: FDJ  
 FILE NO OPA-PA: 19-005

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

|                                              |   |                                 |
|----------------------------------------------|---|---------------------------------|
| <b>IN THE APPEAL OF:</b>                     | ) | <b>DOCKET NO. OPA-PA-19-005</b> |
|                                              | ) |                                 |
| <b>TAKECARE INSURANCE COMPANY,<br/>INC.,</b> | ) |                                 |
|                                              | ) |                                 |
| <b>Appellant,</b>                            | ) |                                 |
|                                              | ) | <b>PURCHASING AGENCY</b>        |
| <b>and</b>                                   | ) | <b>AGENCY REPORT</b>            |
|                                              | ) |                                 |
| <b>DEPARTMENT OF ADMINISTRATION,</b>         | ) |                                 |
|                                              | ) |                                 |
| <b>Purchasing Agency.</b>                    | ) |                                 |

**Comes now** the Department of Administration (DOA) by and through its counsel and files its Agency Report and Statement pursuant to 2 GAR § 12105(g) in response to the appeal by TakeCare Insurance Company, Inc. (TakeCare) protesting the Proposal of Procurement No. DOA/HRD-RFP-GHI-20-001, (“RFP”).

///

**ORIGINAL**

## I. PURCHASING AGENCY INFORMATION

**Name:** Department of Administration

**Address:** Department of Administration  
ITC Bldg.  
590 S. Marine Corps Drive  
Tamuning, Guam

**Contact:** For purposes of this Appeal, please direct correspondence to the Office of the Attorney General (“OAG”), Shannon J. Taitano, Assistant Deputy Attorney General, [staitano@guamag.org](mailto:staitano@guamag.org), Joseph Perez, Assistant Attorney General, [jperez@guamag.org](mailto:jperez@guamag.org), and Janice Camacho, Assistant Attorney General, [jcamacho@guamag.org](mailto:jcamacho@guamag.org), Office of the Attorney General, 590 S. Marine Corps Drive, Suite 802, ITC Building, Tamuning, Guam. **Tel. No.** 473-3324; **Fax No.** 472-2493

## II. APPEAL INFORMATION

- a. Purchasing Agency: Department of Administration
- b. RFP No: DOA/HRD-RFP-GHI-20-001
- c. Date of RFP: March 27, 2019
- d. This appeal is made by TakeCare Insurance Company, Inc. – Decision on Protest of Method, Solicitation or Award
- e. Name of Competing Bidder(s): None

## III. AGENCY REPORT

Pursuant to 2 GAR § 12105 DOA’s Agency Report is providing the following:

(a) **A copy of the protest**

A copy of protest is attached to this Agency Report as Exhibit No. 1.

(b) **A copy of the bid or offer submitted by the Appellant**

No offers have been submitted.

(c) **A copy of the solicitation**

A copy of the solicitation, including the specification or portions thereof relevant to the protest is attached to this Agency Report as Exhibit No. 2.

(d) **A copy of the abstract of bids or offers**

No offers have been submitted.

(e) **Any other documents which are relevant to the protest**

None.

(f) **The decision from which the Appeal is taken**

The decision from which the Appeal is taken is attached to this Agency Report as Exhibit No. 3.

(g) **A statement answering the allegation of the Appeal**

**Untimely Filed**

Public Law 35-2 was enacted on March 7, 2019. The RFP was published on April 1, 2019 with the requirement to consider only those offers with all hospitals in Guam in-network coverage as mandated in Public Law 35-2. The publication date of April 1 is the date TakeCare was on notice that the RFP included this requirement. The date by which TakeCare was not able to secure a business opportunity is not relevant to this procurement.

The protest is beyond the 14-day time period of when TakeCare knew or should have known of the facts giving rise to the protest to lodge a written protest. *See* 5 G.C.A. § 5425(a).

**Beyond the Scope**

An actual or prospective offeror or contractor who may be aggrieved may protest *in connection with the method of source selection, solicitation or award*

*of a contract. See 5 G.C.A. § 5425(a) (emphasis added).*

First, TakeCare is not an actual or prospective offeror or contractor. TakeCare has not been able to secure an agreement with Guam Regional Medical Center (“GRMC”) that would qualify TakeCare as an eligible offeror according to the terms of the RFP. Second, TakeCare does not raise complaints about the method of source selection, solicitation or award of a contract as provided in the law. *See 5 G.C.A. § 5425(a).*

TakeCare makes allegations against GRMC for which the government of Guam has no information or knowledge to confirm, refute, or deny as we are not a party to the negotiations between GRMC and TakeCare. The dispute is between two private entities to which the government of Guam is not a party. The assertions made by TakeCare pertain to conduct outside the scope of the procurement and process.

As mentioned above, TakeCare makes legal arguments as to the validity of Public Law 35-2. The assertions made are beyond the scope of the Negotiating Team’s role in this procurement. The Negotiating Team is required to follow the laws pertaining to Group Health Insurance which includes the mandate in Public Law 35-2. Therefore, the decision to include it in the RFP is neither arbitrary nor capricious. *See 5 G.C.A. § 5245.* It is not the Negotiating Team’s duty in this procurement process to defend the legality of the law and therefore take no position to the arguments made in TakeCare’s letter. Until such time the law is repealed or amended, the government of Guam is mandated to implement Public Law 35-2.

(h) **Award made**


Not applicable as no award has been made.

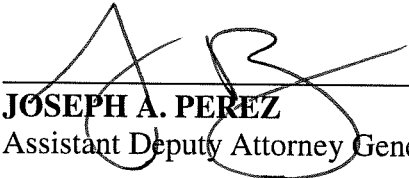
(i) **A statement indicating whether the matter is subject of a court proceeding**

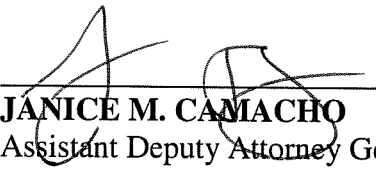
A statement indicating whether the matter is the subject of a court proceeding was filed with the Office of Public Accountability on June 10, 2019.

Submitted this 10<sup>th</sup> day of June, 2019.

OFFICE OF THE ATTORNEY GENERAL  
Leevin Taitano Camacho, Attorney General

By:   
\_\_\_\_\_  
**SHANNON J. TAITANO**  
Assistant Deputy Attorney General

By:   
\_\_\_\_\_  
**JOSEPH A. PEREZ**  
Assistant Deputy Attorney General

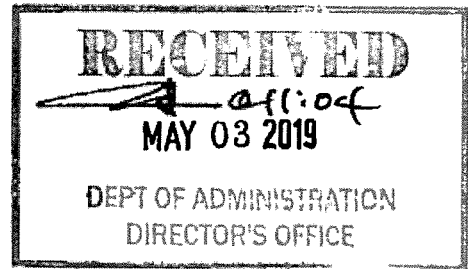
By:  FOR:  
\_\_\_\_\_  
**JANICE M. CAMACHO**  
Assistant Deputy Attorney General

# **EXHIBIT 1**



TakeCare Insurance Company, Inc.  
P.O. Box 6578 Tamuning, Guam 96931  
Telephone: (671) 646-6956 Fax (671) 647-3551

May 3, 2019



**VIA HAND DELIVERY**

Mr. Edward M. Birn  
Director, Department of Administration;  
Chairperson, Government of Guam Negotiating Team; and  
Procurement Officer  
GOVERNMENT OF GUAM  
Suite 224, ITC Building  
590 S. Marine Corps. Drive  
Tamuning, Guam 96913

Re: **PROTEST BY TAKECARE INSURANCE COMPANY, INC. OF  
GOVERNMENT OF GUAM PROCUREMENT NO.: DOA/HRD-RFP-GHI-  
20-001**

Dear Mr. Birn:

TakeCare Insurance Company, Inc. ("TakeCare") is a prospective offeror intending to respond to Government of Guam Request for Proposal DOA/HRD-RFP-GHI-20-001 (the "RFP") for the Government of Guam Group Health Insurance Program ("Group Health Program"). (A copy of the RFP, including Exhibits, can be located online at the DOA website). This letter constitutes a formal protest of the RFP by TakeCare pursuant to 5 G.C.A. §5425 and 2 G.A.R. §9101 ("Protest").

TakeCare intended to submit a response to the RFP and to comply with Public Law 35-2 in reliance upon the inclusion of the private hospital in-network via a "rental, leased or wrapped network" previously contracted for through NetCare Life and Health Insurance Company's ("NetCare") network which includes the private hospital. This Protest is being filed within fourteen (14) days after TakeCare learned that the Guam Regional Medical City ("GRMC") took the position in an email to NetCare on May 1, 2019, that it would "not allow any other local health plan to access NetCare's in-network rates with GRMC" and that all "Guam-based health plans need to directly contract with GRMC for in-network rates." (Exhibit 1).

TakeCare's address is Baltej Pavilion, Suite 308, 415 Chalan San Antonio, Tamuning, Guam 96913. Arvin Lojo is TakeCare's Health Plan Administrator and the individual designated as the contact person to communicate with the Government of Guam on TakeCare's proposal in response to the RFP. Mr. Lojo's email address is [arvin.lojo@takecareasia.com](mailto:arvin.lojo@takecareasia.com) and his telephone number is 300-7147. TakeCare is being represented by Louie Yanza, Esq., whose email address is [lyanza@jurisguam.com](mailto:lyanza@jurisguam.com). Any communications to Mr. Lojo should also be sent to Mr. Yanza. Pursuant to 2 G.A.R. §9101(c)(1), this Protest is being filed in duplicate.

## FACTUAL BACKGROUND

On February 27, 2019, Guam's Legislature passed Bill No. 30-35, which bill was subsequently approved by the Governor on March 7, 2019, becoming Public Law 35-2 ("PL 35-2"). (Exhibit 2). PL 35-2 added a new Section 4302(c)(12) to Chapter 4, Title 4, Guam Code Annotated, to read: "Beginning with the negotiations for Fiscal Year 2020, the negotiating team *shall* consider only those companies or legal entities providing or applying to provide health insurance or the provision of health care to the Government of Guam whose in-network coverage includes all public and private hospitals operating in Guam." (Exhibit 2). The only private hospital in Guam is GRMC.

Both before and after the passage of PL 35-2, TakeCare and GRMC had engaged in negotiations for a Provider Services Agreement. On March 14, 2019, TakeCare sent a letter to GRMC confirming TakeCare's March 12, 2019, email request for a conference call "to receive from GRMC a Provider Service Agreement as well as GRMC's charge master rates for services equal (or better) as it relates to agreement language and terms as well as underlying rates for GRMC services as provided to SelectCare or any other Guam health insurance carrier." (Exhibit 3). The March 14, 2019, letter was TakeCare's formal request for such a Provider Service Agreement from GRMC "specifically as it relates to the upcoming issuance of the FY2020 Government of Guam Request for Proposal for the Government Group Health Insurance Program." (Exhibit 3).

On March 18, 2019, TakeCare's Chief Executive Officer ("CEO") had a conference call with representatives of GRMC. In this conference call, TakeCare's CEO requested that TakeCare be provided with a template for a contract between TakeCare and GRMC wherein TakeCare would be provided with the best service rates between GRMC and any other local insurer so that TakeCare could have this for consideration in response to the upcoming Government of Guam ("GovGuam") RFP. GRMC responded by stating that in addition to TakeCare negotiating a contract that applied to GovGuam members, GRMC also wanted to negotiate a contract with TakeCare that required its commercial and federal plans to include GRMC in-network. TakeCare requested that GRMC and TakeCare move forward with an agreement at this time for the GovGuam plan only, which is all that PL 35-2 required. GRMC did not agree during the conference call to provide TakeCare with a contract only for the GovGuam plan. Instead, the conference call ended with GRMC stating that it would memorialize the conversation in a letter.

GRMC confirmed the position it took during the conference call in a letter to TakeCare dated March 21, 2019. (Exhibit 4). The letter reiterated GRMC's conditions of "Full Network Access" and payment of TakeCare members' "Outstanding Claims" before an agreement with TakeCare for its GovGuam members could be reached with GRMC. (Exhibit 4).

On March 27, 2019, GovGuam issued the RFP. Exhibit D to the RFP lists the GovGuam Requested Benefits in detail. The Tab of Exhibit D to the RFP which is entitled, "Medical Network Analysis" states in pertinent part:

"With regard to PL 35-2, signed in March 2019, offerors must provide a network that includes all public (excluding Naval Hospital Guam) and private hospitals on Guam, considered the "broad" network for purposes of this RFP.



Additionally, offerors are allowed the opportunity to include, as an option, a 'high-performance/narrow' network, to stand along-side the 'broad' network as an option for enrollees to elect. If you choose to offer such a network, please complete the additional column provided." (Exhibit 5).

The instructions for Exhibit 5 further require the offeror to indicate for each provider identified by the RFP whether the offeror has a direct contract with the provider; a "rental, leased or wrapped network" with the provider; or if the provider is out-of-network. (Exhibit 5).

On March 29, 2019, GRMC provided TakeCare with the proposed terms of an agreement and rates attached to a cover letter. (Exhibit 6). The second and third paragraphs of the March 29, 2019, cover letter continue to condition any agreement with TakeCare as follows:

"Please note that we are offering for your consideration an approval our most economical and beneficial provider agreement. However, as stated in my earlier letter, this agreement must include all TakeCare accounts to include GovGuam, Federal, associations, and commercial/private companies.

Further to our discussion, we must address and resolve the 'outstanding Takecare [sic] patient bills' for services received by your members. As I stated in our discussion, resolution of the 'outstanding Takecare [sic] patient bills' is a necessary component of this agreement moving forward." (Exhibit 6).

Attached is the Rate Sheet which accompanied the Provider Services Agreement GRMC sent to TakeCare. (Exhibit 7). Also attached is a comparison of the rates that GRMC currently charges NetCare and the rates proposed to TakeCare. (Exhibit 8). GRMC offered substantially higher rates to TakeCare. And, TakeCare suspects that the rates GRMC has offered to SelectCare are not the same as those offered to either TakeCare or NetCare.

On April 3, 2019 TakeCare sent a letter explaining to GRMC that it did not want to "commingle" GovGuam matters with those relating to federal and commercial provider groups. (Exhibit 9). In this letter, TakeCare noted that GRMC's "demands related to all other lines of TakeCare's business and other issues is an unfair overreach on GRMC's part." (Exhibit 9). TakeCare requested that GRMC focus on PL 35-2, which required that offerors for the GovGuam health insurance contract "include GRMC in-network . . . and not any other of TakeCare's lines of business." (Exhibit 9). GRMC responded with an email message to TakeCare on April 9, 2019, stating that it was "open to negotiating with you with the goal of reaching a mutually beneficial providers services agreement." (Exhibit 10). The pertinent part of the April 9, 2019, message stated:

We hope that you reconsider your position and I will again re-state our position that the following points are conditions of our proposed Provider Services agreement:

- 1) TakeCare will include GRMC in all its lines of business to include Government of Guam, Federal employees' program and private/commercial
- 2) TakeCare will not sell GRMC in-network as a buy up option
- 3) TakeCare will settle the outstanding billed charges for services rendered to TakeCare members

As we count down the days to the submission of TakeCare's response to the Government of Guam RFP, we remain open to negotiating with you with the goal of reaching a mutually beneficial provider services agreement." (Exhibit 10) (Emphasis original).

Thereafter, on April 16, 2019, representatives of GRMC and TakeCare had a meeting to continue negotiations. During the meeting, GRMC reiterated that it would enter into a provider agreement with TakeCare relating to GovGuam only if GRMC was also in-network for TakeCare's commercial and federal members. In addition, GRMC again requested that TakeCare pay for services for TakeCare members that TakeCare had previously disputed and which TakeCare had no legal obligation to pay for various reasons.

TakeCare has been unable to negotiate reasonable terms of a direct contract with GRMC for GovGuam members due to GRMC's extortionate demands which are completely unrelated to the Group Health Program. Nonetheless, TakeCare intended to utilize a previously arranged Network Access Services Agreement with NetCare; which arrangement allowed NetCare to lease to TakeCare in-network access to GRMC. (Exhibits 11 and 12). On April 30, 2019, TakeCare orally informed NetCare of its activation of the previously executed Network Access Services Agreement, and gave formal notice of the same on May 1, 2019. (Exhibit 13). On that same day, May 1, 2019, GRMC informed NetCare via an email that it would "not allow any other local health plan to access NetCare's in-network rates with GRMC" and that all "Guam-based health plans need to directly contract with GRMC for in-network rates." (Exhibit 1). Thus, TakeCare learned that GRMC was not going to honor the lease of NetCare's network to TakeCare and would insist that it have a "direct contract" with GRMC for in-network rates.

## DISCUSSION

### **A. PL 35-2 and the RFP Are An Improper Delegation of Authority.**

TakeCare sought to comply with PL 35-2. The proposal by GRMC to TakeCare for GovGuam in-network was expressly conditioned upon TakeCare's inclusion of TakeCare's commercial and federal members also being in-network for health care services at GRMC. GRMC also insisted that none of TakeCare's plans include a buy up option. In addition, as a condition for entering into an agreement with TakeCare, GRMC wrongfully demanded that TakeCare pay for past services to its members, which TakeCare has no legal obligation to pay on the grounds that: (a) TakeCare had no Direct Payer Agreement with GRMC at the time of such alleged services; (b) Many of the alleged services were not covered by the terms of any of TakeCare's plans; and, (c) Even if TakeCare had a Direct Payer Agreement with GRMC, and even if the alleged services had been covered, the GRMC claims submitted to TakeCare patients/TakeCare were time-barred under the provisions of Guam's Prompt Payment Act and/or the statute of limitations. In simple terms, GRMC is holding up TakeCare and preventing it from qualifying to respond to the RFP by demanding that TakeCare agree to include GRMC in-network for all of its members, including its commercial and federal members. GRMC is further insisting that TakeCare pay for claims that it does not owe. All of these extortionate demands must be met before GRMC will enter into a contract with TakeCare relating to GovGuam members.

If offerors are required by PL 35-2 to contract with GRMC in order to submit a proposal in response to the RFP, GRMC can completely control the outcome of the RFP process by eliminating any prospective offeror by simply refusing to have a network relationship with that insurer. That is exactly what has happened. GRMC has refused to enter into a contract with TakeCare relating only to GovGuam members. Instead, GRMC has wrongfully used the leverage given to it by PL 35-2 to insist that TakeCare also enter into a contract with GRMC in-network for all of TakeCare's lines of business, including commercial and federal members. GRMC has also wrongfully used its perceived leverage from PL 35-2 to demand that TakeCare pay amounts to GRMC that TakeCare does not legally owe. Lastly, GRMC proposes to charge TakeCare rates that are higher than the ones it charges other carriers.

GRMC is maliciously using PL 35-2 and the RFP to eliminate or disadvantage TakeCare as an offeror by demanding unreasonable conditions, and contract terms including higher rates. This scenario was predicted by DOA itself when it previously opposed Bill No. 21-34 that required offerors to include GRMC in their networks. In Legislative testimony on Bill No. 21-34, DOA noted that requiring offerors to include GRMC in their networks would "force carriers to accept whatever fees are established" by GRMC and those that refused to do so "would be disqualified from bidding on the Government's health insurance contract since they would not have the private hospital as one of their providers." (Exhibit 14 at 3). DOA's fears about GRMC making unreasonable demands on offerors were well founded. SelectCare and TakeCare also predicted that requiring offerors to include GRMC in their networks would allow GRMC to make unreasonable demands on prospective offerors. (Exhibit 14).

The actions of GRMC clearly prove that the practical effect of PL 35-2 and the RFP has been to delegate the authority to GRMC to determine who can participate in the GovGuam RFP process. GRMC can make demands upon prospective offerors like it has done to TakeCare that are not required by PL 35-2, but which are designed to disqualify TakeCare. Consequently, PL 35-2 is an improper delegation of executive authority to allow a private entity, such as GRMC, to determine what entities may participate in and ultimately win a contract with the government. *See e.g. G. Curtis Martin Investment Trust v. Clay*, 266 S.E.2d 82 (S.C. 1980)(It is an improper delegation of power to allow a private entity to control who participates in government owned sewer system); *Texas Boll Weevil Eradication Foundation v. Lewellen*, 952 S.W.2d 454 (Tex. 1997)(It is an unconstitutional delegation of authority to allow a private foundation whose members have a pecuniary interest to assess costs against other private companies); and, *People v. Pollution Control Board*, 404 N.E. 2d 351 (Ill. App. 3d 1980)(Allowing private automobile association to determine which events are subject to regulations is an improper delegation of legislature authority).

#### **B. PL 35-2 and the RFP Are Inconsistent With The Organic Act.**

The Organic Act requires that GovGuam "establish, maintain and operate" a public "hospital." U.S. Code 48 § 1421g(a). The revenues received from health insurers are essential in order to "maintain" Guam Memorial Hospital ("GMH"), which, even with those revenues, is in a financial crisis. Every dollar paid by GovGuam to GRMC is a dollar that is not paid to GMH. The government's ability to "maintain and operate" GMH will be significantly impaired if insurance carriers under the Group Health Program are required to include GRMC in-network, not as an option, but as an absolute requirement.

#### **C. PL 35-2 and the RFP Eliminate "Competition" and Deny Equal Protection.**

Guam law mandates that RFPs shall “foster effective broad-based **competition**” and “encourage **competition**.” 5 G.C.A §§ 5001(6) and 5265; *See also* 2 GAR Div. 4 § 1102(5). According to the Merriam-Webster dictionary, “competition” is defined as “the act or process of trying to get or win something that someone else is also trying to get or win.” Thus, by definition, “competition” requires that there be more than one competitor. Otherwise, you do not have any “competition.”

There are only two current health insurers for the Government of Guam: TakeCare and SelectCare. If TakeCare is disqualified from submitting a proposal because GRMC refuses to negotiate in good faith with TakeCare, or otherwise prevents TakeCare from including GRMC in its network, then SelectCare will be the only health insurer that can be awarded the government health insurance contract. Any statute or RFP that in effect results in only one qualified offeror being able to submit a proposal does not “encourage competition.” To the contrary, it eliminates competition altogether, which is a clear violation of Guam law. Under the current facts, TakeCare (and any other carrier that may be treated the same way) is effectively discriminated against by GRMC and is denied equal protection under the law.

#### **D. PL 35-2 and the RFP Do Not Create A “Level Playing Field.”**

Guam Procurement Law expressly requires that an “RFP shall call for a plan that provides a **level playing field** with current and future private insurers . . .” 4 G.C.A. § 4302(c)(2). It is undisputed that a private hospital like GRMC charges different rates to different health care providers. As noted above, the Comparative Analysis of proposed TakeCare rates and the current NetCare rates (Exhibit 8) show that GRMC wrongfully insisted that TakeCare agree to pay rates substantially higher than GRMC is requiring for other health insurers. A law such as PL 35-2, as reflected in the RFP, which requires offerors to include a private entity in their network that is charging different rates to different health insurers violates Guam law because it creates an “unlevel playing field,” not a level playing field.

#### **E. PL 35-2 and the RFP Will Not Result In The “Lowest Cost Option.”**

The Provider Services Agreement proposed by GRMC on March 29 2019, included rates which GRMC claimed were their “most economical and beneficial.” (Exhibit 6). However, the rates proposed were exorbitant and were designed to place TakeCare at a disadvantage in its response to the RFP.

Guam law requires that an “RFP shall call for a plan that provides a **level playing field** with current and future private insurers . . .” 4 G.C.A. § 4302(c)(2). However, GRMC’s proposed Provider Services Agreement requested that TakeCare agree to pay rates that were substantially higher than it is requiring other insurers to pay. A level playing field does not by definition exist if GRMC charges different contracted health insurers different rates.

Guam law requires that an RFP result in the selection of the “most economical and beneficial” proposal, which “shall be defined as the lowest cost option of either the exclusive or non-exclusive proposal.” Public Law 34-83 Section 2, and codified as 4 G.C.A. § 4302(c)(2). GRMC’s fees are substantially higher than those of GMH. Moreover, unlike GMH, GRMC is a private entity that can raise its rates even higher at any time without the benefit of a public hearing or Legislative approval.

The higher fees for GRMC will be passed on to government employees in the form of higher premiums, even to those who will never use the services of GRMC. This is directly contrary to the intent of Section 4301(c)(2), which requires the "lowest cost option" for government health insurance. Instead of resulting in a health insurance contract with the "lowest cost option," requiring all offerors to include GRMC in their networks will cause health insurance premiums to sky rocket.

**F. PL 35-2 and the RFP Will Not "Maximize" GovGuam Purchasing Power.**

Guam law requires that a purchasing agency "maximize to the fullest extent practicable the purchasing value of public funds of the Territory." 5 G.C.A. § 5001(5) and 2 GAR Div. 4 § 1102(4). Therefore, when purchasing any service, a government purchasing agency must select the source for that service that is the most economical. The health care services at GMH are substantially more economical than those same services at GRMC. A statute or RFP that allows for the use of higher cost services at GRMC, instead of the lower cost services at GMH, is inconsistent with Guam law because it fails to "maximize to the fullest extent practicable the purchasing value of public funds of the Territory."

**G. PL 35-2 and the RFP Discriminate Against Other Private Clinics In Guam.**

Requiring that GRMC be in the network of offerors discriminates against other private health care providers and clinics in Guam. DOA itself admitted in Legislative Testimony regarding Bill No. 21-34 that any such requirement "violates the spirit and intent of the law as it would provide special recognition and treatment to the private hospital on Guam." (Exhibit 14 at 3). Moreover, DOA has stated on the record before the Guam Legislature that the government could not require that a health insurer have a specific private hospital or private clinic in network: "I don't believe you can name all the clinics and say, you must provide access to all of these hospitals." (Exhibit 15 at 7).

SelectCare agreed with DOA and said that requiring GRMC to be in the networks of offerors "discriminates against other medical providers that have also made investments on Guam but are not given the same type of advantages. (Exhibit 14).

**H. GRMC Is Already In-Network For Emergencies and Sole Source Situations.**

GRMC is already considered in-network of a government health insurer in order for government employees, retirees and dependents to have access to GRMC in emergency situations. The Emergency Medical Treatment and Labor Act (known as "EMTALA") explicitly forbids the denial of care to any patients in emergency situations. 42 U.S.C. § 1399dd. Thus, GRMC must provide care to patients in emergency situations regardless of whether the patient's health insurer has a direct contract with GRMC for its provider network.

Likewise, it is not necessary for GRMC to be in the network of a government health insurer in order for government employees, retirees and dependents to be treated at GRMC when the service available at GRMC is not otherwise available on Guam. The current GovGuam health care contracts (and all previous contracts) plainly state: "If a carrier does not contract with the provider of any sole source service in Guam, it must reimburse for the sole source provided by such Guam provider as if sole source provider were a participating provider."

## CONCLUSION

Based on the above, GRMC is using PL 35-2 and its application to the RFP as the basis for bad faith negotiations with TakeCare. Indeed, GRMC's demands to TakeCare are a clear illustration of the way PL 35-2 has imbued GRMC with an improper delegation of authority; the absolute ability to determine what insurance carriers will qualify to submit proposals in response to the RFP, and whether any such proposals will be made on a level playing field.

The RFP does not require an offeror to have a direct contract with the private hospital (GRMC) in order to include it in-network. The Tab of Exhibit D to the RFP which is entitled, "Medical Network Analysis" (Exhibit 5) expressly refers to a "rental, leased or wrapped network" as fulfilling this requirement. TakeCare procured such an agreement for a "rental, leased or wrapped network" to include GRMC in-network. Consequently, on April 30, 2019, TakeCare orally informed NetCare of its activation of the previously executed Network Access Services Agreement, and gave formal notice of the same on May 1, 2019. (Exhibit 14). However, GRMC was not satisfied with refusing to negotiate reasonably with TakeCare. It also saw fit to interfere with TakeCare's lease of NetCare's network. On May 1, 2019, GRMC informed NetCare via an email that it would "not allow any other local health plan to access NetCare's in-network rates with GRMC" and that all "Guam-based health plans need to directly contract with GRMC for in-network rates." (Exhibit 1). Thus, on May 1, 2019 TakeCare learned that GRMC was not going to honor the sublease of NetCare's contract and that TakeCare would have to have a "direct contact" with GRMC.

GRMC is subverting the intent of the RFP, and seeks to either disqualify or disadvantage TakeCare with higher rates, by informing NetCare that it would "not allow any other local health plan to access NetCare's in-network rates with GRMC" and that all "Guam-based health plans need to directly contract with GRMC for in-network rates." (Exhibit 1).

As can be seen from the April 9, 2019, email (Exhibit 10), not only did GRMC request that TakeCare include GRMC in-network for every line of business it sells as an express condition to a contract for the GovGuam plan, but GRMC requested that, "TakeCare will not sell GRMC in-network as a buy up option" for any of its lines of business. (Exhibit 11). (Emphasis original). PL 35-2 has incentivized a private company like GRMC to make such unreasonable and overreaching demands on another private entity (TakeCare) in violation of the Organic Act and the Procurement Law in order for the private entity (TakeCare) to do business with GovGuam.

Clearly TakeCare is unable to negotiate sensible terms of a direct contract with GRMC for GovGuam members due to GRMC's extortionate demands. The facts and discussion above leave TakeCare with no choice at this time other than to protest the RFP because of the practical application of PL 35-2 to it, and the delegation of authority PL 35-2 ceded to GRMC.

"If prior to award it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be: (a) cancelled; or (b) revised to comply with the law." 5 GCA Section 5451. For the reasons discussed herein, TakeCare respectfully submits that both PL 35-2 and its application to the RFP are in violation of the law. Consequently, the RFP must be cancelled and revised to comply with the Organic Act, the

Procurement law and other provisions of law which ensure competition, a level playing field, equal protection and other provisions of Guam law.

Pursuant to 2 G.A.R. §9101(f), TakeCare requests all documents related to the RFP, including, but not limited to the following: (a) the complete procurement file and all supporting documents; and (b) any audio records, minutes or notes of meetings of government officials or any member of the Negotiating Team.

Further, as provided by 2 G.A.R. §9101(c), TakeCare requests that the procurement represented by the RFP be stayed and that no award of a Group Health Program contract(s) be made until the resolution of this Protest. Finally, TakeCare reserves its right to supplement and modify the grounds for this Protest, as its investigation is ongoing.

Sincerely,

A handwritten signature in black ink, appearing to read 'JH', is written over a horizontal line.

JOSEPH HUSSLEIN  
President and CEO  
TAKECARE INSURANCE COMPANY

cc: Office of the Attorney General

# EXHIBIT 1





Joseph Husslein <husslein@gmail.com>

---

**FW: GRMC Agreement**

---

Jerry Crisostomo <jcrisostomo@netcarelifeandhealth.com>  
To: Joseph Husslein <husslein@gmail.com>, "Lojo, Arvin" <Arvin.Lojo@takecareasia.com>  
Cc: tmoylan@moylans.net

Tue, Apr 30, 2019 at 7:52 PM

Hi Joseph/Arvin,

We received the email message below this morning from GRMC...I responded requesting for a letter with their signature stating the below issue including the name of the 'local health plan'...I have yet to receive a response back but wanted to give you heads up on this latest development.

Let me know if you wish to discuss further...

Regards,

Jerry Crisostomo

---

**From:** Plinske, Eric L. [mailto:Eric.Plinske@GRMC.gu]  
**Sent:** Wednesday, May 01, 2019 8:03 AM  
**To:** Jerry Crisostomo; 'Bri Habin'  
**Cc:** Santos, Francis E.  
**Subject:** GRMC Agreement

Jerry,

Please note that GRMC will not allow any other local health plan to access NetCare's in-network rates with GRMC for their members. Guam-based health plans need to directly contract with GRMC for in-network rates.

Sincerely,

**Eric L. Plinske**

Vice President

Corporate Affairs

Guam Regional Medical City

133 Route 3

Dededo, GU 96929

Direct: (671) 645-5579

Office: (671) 645-5500, ext. 5579

Mobile: (671) 688-3571

Email: [eric.plinske@grmc.gu](mailto:eric.plinske@grmc.gu)

Website: [www.grmc.gu](http://www.grmc.gu)



# EXHIBIT 2

**I Niwa Yremai Singko No Likelolemasu Gaskan**  
**BILL STATUS**

| SESSION DATE | TITLE                                                                                                                                                                                                                                                                                                            | DATE PASSED | TRANSMITTED          | DUPLICATE | DATE SIGNED | REMARKS                                                               |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------------------|-----------|-------------|-----------------------------------------------------------------------|
| 2/25/19      | AN ACT TO ADD A NEW § 4302(I)(1) TO ARTICLE 3 OF CHAPTER 4, TITLE 4, GUAM CODE ANTI-DOTATED, RELATIVE TO REQUIRING THAT ALL PRIVATE HOSPITALS BE COVERED UNDER THE GOVERNMENT OF GUAM HEALTH INSURANCE CONTRACT.                                                                                                 | 2/27/19     | 2/27/19<br>5:53 p.m. | 3/18/19   | 3/7/19      | Supplemental Document to the Committee Report<br>3/28/19<br>5:11 p.m. |
| 2/25/19      | AN ACT TO ADD A NEW § 4302(I)(1) TO ARTICLE 3 OF CHAPTER 4, TITLE 4, GUAM CODE ANTI-DOTATED, RELATIVE TO REQUIRING CONSIDERATION OF ONLY THOSE COMPANIES OR ENTITIES PROVIDING HEALTH INSURANCE TO THE GOVERNMENT OF GUAM WHOSE IN NETWORK COVERAGE INCLUDES ALL PUBLIC AND PRIVATE HOSPITALS OPERATING IN GUAM. | 2/27/19     | 2/27/19<br>5:53 p.m. | 3/18/19   | 3/7/19      | Supplemental Document to the Committee Report<br>3/28/19<br>5:11 p.m. |

Tomasa Maida Barnes

**30-35 (CONT)**  
 As amended by the  
 Committee on Public  
 Accounts, and the  
 Committee on Public  
 Resources, and the  
 Guam Building

Public Accounts, and the  
 Committee on Public  
 Resources, and the  
 Guam Building

Committee on Public  
 Accounts, and the Guam  
 Building

As amended by the Committee  
 on Public Accounts, Human  
 Resources, and the Guam Building

Request: 2/2/19  
 Fiscal Note: 2/28/19  
 As Amended  
 Fiscal Note: 2/28/19  
 Amended

Received: 3/7/19  
 Mess and Comm. Doc. No.  
 3561-19-0211.

UFISINAN I MAGA'HAGA  
OFFICE OF THE GOVERNOR



LOURDES A. LEON GUERRERO  
MAGA'HAGA • GOVERNOR

JOSHUA F. TENORIO  
SIGUNDO MAGA'LÄHI • LIEUTENANT GOVERNOR

March 7, 2019

Honorable Telen Cruz Nelson  
Acting Speaker  
*I Mina'trentai Singko Na Liheslaturan Guåhan*  
Guam Congress Building  
163 Chañan Santo Papa  
Hagåtña, Guam 96910

356L-19-0211  
Speaker Tina Rose Muña Barnes

MAR 07 2019  
Time 3:07 PM  
Received By: [Signature]

Dear Madame Speaker:

Today, I signed Bill No. 30-35 (COR), "An Act to Add a New § 4302(c)(12) to Article 3 of Chapter 4, Title 4, Guam Code Annotated, Relative to Requiring Consideration of Only Those Companies or Entities Providing Health Insurance to the Government of Guam Whose In-Network Coverage Includes All Public and Private Hospitals Operating in Guam," (the "Act") into law as **Public Law 35-2**.

An emergency is a serious, unexpected, and often dangerous situation requiring immediate action. In terms of health care, a successful response to a medical emergency is based not only on access, but also health provider network adequacy. To be adequate, the Government of Guam's health insurance network must provide Government of Guam employees with the right care, at the right time, without having to travel needlessly to seek an in-network hospital. We consistently ask and depend on our Government of Guam employees to serve during emergencies when our island calls. This Act reminds the Government to serve in return and to help its employees prepare for a medical emergency when they and their families are in need.

The Government of Guam employees should be allowed to expect that their health insurance cover quality health care at whichever hospital, public or private, they may unexpectedly find themselves on Guam. By signing this bill, I join the Legislature in making this expectation a reality.

Senseramente,

LOURDES A. LEON GUERRERO  
*Maga'hagan Guåhan*  
Governor of Guam

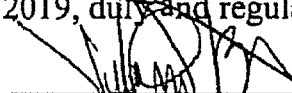
2019 MAR 7 PM 3:25

0211

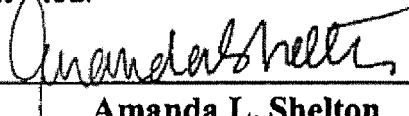
**I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN**  
**2019 (FIRST) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN**

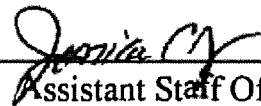
This is to certify that **Bill No. 30-35 (COR)**, "AN ACT TO *ADD* A NEW § 4302(c)(12) TO ARTICLE 3 OF CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING CONSIDERATION OF ONLY THOSE COMPANIES OR ENTITIES PROVIDING HEALTH INSURANCE TO THE GOVERNMENT OF GUAM WHOSE IN-NETWORK COVERAGE INCLUDES ALL PUBLIC AND PRIVATE 2019 HOSPITALS OPERATING IN GUAM," was on the 27<sup>th</sup> day of February 2019, duly and regularly passed.

  
\_\_\_\_\_  
**Tina Rose Muña Barnes**  
Speaker


Attested:

  
\_\_\_\_\_  
**Amanda L. Shelton**  
Legislative Secretary

-----  
This Act was received by *I Maga'hågan Guåhan* this 27<sup>th</sup> day of February  
2019, at 5:55 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

  
\_\_\_\_\_  
**Lourdes A. Leon Guerrero**  
*I Maga'hågan Guåhan*

Date: 3/7/2019

Public Law No. 35-2

**I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN**  
**2019 (FIRST) Regular Session**

**Bill No. 30-35 (COR)**

As amended by the Committee on Public Accountability,  
Human Resources and the Guam Buildup;  
and further amended on the Floor.

Introduced by:

Tina Rose Muña Barnes  
William Mendiola Castro  
Régine Biscoe Lee  
Kelly Marsh (Taitano), PhD  
James C. Moylan  
Louise B. Muña  
Telena Cruz Nelson  
Sabina Flores Perez  
Clynton E. Ridgell  
Joe S. San Agustin  
Amanda L. Shelton  
Telo T. Taitague  
Jose "Pedo" Terlaje  
Therese M. Terlaje  
Mary Camacho Torres

**AN ACT TO ADD A NEW § 4302(c)(12) TO ARTICLE 3 OF  
CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED,  
RELATIVE TO REQUIRING CONSIDERATION OF  
ONLY THOSE COMPANIES OR ENTITIES PROVIDING  
HEALTH INSURANCE TO THE GOVERNMENT OF  
GUAM WHOSE IN-NETWORK COVERAGE INCLUDES  
ALL PUBLIC AND PRIVATE HOSPITALS OPERATING  
IN GUAM.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new § 4302(c)(12) is *added* to Chapter 4 of Title 4, Guam Code

3 Annotated, to read:

1           “(12) Beginning with the negotiations for Fiscal Year 2020, the  
2 Negotiating team *shall* consider only those companies or other legal entities  
3 providing or applying to provide health insurance or the provision of health  
4 care to the Government of Guam whose in-network coverage includes all  
5 public and private hospitals operating in Guam.”

6           **Section 2. Severability.** If any provision of this Act or its application to any  
7 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*  
8 *not* affect other provisions or applications of this Act that can be given effect without  
9 the invalid provision or application, and to this end the provisions of this Act are  
10 severable.



# EXHIBIT 3



TakeCare Insurance Company, Inc.  
P.O. Box 6579 Tamuning, Guam 96931  
Telephone: (671) 646-6956 fax (671)  
647-3551

March 14, 2019

**VIA HAND DELIVERY and VIA EMAIL**

Mr. Francis E. Santos  
Senior Vice-President/Strategic Planning & Business Development  
GUAM REGIONAL MEDICAL CITY  
133 Route 3, Dededo, Guam 96912

Re: **Offer to TakeCare for GRMC Services**

Dear Mr. Santos:

This letter is in response to your email dated March 13, 2019 in reply to my email dated March 12 related to your recent previous emails and calls. The purpose of my March 12 email requesting a teleconference with yourself or appropriate GRMC decision makers on March 14th, is to express TakeCare's desire to receive from GRMC a Provider Service Agreement as well as GRMC charge master rates for services that are equal (or better) as it relates to agreement language and terms as well as underlying rates for GRMC services as provided to SelectCare or any other Guam health insurance carrier.

GRMC providing such is to be in compliance with recent media statements it made after the passage of Bill 30-35 into PL 35-2. Specifically, *"...Francis Santos reached out to management at TakeCare...in hopes of reaching an agreement that is less or equal to what..currently paying for healthcare that includes GRMC"*.

As importantly, with GRMC providing such, it streamlines the process for the parties to reach a workable arrangement for such GRMC services – specifically as it relates to the upcoming issuance of the FY2020 Government of Guam Request for Proposal for the Government of Guam Group Health Insurance Program ("RFP").

With the above in mind, TakeCare formally requests to receive the above from GRMC no later than 3pm, Friday, March 29, 2019, CHst. This may be sent via hard copy to TakeCare's Baltej Administration office and soft copy via email to [joseph.husslein@takecareasia.com](mailto:joseph.husslein@takecareasia.com).

For TakeCare's part, we will promptly review the above information provided by GRMC and provide any initial clarification as may be necessary. Moreover, TakeCare will consider the information provided by GRMC consistent with PL 35-2 and other applicable statutes as well as the issuance and our review of the RFP. Upon doing so, depending on TakeCare's intention to bid on the RFP, we will affirm or clarify such in a timely matter with GRMC.

Should you have any questions, please do not hesitate to contact me at (671) 646-6956 x7148 or via cell at (808) 738-6941 as well as email.

Sincerely,



Joseph Husslein

cc – Dr. Mike Cruz, President/CEO, GRMC

# EXHIBIT 4



March 21, 2019

Mr. Joseph Husslein, President  
Takecare Insurance Company  
Tamuning, Guam

**Re: Response to Takecare Letter of March 14**

Dear Mr. Husslein:

This letter will confirm our telephone conversation on March 18, 2019.

To summarize our discussion, we addressed the following issues:

- **Proposed Agreement between GRMC and Takecare**
- **In-Network Access for all Takecare members including GovGuam, Federal & Commercial/Private**
- **Outstanding bills for services rendered to Takecare members**

**Proposed Agreement**

We will provide a template agreement with proposed negotiated rates for services provided at GRMC.

**Full Network Access**

We discussed that we should focus our efforts on reaching an agreement for the Government of Guam group health program. While we agree with this request, we stand firm in our desire that when an agreement is reached, our agreement will be offered to all your groups to include, the Government of Guam (GovGuam) group health insurance program, the Federal employee's program and the commercial/private sector plans. It is our intention that TakeCare's GovGuam In-network access will take effect on 10/1/2019, while in-network access for TakeCare's commercial/private and Federal market groups will take effect on 1/1/2020.

**Outstanding Claims**

Again, notwithstanding our mutual goal of reaching a provider service agreement, we remain firm that the "outstanding" bills for services rendered to Takecare members be paid through a reasonable settlement between GRMC and Takecare.

The purpose of this letter is to memorialize our telephone discussion. As I offered in our discussion, our proposed agreement will be sent to you by the close of business on March 22, 2019.

Should you have questions or concerns, please do not hesitate to contact me.

Regards,



Francis E. Santos

# EXHIBIT 5

# Medical Network Analysis

- Bidder Instructions:** Complete the shaded cells for your proposed network. If you are bidding multiple networks, add a column for each network
- Please input a "Y", "L", or "N" indicator in the match column requested for each provider line
  - Indicate "Y" if you matched on that provider and the provider is directly contracted in the network you are proposing for
  - Indicate "L" if the provider is in a rental, leased, or wrap network.
  - Indicate "N" if the provider is out-of-network and for providers who are not formally contracted into the network and/or who would not be listed in network directories but who offer some type of discounting from fees whether by a limited contract or by negotiation after incurred.

With regard to PL 35-2, signed in March 2019, offerors must provide a network that includes all public (excluding Naval Hospital Guam) and private hospitals on Guam, considered the "broad" network for purposes of this RFP.

Additionally, offerors are allowed the opportunity to include, as an option, a "high-performance/narrow" network, to stand along-side the "broad" network as an option for enrollees to elect. If you choose to offer such a network, please complete the additional column provided.

OPTIONAL

| Top Network Hospitals & Surgical Centers Across all current carriers                                                        |                                           |             | Proposed Network<br>Enter Broad Network Name Here            | Proposed Network<br>Enter High-Performance Network Name Here             |
|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------|--------------------------------------------------------------|--------------------------------------------------------------------------|
| TIN                                                                                                                         | Provider Name                             | Location    | Is this hospital in-<br>Network for your<br>"Broad" network? | Is this hospital in-<br>Network for your "High-<br>Performance" network? |
| 660768469                                                                                                                   | GHD dba Guam Regional Medical City (GRMC) | Guam        |                                                              |                                                                          |
| 960001695                                                                                                                   | GUAM MEMORIAL HOSPITAL                    | Guam        |                                                              |                                                                          |
| 7074202                                                                                                                     | ST LUKES MEDICAL CENTER GLOBAL CITY       | Philippines |                                                              |                                                                          |
| 000000027                                                                                                                   | TAKECARE PHILIPPINES - HOSPITALS          | Philippines |                                                              |                                                                          |
| 660576790                                                                                                                   | GUAM SURGICENTER                          | Guam        |                                                              |                                                                          |
|                                                                                                                             | GUAM SPECIALIST GROUP PLLC                | Guam        |                                                              |                                                                          |
| 912151670                                                                                                                   | STRAUB CLINIC & HOSPITAL                  | Hawaii      |                                                              |                                                                          |
| 660551190                                                                                                                   | ISLAND SURGICAL CENTER, P.C.              | Guam        |                                                              |                                                                          |
| 954457756                                                                                                                   | CEDARS-SINAI MEDICAL GROUP                | California  |                                                              |                                                                          |
| 980001217                                                                                                                   | U.S. NAVAL HOSPITAL                       | Guam        |                                                              |                                                                          |
|                                                                                                                             | Hafa Adai Specialist Group                | Guam        |                                                              |                                                                          |
| 911352172                                                                                                                   | TACOMA GENERAL ALLENMORE                  | California  |                                                              |                                                                          |
| 660553954                                                                                                                   | ISLAND EYE CENTER                         | Guam        |                                                              |                                                                          |
| 956006143                                                                                                                   | UCLA MEDICAL CENTER                       | California  |                                                              |                                                                          |
| 951656366                                                                                                                   | GOOD SAMARITAN HOSPITAL                   | California  |                                                              |                                                                          |
| 110101002                                                                                                                   | TAIWAN ADVENTIST HOSPITAL                 | Taiwan      |                                                              |                                                                          |
| 660774364                                                                                                                   | COMMONWEALTH HEALTHCARE CORPORATION       | Salpan      |                                                              |                                                                          |
| 860800150                                                                                                                   | MAYO CLINIC ARIZONA                       | Arizona     |                                                              |                                                                          |
| 390907740                                                                                                                   | ST FRANCIS HOSPITAL, INC                  | Minnesota   |                                                              |                                                                          |
| Please outline any other major facility differences of your networks not addressed by this list of top utilized facilities: |                                           |             |                                                              |                                                                          |

# EXHIBIT 6



March 29, 2019

Mr. Joseph Husslein  
President  
Takecare Insurance  
Tamuning, Guam

**Re: Takecare Proposal**

Dear Mr. Husslein:

This letter will serve as our proposal for a provider agreement between Takecare Insurance and Guam Regional Medical City (GRMC). Our proposed agreement is attached for your review.

Please note that we are offering for your consideration and approval our most economical and beneficial provider agreement. However, as stated in my earlier letter, this agreement must include all Takecare accounts to include GovGuam, Federal, associations and commercial/private companies.

Further to our discussion, we must address and resolve the "outstanding Takecare patient bills" for services received by your members. As I stated in our discussion, resolution of the "outstanding Takecare patient bills" is a necessary component of this agreement moving forward.

Should you have questions or concerns, please feel free to call me.

Regards,



Francis Santos

attachment



# EXHIBIT 7

**EXHIBIT "B"**

**RATE REIMBURSEMENT**

| <b>Facility/Service/Type</b>                                                                                 | <b>Per Diem Rate</b>                      |
|--------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| Medical Surgical Days                                                                                        | \$2,652.25                                |
| Surgical 1 <sup>st</sup> Day                                                                                 | \$3,819.24                                |
| Surgical Subsequent Days                                                                                     | Level of Care                             |
| Adult ICU Days                                                                                               | \$3,978.38                                |
| Telemetry Days                                                                                               | \$3,677.10                                |
| SNU Level of Care Days                                                                                       | \$700.00                                  |
| Observation Services                                                                                         | \$74.26 per hour                          |
| All other Inpatient Days not Listed                                                                          | 45% of billed charges                     |
| <b>Outlier Provisions</b>                                                                                    | <b>Rate</b>                               |
| Level I – Threshold                                                                                          | > \$75K in billed charges                 |
| Level I – Reimbursement                                                                                      | 45% of billed charges                     |
| Level I – Base                                                                                               | First Dollar                              |
| <b>Outpatient Services</b>                                                                                   | <b>Rate</b>                               |
| Surgeries                                                                                                    | 45% of billed charges                     |
| Unlisted Surgery Procedures                                                                                  | 45% of billed charges                     |
| Multiple Procedures                                                                                          | 45% of billed charges                     |
| Emergency Room Services                                                                                      | 45% of billed charges                     |
| Laboratory Services                                                                                          | 45% of billed charges                     |
| Radiology Services                                                                                           | 45% of billed charges                     |
| IV Therapy Services                                                                                          | 45% of billed charges                     |
| Non-Routine Supplies                                                                                         | 45% of billed charges                     |
| All Other Outpatient Services                                                                                | 45% of billed charges                     |
| Pharmacy Drugs                                                                                               | 45% of billed charges                     |
| HBOT CPT G0277 (each 30 minutes)                                                                             | \$172.13                                  |
| Urgent Care Services (excluding IV & IM infusions)                                                           | 45% of billed charges                     |
| <b>Inpatient &amp; Outpatient Exclusions</b>                                                                 | <b>Rate</b>                               |
| Implantable Devices; prosthetics & orthotics; blood administration, processing, and storage.                 | 45% of billed charges                     |
| Pharmaceuticals (Administered drug charges greater than or equal to \$1,000 per day for the same drug)       | 45% of billed charges                     |
| Non-Routine Supplies                                                                                         | 45% of billed charges                     |
| <b>Professional Fees</b>                                                                                     | <b>Rate</b>                               |
| Anesthesia Conversion Factor                                                                                 | \$55 per unit                             |
| Emergency                                                                                                    | 170% of prevailing MPFS Non-Facility rate |
| Urgent Care                                                                                                  | 150% of prevailing MPFS Non-Facility rate |
| Radiological                                                                                                 | 150% of prevailing MPFS Non-Facility rate |
| All Other Specialties                                                                                        | 150% of prevailing MPFS Non-Facility rate |
| HBOT CPT 99183                                                                                               | \$290.70                                  |
| Non-Listed Codes                                                                                             | 45% of billed charges                     |
| <b>Cardiac Case Rates</b>                                                                                    | <b>Rate</b>                               |
| <b>Cardiac Surgery</b>                                                                                       | <b>\$44,557.80</b>                        |
| - Includes 7-day hospital stay and anything in excess of 7 days will be paid at level of care per diem rate. |                                           |

|                                                                                                                                                                                                                                                                                                  |                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| - Includes all professional fees and anesthesia                                                                                                                                                                                                                                                  |                    |
| - Drug charges greater than or equal to \$1,000 per day for the same drug are excluded and paid at 45% of billed charges.                                                                                                                                                                        |                    |
| - Includes take back to OR for any reasons related to primary surgery within 7-day hospital stay, but excludes surgeries not related to primary surgery that will be paid at 45% of billed charges for OR time plus surgical and anesthesia professional fees at 150% of MPFS Non-Facility rate. |                    |
| - Includes one follow-up visit by post-operative physician services within 90 days from surgery.                                                                                                                                                                                                 |                    |
| - Valves, pacemakers and AICDs are excluded and paid at 45% of billed charges.                                                                                                                                                                                                                   |                    |
| - Blood and blood products are excluded and paid at 45% of billed charges.                                                                                                                                                                                                                       |                    |
| - Non-routine supplies are excluded and paid at 45% of billed charges.                                                                                                                                                                                                                           |                    |
| <b>Diagnostic Cardiac Catheterization</b>                                                                                                                                                                                                                                                        | <b>\$8,404.80</b>  |
| - Includes no more than 4 diagnostic cardiac catheters. Any more than 4 catheters shall be paid at 45% of billed charges.                                                                                                                                                                        |                    |
| - Includes one (1) observation day in Telemetry. Any additional medically necessary days shall be paid at the level of care per diem rate.                                                                                                                                                       |                    |
| - Includes all professional fees and anesthesia                                                                                                                                                                                                                                                  |                    |
| - Includes one follow-up visit by post-operative physician services within 90 days from surgery.                                                                                                                                                                                                 |                    |
| <b>Angioplasty/Stent (no cardiac catheterization)</b>                                                                                                                                                                                                                                            | <b>\$13,657.80</b> |
| - Includes one (1) stent. Additional stents beyond 1 shall be paid at 45% of billed charges.                                                                                                                                                                                                     |                    |
| - Includes all professional fees and anesthesia                                                                                                                                                                                                                                                  |                    |
| - Includes observation stay or up to 2 days in either ICU or Telemetry. Any additional medically necessary days shall be paid at the level of care per diem rate.                                                                                                                                |                    |
| - Includes one follow-up visit by post-operative physician services within 90 days from surgery.                                                                                                                                                                                                 |                    |
| <b>Angioplasty/Stent (with cardiac catheterization)</b>                                                                                                                                                                                                                                          | <b>\$18,910.80</b> |
| - Includes one (1) stent. Additional stents beyond 1 shall be paid at 45% of billed charges.                                                                                                                                                                                                     |                    |
| - Includes all professional fees and anesthesia                                                                                                                                                                                                                                                  |                    |
| - Includes no more than 4 diagnostic cardiac catheters. Any more than 4 catheters shall be paid at 45% of billed charges.                                                                                                                                                                        |                    |
| - Includes observation stay or up to 2 days in either ICU or Telemetry. Any additional medically necessary days shall be paid at the level of care per diem rate.                                                                                                                                |                    |
| - Includes one follow-up visit by post-operative physician services within 90 days from surgery.                                                                                                                                                                                                 |                    |

|                                                                                                                                                                         |                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| <b>Pacemaker / AICD</b>                                                                                                                                                 | <b>\$5,778.30</b>  |
| - Includes all professional fees and anesthesia                                                                                                                         |                    |
| - Excludes pacemaker and AICD, which shall be paid at 45% of billed charges.                                                                                            |                    |
| - Includes observation stay or 1 day in either ICU or Telemetry. Any additional medically necessary days beyond 1 day shall be paid at the level of care per diem rate. |                    |
| - Includes one follow-up visit by post-operative physician services within 90 days from surgery.                                                                        |                    |
| <b>Bariatric Case Rate</b>                                                                                                                                              | <b>Rate</b>        |
| <b>Bariatric Surgery (Sleeve or Gastric Bypass)</b>                                                                                                                     | <b>\$16,500.00</b> |
| - Includes all professional fees and anesthesia                                                                                                                         |                    |
| - Includes up to a 3 day stay. Any additional medically necessary days beyond 3 days shall be paid at the level of care per diem rate.                                  |                    |
| - Includes one follow-up visit by post-operative physician services within 90 days from surgery.                                                                        |                    |

# EXHIBIT 8



TakeCare Insurance Company, Inc.  
P.O. Box 6578 Tamuning, Guam 96931  
Telephone: (671) 646-6956 Fax (671)  
647-3551

April 16, 2019

Joseph Husslein  
President and Chief Executive Officer  
TakeCare Insurance Company, Inc.

**RE: Guam Regional Medical City ("GRMC") Proposed Fee Analysis to TakeCare Insurance Company, Inc. ("TakeCare")**

Mr Husslein,

The purpose of this memorandum is to provide the cost impact summary of the proposed TakeCare GRMC fees as provided by GRMC on March 29, 2019 for the purposes of TakeCare's intended bid to the FY2019-20 Government of Guam health insurance RFP.

The following summary provides the cost difference between the proposed TakeCare GRMC fees, GRMC's charge master and NetCare's existing fees with GRMC:

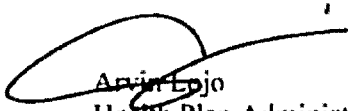
| Service Category     | Proposed TakeCare GRMC Fee Cost Difference to Current GRMC Charge Master | NetCare GRMC Fee Cost Difference to Current GRMC Charge Master | Difference of Proposed TakeCare GRMC Fees to Current NetCare GRMC Fees |
|----------------------|--------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------------------------|
| In Patient Admission | (12.0%)                                                                  | (48.5%)                                                        | 70.6%                                                                  |
| Out Patient Services | (45.3%)                                                                  | (47.1%)                                                        | 3.3%                                                                   |
| Emergency Services   | (58.5%)                                                                  | (43.8%)                                                        | (26.1%)                                                                |
| Consolidated         | (18.7%)                                                                  | (47.9%)                                                        | 56.0%                                                                  |

The following summarizes certain in patient charges under the proposed TakeCare GRMC fees, NetCare's GRMC fees and GRMC's charge master:

| Service Category     | GRMC Charge Master | NetCare GRMC Fees (A) | Proposed TakeCare GRMC Fees (B) | Dollar and Percent Difference Between TakeCare and NetCare GRMC Fees (A - B) |
|----------------------|--------------------|-----------------------|---------------------------------|------------------------------------------------------------------------------|
| Delivery Room        | \$4,540.73         | \$1,669.80            | \$2,043.33                      | \$373.53 / 22.4%                                                             |
| ICU                  | \$3,420.43         | \$1,791.65            | \$3,978.38                      | \$2,186.73 / 122.1%                                                          |
| Medical Room & Board | \$2,579.06         | \$1,350.94            | \$2,652.25                      | \$1,301.31 / 96.3%                                                           |
| NICU                 | \$3,937.50         | \$2,062.50            | \$3,978.38                      | \$1,915.88 / 92.9%                                                           |
| Nursery              | \$1,680.00         | \$880.00              | \$756.00                        | (\$124.00) / (14.1%)                                                         |
| Telemetry            | \$2,730.00         | \$1,430.00            | \$3,677.10                      | \$2,247.10 / 157.1%                                                          |

Please do not hesitate to contact me for any other questions or clarification.

Sincerely,



Arvin Lojo  
Health Plan Administrator  
TakeCare Insurance Company, Inc.

# EXHIBIT 9





TakeCare Insurance Company, Inc.  
P.O. Box 6578 Tamuning, Guam 96931  
Telephone: (671) 646-6956 Fax (671) 647-3551

April 3, 2019

**Received**

**VIA HAND DELIVERY and VIA EMAIL**

APR 03 2019

Mr. Francis E. Santos  
Senior Vice-President/Strategic Planning & Business Development  
GUAM REGIONAL MEDICAL CITY  
133 Route 3, Dededo, Guam 96929

**Guam Regional  
Medical City**

**Re: Provider Services Agreement**

Dear Mr. Santos:

Thank you for your letter of March 29, 2019, with a proposed Provider Services Agreement and rates between Guam Regional Medical City ("GRMC") and TakeCare Insurance Company, Inc. ("TakeCare") for the Government of Guam Group Health Insurance Program ("GovGuam Group Health Program"). It is important that GRMC understands that TakeCare will not comingle issues unrelated to the GovGuam Group Health Program. Consequently, our consideration of the proposed agreement and rates must be seen in the context as described in the remainder of this letter below.

First, as you know, TakeCare will be a prospective offeror intending to respond to the FY2020 Government of Guam Request for Proposal ("RFP") for the GovGuam Group Health Program. Recently enacted Public Law 35-2 requires that all public and private hospital operating in Guam be in the networks of those applying to provide health insurance to the Government of Guam. This law only applies to the GovGuam Group Health Program and TakeCare's primary intent in negotiating with GRMC is for the GovGuam Group Health Program. The insertion in these negotiations of demands related to all other lines of TakeCare's business and other issues is an unfair overreach on GRMC's part.

Because of the recently enacted law, any agreed-upon form of a Provider Services Agreement between GRMC and TakeCare, and its effective date, must necessarily be expressly conditioned upon TakeCare being chosen as the exclusive carrier for the GovGuam Group Health Program. Should TakeCare not be awarded the exclusive contract for the GovGuam Group Health Program, then any form of agreement between GRMC and TakeCare will not take effect. Additionally, should any award to TakeCare as the exclusive carrier for the GovGuam Group Health Program be protested by another offeror causing a stay/delay/postponement of TakeCare's exclusivity, any agreement between GRMC and TakeCare will not become effective unless and until TakeCare actually becomes the exclusive carrier.

Second, provided TakeCare is awarded the exclusive agreement under the GovGuam Group Health Program, TakeCare in its discretion will consider offering GRMC as an in-network provider for other lines of business but will not require that all groups include coverage for services by GRMC. TakeCare has always offered a range of plans to its groups and members. Indeed, TakeCare's non-GovGuam offerings are designed in part on requests and needs communicated to TakeCare by the groups and members, and are not a wholesale portfolio. Therefore, while TakeCare may include GRMC in its provider network by entering into a Provider Services Agreement for GRMC to provide services for covered benefits to TakeCare's members, TakeCare cannot guarantee that all of its groups or members will want to include GRMC coverage in-network. Aside from GovGuam, TakeCare will still offer its groups, and/or members within groups, for example high and standard option plans including the option to exclude GRMC from in-network coverage.

Third, as we have discussed previously, any dispute over GRMC's outstanding bills to TakeCare members during a time when there was no direct payer agreement between GRMC and TakeCare, is an

unrelated matter. As with the demands for insertion in TakeCare's other lines of business discussed above, the linking of amounts which may be due GRMC by TakeCare members for non-covered benefits is another overreach on GRMC's part. Any unrelated dispute must be dealt with separately from the parties entering into a Provider Services Agreement. However, depending upon the outcome of the parties' negotiation of a Provider Services Agreement and TakeCare's success in the RFP process for the GovGuam Group Health Program, TakeCare is willing to consider discussing various mechanisms for a binding resolution of the TakeCare patient bills GRMC claims it is owed.

A summary of the points set forth in this letter, includes the following:

1. The parties' initial focus because of Public Law 35-2 is a Provider Services Agreement which includes GRMC in-network for covered benefits for the GovGuam Group Health Program and not any other of TakeCare's lines of business.
2. The terms of the Provider Services Agreement reached between the parties will only become effective if TakeCare is the exclusive awardee of the FY2020 GovGuam Group Health Program. Should TakeCare not be awarded such exclusivity, the Provider Services Agreement for the GovGuam line of business shall not take effect.
3. The negotiation of a Provider Services Agreement for any other lines of business, including TakeCare's commercial and federal lines, is subject to TakeCare's discretion and will likewise be conditioned upon TakeCare's being awarded exclusivity in the FY2020 GovGuam Group Health Program.
4. In the event TakeCare enters into a Provider Services Agreement with GRMC, TakeCare retains the right to offer plans to its groups with or without GRMC as an in-network provider.
5. The negotiation of any Provider Services Agreement between the parties is not conditioned upon prior resolution of any of GRMC's outstanding bills to TakeCare members.

TakeCare's review of the proposed Provider Services Agreement and the accompanying rates is conditioned on the points made in this letter. In the meantime, should you have any questions about this letter, please do not hesitate to contact me.

Sincerely,



JOSEPH HUSSLEIN,  
Chief Executive Officer/President  
TakeCare Insurance Company, Inc.

# EXHIBIT 10

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**Provider Services Agreement**

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Francis Santos <fesantos57@gmail.com>

Tue, Apr 9, 2019 at 1:08 PM

To: GAMAN LLLP <gaman.lllp@gmail.com>, "Mike Cruz (mwcruzin@hotmail.com)" <mwcruzin@hotmail.com>

Dear Mr. Husslein,

This email is in response to your letter of April 3, 2019.

Thank you for clarifying your position on the specific points that I shared in my letter of March 29, 2019.

We hope that you reconsider your position and I will again re-state our position that the following points are conditions of our proposed Provider Services agreement:

- 1) TakeCare will include GRMC in all its lines of business to include Government of Guam, Federal employees' program and private/commercial
- 2) TakeCare will not sell GRMC in-network as a buy up option
- 3) TakeCare will settle the outstanding billed charges for services rendered to TakeCare members

As we count down the days to the submission of TakeCare's response to the Government of Guam RFP, we remain open to negotiating with you with the goal of reaching a mutually beneficial provider services agreement.

Regards,

Francis

# EXHIBIT 11

**NETCARE LIFE & HEALTH INSURANCE COMPANY  
NETWORK ACCESS SERVICES AGREEMENT**

This Network Access Services Agreement (the "Agreement") is made and entered into for an effective date of July 1, 2018, by and between NetCare Life and Health Insurance Company ("NetCare"), a Guam based domestic life and health carrier licensed to do business on Guam and TakeCare Insurance Company, Inc., ("TakeCare"), a Guam based domestic health carrier licensed to do business on Guam.

**RECITALS**

**WHEREAS**, NetCare contracts with health care providers ("Network Providers") to render services to individuals to receive health care services and/or benefits from or through a Plan, and desires to provide access to specific providers among its Network Providers, starting initially with access to Guam HealthCare Development Inc., DBA Guam Regional Medical City on behalf of select TakeCare clients, consistent with coverage under certain of its group health policies;

**WHEREAS**, TakeCare wishes to contract with NetCare to arrange for the access of health care services from specific providers among NetCare's Network Providers, starting initially upon the effective date of this Agreement, with access to Guam HealthCare Development Inc., DBA Guam Regional Medical City to select members on the following terms and conditions.

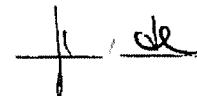
**NOW THEREFORE**, in consideration of the promises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**I. Appointment**

NetCare hereby leases to TakeCare access for its members to Guam HealthCare Development Inc., DBA Guam Regional Medical City through its provider network as represented by the Participating Provider Service Agreement between NetCare and Guam HealthCare Development Inc., DBA Guam Regional Medical City effective September 1, 2015, and any applicable amendments. Such access is expressly limited to covered services under select TakeCare policies which include Guam HealthCare Development Inc., DBA Guam Regional Medical City in their provider networks.

TakeCare hereby appoints NetCare to act on TakeCare's behalf for the purpose of facilitating claims review and providing access to Guam HealthCare Development Inc., DBA Guam Regional Medical City for covered services under select TakeCare policies which include Guam HealthCare Development Inc., DBA Guam Regional Medical City in their provider networks.

The parties agree that upon additional appointment by TakeCare in the form of a future Addendum(s) executed by both parties, NetCare can lease access to other Network

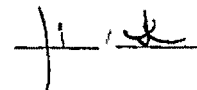


Providers to TakeCare on the same terms and conditions set forth in this Agreement, subject to the terms of any applicable underlying Participating Provider Agreement between NetCare and the Network Providers.

## II. Duties and Responsibilities

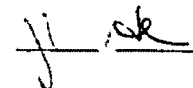
- a. For the duration of this Agreement, as may be amended by future Addendum(s), NetCare agrees to use its best efforts to remain in good standing as a party under the Participating Provider Service Agreement between NetCare and Guam HealthCare Development Inc., DBA Guam Regional Medical City effective September 1, 2015, and any other underlying Participating Provider Agreements under which access to TakeCare has been given.
- b. For the duration of this Agreement, as may be amended by future Addendum(s), NetCare agrees to perform the following functions in relation to TakeCare policies which include Guam HealthCare Development Inc., DBA Guam Regional Medical City, and other designated providers by future Addendum(s), in their provider network, or such functions as otherwise agreed to by the parties:
  - i. Facilitate review as requested by TakeCare of claims or medical reports from Guam HealthCare Development Inc., DBA Guam Regional Medical City and future providers which may be leased to TakeCare;
  - ii. Grant access to Guam HealthCare Development Inc., DBA Guam Regional Medical City and future providers which may be leased to TakeCare; and
  - iii. Provide complete data reporting capabilities on a monthly basis.
- c. Legal, Complaint, and Regulatory Notices. In the event of a notice of suit or any legal proceeding, consumer complaint or regulatory notice or complaint against TakeCare or otherwise related to the Policies, NetCare will promptly forward all such legal documents, correspondence, and other relevant material in NetCare's possession to TakeCare at the following address:

TakeCare Health Insurance Company, Inc.  
Baltej Pavilion, Suite 108  
415 Chalan San Antonio,  
Tamuning, GU 96913
- d. Regulatory Compliance. NetCare will maintain all licenses required by applicable insurance statues and regulation in Guam. NetCare shall



provide TakeCare with copies of all such licenses and renewals required thereby. NetCare shall promptly notify TakeCare of annual reviews that relate to these licenses. NetCare agrees that at all times it will abide by and conform to all applicable laws, statutes, rules, regulations, orders, etc., of whatever nature, of the state or jurisdictions in which NetCare does business and will conduct its business in a manner which will not put TakeCare in dispute or cause it embarrassment with the public or regulatory authorities or cause TakeCare to sustain any possible penalties of any nature whatsoever.

- d. Practices and Procedures. The services performed by NetCare hereunder shall be in accordance with all applicable laws and shall be in accordance with generally accepted insurance industry practices and procedures. As necessary, NetCare agrees to use commercially reasonable efforts to hire and retain employees having the experience and capabilities to perform the services required to be executed under this Agreement.
- e. Emergency Care. The provisions of this Agreement are only applicable to TakeCare policies that include Guam HealthCare Development Inc., DBA Guam Regional Medical City in their provider networks. This Agreement does not apply to TakeCare policies which do not have Guam HealthCare Development Inc., DBA Guam Regional Medical City in the provider networks even though there will be coverage for emergency services out of network at Guam HealthCare Development Inc., DBA Guam Regional Medical City. Claims for emergency services from Guam HealthCare Development Inc., DBA Guam Regional Medical City (or for any services for that matter) for members that do not have Guam HealthCare Development Inc., DBA Guam Regional Medical City in their provider network are not be within the scope of this Agreement. TakeCare will have no obligation to pay any fees to NetCare for those emergency claims paid to Guam HealthCare Development Inc., DBA Guam Regional Medical City. Should NetCare provide TakeCare access to other Network Providers by future Addendum(s), then the provisions of this Agreement regarding claims, including those for emergency services, will also apply to TakeCare policies which have those Network Providers in their provider networks.
- f. Utilization Management and Quality Assurance. For the duration of this Agreement, TakeCare agrees that NetCare has no responsibility for performing utilization Management and quality assurance for TakeCare. TakeCare shall perform all utilization management and quality assurance including review of medical records, pre-certification authorization, preadmission review, concurrent and retrospective reviews for determining medical necessity.





### III. Authority

**General Authority.** NetCare agrees that it shall have only that amount of general authority necessary for it to act on behalf of TakeCare in performing the duties specifically stated herein and agrees that it shall have no other authority.

### IV. Fee

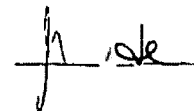
TakeCare shall pay NetCare, on a monthly basis, the agreed-upon percentage of claims paid to Guam HealthCare Development Inc., DBA Guam Regional Medical City and any future agreed-upon Network Providers. The applicable percentage is identified as a Network Access Fee set forth on Attachment A to this Agreement and incorporated herein by reference. Network Access Fees will be paid to NetCare for the applicable month by TakeCare on the fifteenth (15) day of the month following TakeCare's payment to the applicable Network Providers. There may be an adjustment to the amounts that should have been paid based upon the actual and true statistics for any particular month provided that NetCare requests and substantiates the need for an adjustment within thirty (30) days of TakeCare's payment to it. No further compensation shall be due to NetCare hereunder; provided, however, that TakeCare may modify a monthly settlement by mutual agreement to cover one-time or unexpected costs directly associated with TakeCare's business, including, but not limited to, modifications made to the policy administration systems used by the TakeCare due to the introduction or the planned introduction of new Policies to be sold by the TakeCare.

### V. Relationship

- a. **Independent Contractor.** TakeCare and NetCare are both independent contractors, and nothing contained in this Agreement shall create or shall be construed to create a relationship of employer/employee or any partnership, joint venture, or agency between TakeCare and NetCare.
- b. **Responsibility and Indemnification.** NetCare shall be held fully responsible and accountable for the acts of its employees and agents in performing its duties hereunder and agrees to indemnify and hold harmless TakeCare, its officers, directors, shareholders, employees and agents pursuant to section X of this Agreement.

### VI. Effective Date; Term

This Agreement shall be effective July 1, 2018, and if executed after July 1, 2018, the parties agree it shall be effective retroactive to July 1, 2018, for an initial term of eighteen (18) months through December 31, 2019. Unless terminated earlier, and subject to the term of any applicable underlying agreement between NetCare and any of its Network Providers, and each party's right to terminate, this Agreement shall automatically renew on an annual basis on January 1, beginning



on January 1, 2020, on the same terms and conditions unless otherwise mutually revised.

## VII. Termination

This Agreement can be terminated by the parties as follows:

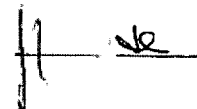
- a. **Voluntary Termination with or without Cause.** By either party upon ninety (90) days prior written notice may terminate this Agreement without cause. In the event of termination with cause, either party may terminate this Agreement upon thirty (30) business days prior written notice that the other party fails to cure a default of any material obligation or duty imposed on it within ten (10) days after written notice of such default
- b. **Involuntary Termination.** By TakeCare, immediately, without notice, by reason of fraud or misrepresentation by NetCare or if NetCare shall file a petition in bankruptcy (for any purpose whatsoever), make an assignment for the benefit of creditors, be adjudged a bankrupt, or upon the dissolution or disqualification of NetCare to do business under applicable Guam laws, or if NetCare's license is suspended or revoked by the appropriate government agency or authority.
- c. **Upon termination of this Agreement for any reason, NetCare, unless requested by TakeCare to do otherwise shall promptly provide TakeCare with all data and information necessary to allow TakeCare to timely and effectively perform all tasks and duties previously performed by NetCare for all claims administration and return all necessary medical records or claims data to TakeCare.**

## VIII. Records

NetCare agrees to establish and maintain true and correct records and keep books of accounting on all transactions arising out of this Agreement. NetCare shall preserve and hold all documents, correspondence and records which come into its possession or under its control relating to the claims.

## IX. Indemnification

Each party shall indemnify and hold harmless the other, including affiliates and each of their respective officers, directors, shareholders, employees, representatives, agents, successors and assigns from and against all claims of third parties, and associated losses, to the extent such claims arise out of (a) a party's gross negligence or willful misconduct in performing any of its obligations under this Agreement, or (b) a material breach by a party of any of its representations, warranties, covenants or agreements under this Agreement. Associated losses shall include, but are not limited to, reasonable attorneys fees, court costs, expenses,



settlement costs, fines, judgments and all damage awards, whether actual or compensatory. However, neither party shall be responsible for indemnifying the other for reimbursement of claims-related issues or for punitive damages.

#### **X. Assignment**

No assignment of this Agreement by either party of any of the rights, duties or benefits accruing to the party hereunder shall be valid unless consented to in writing by both parties in advance.

#### **XI. Arbitration**

- a. **Arbitration At Request of Party.** Except for the availability of injunctive relief provided for TakeCare under Paragraph XVI, as a condition to any right of action hereunder, any unresolved dispute or difference between the parties arising out of or relating to this Agreement, or breach hereof, shall be submitted to arbitration upon the request of either party as hereinafter set forth.
- b. **Arbitration at Option of Party Bringing Action.** In the event of any controversy or claim arising out of or relating to this Agreement, or any breach thereof, including without limitation, any claim that this Agreement, or any part of it, is invalid, illegal or otherwise voidable or void, either party may submit the matter to final and binding arbitration as permitted under the Guam Rules of Civil Procedures governing Arbitrations, Title 7, Guam Code Annotated. Such arbitration shall be governed by the Commercial Rules of the American Arbitration Association. If a demand is made for arbitration, this arbitration provision shall be deemed self-executing, and if either party fails to appear at any properly notice arbitration proceeding, an award may be entered against that party notwithstanding the failure to appear.
- c. **Place of Arbitration.** Arbitration proceedings shall be held on Guam unless all of the parties agree in writing to another location.
- d. **Number of Arbitrators Determined by Claim Size.** Any claim or dispute arising out of or pertaining to this Agreement, including without limitation any claim that all or any agreements (including this section) are void, voidable, or otherwise unenforceable, shall be submitted to arbitration in accordance with the provisions set forth herein and the applicable provisions of the Guam Arbitration Law and the Commercial Rules of the American Arbitration Association and heard before: (1) a panel of three arbitrators in the event the amount of the dispute or claim exceeds fifty thousand (\$50,000.00) in the aggregate, or (2) one arbitrator, if less than fifty thousand (\$50,000.00.)



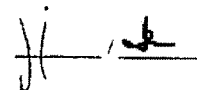
- c. **Dispute Over Invoices.** If, after audit or verification of any invoice, there shall be a dispute or a difference of opinion between the parties with respect to the amount of any payment to be made hereunder, the dissatisfied party shall give written notice to the other. The dispute shall be submitted to arbitration in accordance with the terms of this section in the following manner unless it is settled by mutual agreement of the parties within a period of thirty (30) days after that notice. The parties shall mutually agree upon a certified public accountant in Guam who shall decide the dispute or difference in accordance with consistently applied sound accounting principles and practice. In the event the parties do not agree on an accountant, the accountant shall be nominated by the President of the Guam Society of Certified Public Accountants. Any accountant so agreed or nominated shall have full access at all reasonable times to all books, records and documents of either party that may relate to the dispute or difference. Subject to the provisions of this Section, the laws of Guam then in force shall apply to the determination of the dispute or difference.
- f. **Enforcement of Arbitral Awards.** Any award resulting from arbitration authorized by this Section shall be binding and conclusive upon both parties and enforceable by either of them in any court of competent jurisdiction. Furthermore, any such award shall be final upon the parties regarding both matters of law and fact and shall be non-appealable.

## **XII. Confidentiality**

Each party agrees that all information, whether printed, written, oral, in answer to special inquiry or voluntarily furnished by the other party, shall be held in confidence by the other and used only for the purpose of the business conducted hereunder. Both parties shall ensure that stringent security measures are employed in its records storage systems so that only personnel authorized by NetCare and/or TakeCare shall have access to information obtained as a result of supplying the services under this Agreement.

NetCare will use its best efforts to insure that any information gained as a result of providing the services under this contract shall only be used in the administration of the Policies and in accordance with the terms of this Agreement. NetCare shall not utilize any information gained as a result of providing the services under this contract for any other purposes whatsoever and will use its best efforts to prevent other persons associated with it from doing so.

All information obtained by NetCare is protected health information and shall be kept confidential except in those instances necessary for the proper administration of this Agreement, and shall not be disclosed without the written consent of the parties.



Each party shall obtain the specific, prior written consent of the other prior to using the other's name, product names, logos and service marks in any promotional, marketing or advertising materials or for any other reason. The parties agree that the existence of this Access Agreement should be kept confidential and not disclosed to the Government of Guam, the media or the public, until the parties mutually agree to disclose its existence and how such disclosure will take place.

### **XIII. Notice**

Any notices required hereunder to be sent to either of the parties by the other shall be deemed to have been sufficiently given, if mailed postage prepaid by certified or registered mail to the respective addresses as follows or otherwise to a party as it may specify by notice given:

**If to TakeCare:**  
TakeCare Health Insurance Company, Inc.  
Baltej Pavilion, Suite 308  
415 Chalan San Antonio  
Tamuning, GU 96913  
Attention: President

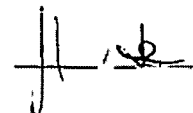
**If to NetCare:**  
NetCare Life and Health Insurance Company  
Julale Center, Suite 200  
424 West O'Brien Drive  
Hagatna, Guam 96910  
Attention: Plan Administrator

### **XIV. Construction and Value**

This Agreement shall be governed by and interpreted in accordance with the laws of Guam without regard to its conflict of laws rules. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof or after termination, such provision shall be enforced to the maximum extent possible and the remaining provisions shall remain in full force and effect. Furthermore, in lieu of such unenforceable provision, a provision as similar in terms as may be possible and enforceable shall be added automatically as a part of the Agreement. The exclusive venue of any suits or causes of action arising directly or indirectly from this Agreement shall be in Guam, subject to the arbitration provisions contained in Section XI.

### **XV. Complete Agreement**

This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and any and all negotiations, discussion, understandings or agreements heretofore entered into between the parties are hereby declared to be



superseded by this Agreement. No waiver of alteration of printed terms hereof shall be valid unless in writing and executed by both Agreement or the obligations of NetCare hereunder shall not constitute a waiver of such conditions or obligations.

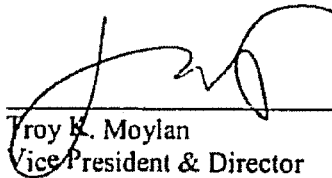
**XVI. Attorney Fees**

Should any party to this contract commence any action for the purpose of enforcing or preventing the breach of, any provision of this contract, whether by arbitration, judicial, or quasi-judicial action or otherwise, or for damages for any alleged breach of contract, or for a declaration of that party's rights or obligations under this Agreement, then the prevailing party will be reimbursed by the losing party for all costs and expenses incurred in connection with the action, including, but not limited to, reasonable attorney's fees for services rendered to the prevailing party.

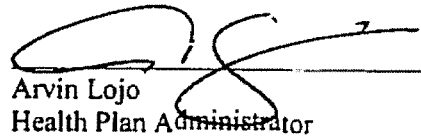
**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed as of the dates mentioned below.

NetCare Life & Health Insurance Company:


TakeCare Insurance Company, Inc.:

  
\_\_\_\_\_  
Troy K. Moylan  
Vice President & Director

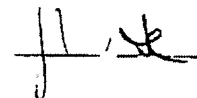
Signed on: 6/19/18

  
\_\_\_\_\_  
Arvin Lojo  
Health Plan Administrator

Signed on: 6/19/2018

  
\_\_\_\_\_  
Joseph E. Husslein  
President & CEO

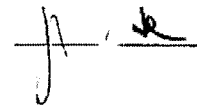
Signed on: 6/19/2018



**Attachment A**

**Network Access Fee**

TakeCare agrees to compensate NetCare at a rate of ten percent (10%) of the final claim amount(s) paid by TakeCare for claims incurred at Guam HealthCare Development Inc., DBA Guam Regional Medical City on Guam and other Network Providers added to this Agreement by future Addendum(s).

A handwritten signature in black ink, consisting of a stylized 'J' followed by a horizontal line and a flourish.

# EXHIBIT 12



**FIRST AMENDMENT OF NETCARE LIFE & HEALTH INSURANCE  
COMPANY NETWORK ACCESS SERVICES AGREEMENT**

THIS FIRST AMENDMENT OF NETCARE LIFE & HEALTH INSURANCE COMPANY NETWORK ACCESS SERVICES AGREEMENT is entered into effective as of September 1, 2018, by and between NETCARE LIFE & HEALTH INSURANCE COMPANY, a Guam based domestic life and health insurance carrier licensed to do business on Guam ("NetCare") and TAKECARE HEALTH INSURANCE COMPANY, INC., a Guam based domestic health carrier licensed to do business in Guam ("TakeCare").

**RECITALS**

WHEREAS, NetCare entered into a Participating Provider Service Agreement with Guam HealthCare Development Inc., DBA Guam Regional Medical City ("GRMC") effective September 1, 2015;

WHEREAS, Pursuant to the terms of the Participating Provider Service Agreement between NetCare and GRMC effective September 1, 2015, NetCare entered into a Network Access Services Agreement with TakeCare effective July 1, 2018, to lease and provide TakeCare access to GRMC on behalf of select TakeCare clients, consistent with coverage under certain of its group health policies;

WHEREAS, NetCare subsequently entered into a new Participating Provider Service Agreement with GRMC effective September 1, 2018, NetCare and TakeCare desire to amend the Network Access Services Agreement between them to incorporate the terms of the new Participating Provider Service Agreement with GRMC effective September 1, 2018;

NOW THEREFORE, in consideration of the promises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to amend the Network Access Services Agreement as follows:

(1) **Section II of the Network Access Services Agreement.** Section II of the Network Access Services Agreement is amended to read:

**I. Duties and Responsibilities**

- a. For the duration of this Agreement, as may be amended by future Addendum(s), NetCare agrees to use its best efforts to remain in good standing as a party under the Participating Provider Service Agreement

between NetCare and Guam HealthCare Development Inc., DBA Guam Regional Medical City effective September 1, 2015; the Participating Provider Service Agreement between NetCare and Guam HealthCare Development Inc., DBA Guam Regional Medical City effective September 1, 2018; and any other future underlying Participating Provider Agreements under which access to TakeCare has been or will be given by NetCare.

- b. For the duration of this Agreement, as may be amended by future Addendum(s), NetCare agrees to provide TakeCare with no less than sixty (60) days' notice of any material change in the Participating Provider Service Agreement between NetCare and GRMC, including any amendment in the terms and conditions of the underlying agreement; any amendment in the Reimbursement Schedule; any failure of automatic renewal of the underlying agreement; any voluntary or involuntary termination of the underlying agreement (with or without cause); or the execution of a new Participating Provider Agreement. NetCare acknowledges that such notice by NetCare to TakeCare regarding the underlying Participating Provider Agreement is needed to allow for any necessary amendment of the agreement between TakeCare and NetCare or the execution of a new agreement.
- c. For the duration of this Agreement, as may be amended by future Addendum(s), NetCare agrees to perform the following functions in relation to TakeCare policies which include Guam HealthCare Development Inc., DBA Guam Regional Medical City, and other designated providers by future Addendum(s), in their provider network, or such functions as otherwise agreed to by the parties:
  - i. Facilitate review as requested by TakeCare of claims or medical reports from Guam HealthCare Development Inc., DBA Guam Regional Medical City and future providers which may be leased to TakeCare;
  - ii. Grant access to Guam HealthCare Development Inc., DBA Guam Regional Medical City and future providers which may be leased to TakeCare; and
  - iii. Provide complete data reporting capabilities on a monthly basis.
- d. Legal, Complaint, and Regulatory Notices. In the event of a notice of suit or any legal proceeding, consumer complaint or regulatory notice or complaint against TakeCare or otherwise related to the Policies, NetCare will

promptly forward all such legal documents, correspondence, and other relevant material in NetCare's possession to TakeCare at the following address:

TakeCare Health Insurance Company, Inc.  
Baltej Pavilion, Suite 108  
415 Chalan San Antonio,  
Tamuning, GU 96913

- e. **Regulatory Compliance.** NetCare will maintain all licenses required by applicable insurance statutes and regulation in Guam. NetCare shall provide TakeCare with copies of all such licenses and renewals required thereby. NetCare shall promptly notify TakeCare of annual reviews that relate to these licenses. NetCare agrees that at all times it will abide by and conform to all applicable laws, statutes, rules, regulations, orders, etc., of whatever nature, of the state or jurisdictions in which NetCare does business and will conduct its business in a manner which will not put TakeCare in dispute or cause it embarrassment with the public or regulatory authorities or cause TakeCare to sustain any possible penalties of any nature whatsoever.
- d. **Practices and Procedures.** The services performed by NetCare hereunder shall be in accordance with all applicable laws and shall be in accordance with generally accepted insurance industry practices and procedures. As necessary, NetCare agrees to use commercially reasonable efforts to hire and retain employees having the experience and capabilities to perform the services required to be executed under this Agreement.
- e. **Emergency Care.** The provisions of this Agreement are only applicable to TakeCare policies that include Guam HealthCare Development Inc., DBA Guam Regional Medical City in their provider networks. This Agreement does not apply to TakeCare policies which do not have Guam HealthCare Development Inc., DBA Guam Regional Medical City in the provider networks even though there will be coverage for emergency services out of network at Guam HealthCare Development Inc., DBA Guam Regional Medical City. Claims for emergency services from Guam HealthCare Development Inc., DBA Guam Regional Medical City (or for any services for that matter) for members that do not have Guam HealthCare Development Inc., DBA Guam Regional Medical City in their provider network are not be within the scope of this Agreement. TakeCare will have no obligation to pay any fees to NetCare for those emergency claims paid to Guam HealthCare Development Inc., DBA Guam Regional Medical City. Should NetCare provide TakeCare access to other Network Providers by

future Addendum(s), then the provisions of this Agreement regarding claims, including those for emergency services, will also apply to TakeCare policies which have those Network Providers in their provider networks.

- f. **Utilization Management and Quality Assurance.** For the duration of this Agreement, TakeCare agrees that NetCare has no responsibility for performing utilization Management and quality assurance for TakeCare. TakeCare shall perform all utilization management and quality assurance including review of medical records, pre-certification authorization, preadmission review, concurrent and retrospective reviews for determining medical necessity.

(2) **Section VI of the Network Access Services Agreement.** Section VI of the Network Access Services Agreement is amended to read:

**VI. Effective Date; Term**

This Agreement shall be effective July 1, 2018 thru December 31, 2020. Unless terminated earlier, and subject to the term of any applicable underlying agreement between NetCare and any of its Network Providers, and each party's right to terminate, this Agreement shall automatically renew on an annual basis on January 1, beginning on January 1, 2021, on the same terms and conditions unless otherwise mutually revised.

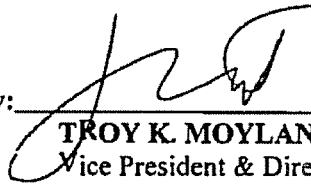
(3) **All Other Terms and Conditions to Remain the Same.** The parties agree that this FIRST AMENDMENT OF NETCARE LIFE & HEALTH INSURANCE COMPANY NETWORK ACCESS SERVICES AGREEMENT supplements, and does not supplant the terms of NETCARE LIFE & HEALTH INSURANCE COMPANY NETWORK ACCESS SERVICES AGREEMENT, entered into by the parties with and effective date of July 1, 2018, and the terms of said NETCARE LIFE & HEALTH INSURANCE COMPANY NETWORK ACCESS SERVICES AGREEMENT, entered into by the parties with and effective date of July 1, 2018, as amended herein, is by this reference incorporated and made a part hereof. It is expressly agreed that all other terms, conditions, provisions and stipulations contained in said NETCARE LIFE & HEALTH INSURANCE COMPANY NETWORK ACCESS SERVICES AGREEMENT, entered into by the parties with and effective date of July 1, 2018, as amended, shall continue to remain unchanged and in full force and effect.

*[Signatures follow on the next page.]*

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at Hagåtña, Guam on the dates indicated below.

**NETCARE LIFE & HEALTH INSURANCE  
COMPANY INC.**


**TAKECARE HEALTH  
INSURANCE COMPANY, INC.**

By:   
TROY K. MOYLAN  
Vice President & Director

Signed on: 3-04-2019

By:   
ARVIN LOIO  
Health Plan Administrator

Signed on: 3-4-2019

By:   
JOSEPH E. HUSSLEIN  
President & CEO

Signed on: 3-04-2019

# EXHIBIT 13



TakeCare Insurance Company, Inc.  
P.O. Box 657B Tamuning, Guam 96931  
Telephone: (671) 646-6956 Fax (671) 647-3551

RECEIVED

APR 30 2019

MAY 02 2019

NETCARE LIFE &  
HEALTH INSURANCE  
COMPANY

May 1, 2019

**VIA HAND DELIVERY and VIA EMAIL**

Mr. Troy Moylan and Mr. Jerry Crisostomo  
NetCare Life and Health Insurance Company  
Julale Center, Suite 200  
424 West O'Brien Drive  
Hagatna, GU 96910

**Re: Activation Notice**

Dear Misters Moylan and Crisostomo:

As discussed during our telephone conversation on April 30, 2019, TakeCare is a prospective offeror intending to respond to the FY2020 Government of Guam Request for Proposal ("RFP") for the GovGuam Group Health Insurance Program. Responses to the RFP are due May 3, 2019, and TakeCare plans to submit a responsive bid. A key difference of this year's RFP from prior years' is the requirement that offerors designate network providers as being either directly contracted or under a leased arrangement as part of either the GovGuam "broad" network and/or "high performance" (or narrow) network.

Recently enacted Public Law 35-2 requires that all public and private hospitals operating in Guam be in the networks of those applying to provide health insurance to the Government of Guam. The RFP mimics this statutory requirement. As a practical matter, the only private hospital the law on Guam is the Guam Regional Medical City ("GRMC"). Therefore, GRMC must necessarily be in-network for any prospective offeror.

Pursuant to the Network Access Services Agreement entered into between TakeCare and NetCare with an effective date of September 1, 2018 and subsequently amended on March 4, 2019, this letter serves as TakeCare's official notice to Netcare of its intent to activate access for its Government of Guam members to GRMC as a "leased provider" for services. This activation for services extends to NetCare's existing and future arrangements for services and applicable fees with GRMC (herein "Activation Notice").

TakeCare's activation notice is solely for the purposes of responding to the GovGuam Group Health Insurance Program RFP for GRMC's inclusion as a provider in the "broad network" for FY2020. Such access and the inclusion of GRMC as part of TakeCare's "broad network" are conditioned upon TakeCare being awarded either the exclusive or non-exclusive bid, without protest, for the FY2020 GovGuam Group Health Insurance Program. In the unfortunate event that the RFP results to a protest, and existing

NetCare Network Access Services Agreement Activation  
May 1, 2019  
Page 2

GovGuam Group Health Insurance Program benefits and rates be extended beyond the existing fiscal year (September 30, 2019), this activation notice is of no effect.

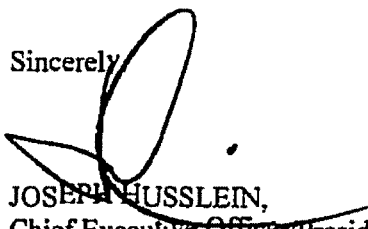
As you are undoubtedly aware from NetCare's prior participation in the GovGuam RFP process, the GovGuam Group Health Insurance Program negotiation with prospective carriers commences on the months of June and July with award in August followed by open enrollment during the month of September for an October 1<sup>st</sup> effective date for the FY2020 GovGuam Group Health Insurance Program.

With the above in mind, in addition to applicable confidentiality provisions, it is TakeCare's view that any formal notice by Netcare to GRMC of the Network Access Services Agreement between TakeCare and NetCare may be premature until TakeCare has at least submitted its response to the RFP and preferably not until GovGuam negotiations are completed and an award made. However, we acknowledge that NetCare may have certain obligations with its provider partners.

Likewise, TakeCare requests that NetCare obtains GRMC's formal acceptance or non-acceptance with stated reason(s) of TakeCare's leased access that TakeCare be provided such written correspondence accordingly.

Lastly, while this Activation Notice specifically is for TakeCare's intentions related to the FY2020 GovGuam Group Health Insurance Program RFP, TakeCare reserves the right to activate GRMC, as well as other NetCare network providers, for TakeCare's federal and/or commercial insurance offerings for January 2020. As these benefit programs and discussions progress with TakeCare's service partners, we will advise you accordingly under separate notice.

Sincerely,



JOSEPH HUSSLEIN,  
Chief Executive Officer/President  
TakeCare Insurance Company, Inc.



# EXHIBIT 14


**LEGISLATIVE HISTORY**  
**BILL NO. 21-34**

*I MINA'TRENTAI KUÁTRO NA LIHESLATURAN GUÁHAN*


2017 (FIRST) Regular Session

Bill No. 234 (COR )

Introduced by:

B. J. F. Cruz 

AN ACT TO *ADD* § 4302(f)(1) OF CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THAT ALL PRIVATE HOSPITALS BE COVERED UNDER THE GOVERNMENT OF GUAM HEALTH INSURANCE CONTRACT.

2017 FEB 14 PM 5:01 

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. §§ 4302(f)(1) of Chapter 4, Title 4, Guam Code Annotated, is  
3 hereby *added* to read:

4 “(1) All companies, or other legal entities providing or applying to  
5 provide health insurance or the provision of health care, shall have contracts  
6 for services with all private hospitals operating on Guam that are providing  
7 health care services to any and all of their subscribers.”

8 Section 2. *Effective Date.* This Act *shall* become effective upon enactment.

9 Section 3. *Severability.* *If* any provision of this Act or its application to any  
10 person or circumstance is held invalid, the invalidity *shall not* affect other  
11 provisions or applications of this Act which can be given effect without the invalid  
12 provision or application and to this end the provisions of this Act is severable.



Eddie Baza Calvo  
Governor  
Ray Tenorio  
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION  
(DIPATTAMENTON ATMENESTRASION)  
DIRECTOR'S OFFICE  
(Ufisinan Direktol)

590 South Marine Corps Drive  
Suite 224, GITC Building, Tamuning, Guam 96913  
Post Office Box 884 \* Hagåtña, Guam 96932  
TEL: (671) 475-1101/1221/1260 \* FAX: (671) 477-8788



Christina W. P. Baleto  
Director  
Vincent P. Arriola  
Deputy Director

March 15, 2017

The Honorable Benjamin J.F. Cruz, Speaker  
Chairman, Committee on Appropriations and Adjudication  
*I Mina' Trentai Kuátro Na Liheslaturan Guåhan*  
Suite 107, 155 Healer Place.  
Hagåtña, Guam 96910

RE: Written Testimony on Bill 21-34 (COR)

*Buenas yan Háfa Adai* Mr. Chairman and members of the Committee,

Thank you for the opportunity to provide comments on Bill 21-34 (COR):

**AN ACT TO ADD §4302(f)(1) OF CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THAT ALL PRIVATE HOSPITALS BE COVERED UNDER THE GOVERNMENT OF GUAM HEALTH INSURANCE CONTRACT.**

The Department of Administration recognizes the need for the government of Guam to provide equal access to all duly qualified providers as well as an employee's right to choose services among them. However, we are concerned with any measure that mandates inclusion of any particular provider.

5 GCA, Chapter 5, §5001(b) relative to the underlying purposes and policies of the Guam Procurement Law identifies the following purposes and policies of procurement: "(4) to ensure the fair and equitable treatment of all persons who deal with the procurement system of this Territory; (5) to provide increased economy in territorial activities and to maximize the fullest extent practicable the purchasing value of public funds of the Territory; (6) to foster effective broad-based competition within the free enterprise system."

The proposed bill violates the spirit and intent of the law as it would provide special recognition and treatment to the private hospital on Guam. Although not specifically named, there is only 1 private hospital on Guam. Therefore, it's statutorily mandated inclusion violates the intent of fair and equitable treatment. It is also noted, that this requirement would only extend to privately owned entities and not to public hospitals. Further to this, other providers on island could petition the Government to also ensure special inclusion in future health insurance benefits.

Another concern is the disparity in prices as demonstrated in the attached fee schedule. As you will note, the difference in cost for services does not allow the Government to maximize to the fullest extent practicable the purchasing value of public funds of the Territory. Instead, it forces carriers to accept whatever fees are established by the private entity. Carriers who refuse to accept any proposed fees would be disqualified from bidding on the Government's health insurance contract since they would not have the private hospital as one of their providers. This in essence violates the spirit of Procurement Law which is to foster competition within a free enterprise system. Carriers would have no leverage to negotiate their terms, prices, or any other matter relative to their business relationship as they would have to accept them or otherwise be disqualified from bidding.

If Carriers were forced to accept the higher fee structure, costs would surely rise. This will equate to higher premiums and would not maximize the value of purchases with public funds.

The current law requires the Health Insurance negotiating committee to look at all aspects of the Carriers proposals such as capability to deliver services, network options, personnel qualifications, system/organizational capability to support the large numbers of enrollees, etc. The committee is in discussions on how to improve our rating of proposals to ensure equal access; and the employee's right to choose from all duly qualified providers is factored into scoring. It is the Department of Administration's position that this is the best way to deal with disparities in a carrier's provider network rather than making inclusion of a select group a matter of law. It is also of great concern that the current bill may set precedent for all providers to demand equal treatment relative to inclusion.

It is for these reasons that the Department of Administration does not support Bill 21-34 as written.

Sincerely,



Christine W. Baleto  
Director, DOA

COMPARISON OF FEE SCHEDULE

| Service                               | CPT code | PRIVATE      | PUBLIC      |
|---------------------------------------|----------|--------------|-------------|
| EKG Tracing                           |          | \$ 106.68    | \$ 82.39    |
| Urinalysis auto w/ scope              | 81001    | \$ 14.37     | \$ 8.20     |
| MRI Chest w/wo contrast               | 71552    | \$ 5,598.30  | \$ 979.48   |
| MRA Head w/wo contrast                | 70549    | \$ 4,630.49  | \$ 1,833.68 |
| X-Ray Chest                           | 71010    | \$ 178.13    | \$ 77.16    |
| CBC                                   | 85027    | \$ 26.43     | \$ 16.44    |
| Magnesium                             | 83735    | \$ 59.15     | \$ 25.70    |
| US Ext carotids Bilateral             | 93880    | \$ 618.96    | \$ 199.10   |
| Infusion IV hydration each add hr.    | 96361    | \$ 464.05    | \$ 31.91    |
| Gauze dressing 4 x 4                  |          | \$ 5.00      | \$ 1.12     |
| Hemodialysis                          |          | \$ 1,985.28  | \$ 418.85   |
| EEG                                   | 95819    | \$ 1,752.99  | \$ 317.19   |
| ICU                                   |          | \$ 3,257.55  | \$ 1,473.47 |
| Telemetry                             |          | \$ 2,600.00  | \$ 827.63   |
| Nursery Room and Board                |          | \$ 1,600.00  | \$ 420.13   |
| Surgical Room and Board               |          | \$ 2,456.25  | \$ 605.68   |
| Pediatric Room and Board              |          | \$ 2,456.25  | \$ 789.73   |
| OB/GYN Room and Board                 |          | \$ 2,456.25  | \$ 637.41   |
| ICU Regular Room                      |          | \$ 3,257.55  | \$ 1,473.47 |
| Pediatric ICU                         |          | \$ 3,257.55  | \$ 1,271.89 |
| ICU Room and Board                    |          | \$ 3,750.00  | \$ 955.37   |
| ICU Isolation Room                    |          | \$ 6,075.00  | \$ 1,271.89 |
| Medical Room and Board Isolation Room |          | \$ 4,324.50  | \$ 630.69   |
| Delivery Vaginal Routine              |          | \$ 9,822.00  | \$ 820.53   |
| Delivery Vaginal High Risk            |          | \$ 12,275.00 | \$ 820.53   |
| Surgery first 30 mins.                |          | \$ 4,096.80  | \$ 1,418.74 |
| Surgery each additional 15 mins.      |          | \$ 1,024.20  | \$ 236.45   |
| OR level II 30 min                    |          | \$ 6,145.20  | \$ 1,418.74 |
| OR level II additional 15 min         |          | \$ 2,765.34  | \$ 236.45   |
| OR level III 30 min                   |          | \$ 8,603.28  | \$ 1,418.74 |
| OR level III additional 15 min        |          | \$ 3,871.47  | \$ 236.45   |
| OR level IV 30 min                    |          | \$ 11,614.42 | \$ 1,418.74 |
| OR level IV additional 15 min         |          | \$ 5,226.49  | \$ 236.45   |
| OR level V 30 min                     |          | \$ 15,679.47 | \$ 1,418.74 |
| OR level V additional 15 min          |          | \$ 7,055.76  | \$ 236.45   |
| OR level VI 30 min                    |          | \$ 20,383.32 | \$ 1,418.74 |
| OR level VI additional 15 min         |          | \$ 9,172.49  | \$ 236.45   |
| Outpatient Surgery 30 mins            |          | \$ 1,884.53  | \$ 654.51   |
| Outpatient Surgery additional 15 mins |          | \$ 471.13    | \$ 109.10   |
| Vancomycin                            |          | \$ 116.00    | \$ 19.41    |
| Amikacin 250 mg                       |          | \$ 94.00     | \$ 34.23    |

Fee is for Major surgery 1st hr. for GMHA

Fee is for Major surgery each additional 15 mins. after 1 hr.

|                                               |       |                     |                     |
|-----------------------------------------------|-------|---------------------|---------------------|
| Dextrose 5% 500 ml                            |       | \$ 67.00            | \$ 13.91            |
| terol 1.25 mg/3ml inh soln                    |       | \$ 5.00             | \$ 1.31             |
| Emergency Dept Level I                        |       | \$ 431.25           | \$ 78.11            |
| Emergency Dept Level II                       |       | \$ 697.88           | \$ 78.11            |
| Emergency Dept Level III                      |       | \$ 1,285.01         | \$ 78.11            |
| Emergency Dept Level IV                       |       | \$ 1,889.85         | \$ 78.11            |
| Emergency Dept Level V                        |       | \$ 2,302.87         | \$ 78.11            |
| Observation Room per hr Pediatrics            |       | \$ 143.75           | \$ 32.90            |
| Observation Room per hr surgical              |       | \$ 143.75           | \$ 25.23            |
| Observation Room per hr Medical               |       | \$ 143.50           | \$ 25.95            |
| Blood Transfusion Inpatient                   | 36430 | \$ 1,041.76         | \$ 312.17           |
| ER transfusion Blood/Blood components 1 hr    | 36430 | \$ 1,457.57         | \$ 312.17           |
| Pregnancy Test Urine                          | 81025 | \$ 77.43            | \$ 34.93            |
| Sleep study                                   | 95807 | \$ 3,224.52         | \$ 1,157.94         |
| Multiple Sleep Latency Test                   | 95805 | \$ 2,141.26         | \$ 749.26           |
| Spirometry/PFT                                | 94060 | \$ 436.17           | \$ 248.70           |
| Pulmonary Stress Test                         | 94620 | \$ 555.32           | \$ 138.27           |
| Routine venipuncture                          | 36415 | \$ 80.63            | \$ 10.64            |
| Ammonia Assay                                 | 82140 | \$ 179.51           | \$ 102.44           |
| Amylase                                       | 82150 | \$ 54.06            | \$ 30.85            |
| Chromosomal analysis                          | 88267 | \$ 1,252.64         | \$ 714.82           |
| NM-Myocardial Perfusion Spect.                | 78452 | \$ 1,179.18         | \$ 650.02           |
| NM-Myocardial Imaging, Infarct                | 78468 | \$ 704.20           | \$ 256.45           |
| Chest Tube placement                          | 32551 | \$ 1,649.56         | \$ 513.82           |
| tilator Management initial day                | 94002 | \$ 4,562.49         | \$ 555.82           |
| Delivery of Placenta only                     | 59414 | \$ 5,536.41         | \$ 820.53           |
| Fetal Biophysical profile with nonstress test | 76818 | \$ 519.44           | \$ 286.35           |
| Fetal Non-stress test                         | 59025 | \$ 304.02           | \$ 149.29           |
| Echo Fetal Cardiovascular                     | 76826 | \$ 686.08           | \$ 443.89           |
| <b>Total</b>                                  |       | <b>\$175,896.86</b> | <b>\$ 25,049.07</b> |

None for Placenta  
only - GMHA  
Delivery Room



115 Chalan Santo Papa Hagåtña • P.O. Box FJ Hagåtña, Guam 96932 • Phone: (671) 477-9808 • Fax: (671) 477-4141

March 16, 2017

The Honorable Speaker Benjamin J.F. Cruz  
34<sup>th</sup> Guam Legislature  
155 Hesler Place, Suite 107  
Hagatna, Guam 96910

Hand Delivered

RE: Bill No. 21-34 (COR) - B.J.F. Cruz - An act to ADD § 4302(f)(1) of Chapter 4, Title 4, Guam Code Annotated, relative to requiring that all private hospitals be covered under the Government of Guam health insurance contract.

Dear Speaker Cruz:

Thank you for inviting us to testify on the aforementioned bill. At the onset, we would like to share with you and the committee members that our company currently contracts with Guam's only privately owned and operated hospital, and that we support all efforts to ensure that the new hospital remains a viable and successful entity in our community.

Nonetheless, we must oppose bill 21-34 on the basis that private enterprises such as hospitals, clinics, and insurance companies should be allowed to negotiate agreements without government interventions or mandates. This bill infringes on free commerce and takes away the ability for insurance companies to negotiate with a provider. Also, it discriminates against other medical providers that have also made large investments on Guam but are not given the same type of advantages.

There are existing federal laws requiring insurance companies to pay for emergencies at non-participating hospital providers with certain allowances, and we believe this is a sufficient protection for hospitals. The possible consequences of this bill are that the private hospital provider will have a significant advantage against insurers knowing that insurers MUST have an agreement with them, and possibly demand rates that may not be feasible in our market place. Again, we oppose the bill on the basis that private agreements, free enterprise, and commerce should not be legislated.

Respectfully yours,

Frank Campillo  
Health Plan Administrator

Cc: All Senators

This information is for the exclusive use of the recipient(s) named above and may contain information that is privileged, confidential, and/or prohibited from disclosure under applicable law. If you are not the intended recipient(s), you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact us by telephone at (671) 477-9808.





TakeCare Insurance Company, Inc.  
P.O. Box 6578 Tamuning, Guam 96931  
Telephone: (671) 646-6956 Fax (671) 647-3551

Speaker Benjamin J.F. Cruz

March 15, 2017

MAR 15 2017  
Time: 10:39 AM (1) PM File No. \_\_\_\_\_  
Received By: DWR

VIA Email: senator@senatorbjcruz.com

VIA HAND DELIVERY

Office of the Speaker Benjamin J. F. Cruz  
34th Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

Re: Written Testimony for in Opposition to Bill No. 21-34

Dear Speaker Cruz and Members of the Committee on Appropriations and Adjudication:

Thank you for the opportunity to submit written testimony for Bill No. 21-34, "An Act To ADD § 4302(F)(1) Of Chapter 4, Title 4 Guam Code Annotated, Relative To Requiring That All Private Hospitals Be Covered Under The Government Of Guam Health Insurance Contract. " I am the CEO and current Health Plan Administrator of TakeCare Insurance Company, Inc. ("TakeCare") and provide these comments in that capacity.

1. Bill No. 21-34 Impedes the Governor's Ability to Maintain GMH as required by the Organic Act.

The Organic Act of Guam makes the Governor responsible to maintain and operate public health services in Guam. 48 U.S.C. Section 1421g. Bill. No. 21-34 will result in numerous Government of Guam employees and dependents using GRMC instead of GMH, and thereby substantially reducing the revenues of GMH. A reduction of revenue to GMH will substantially impair the Governor's ability to "establish, maintain and operate public health services in Guam, including hospitals . . .". 48 U.S.C. Section 1421g. It is self-evident that the Governor cannot perform his Organic duties if there are inadequate revenues to "maintain and operate" GMH.

2. Bill No. 21-34 Violates The Equal Protection Rights of Guam Taxpayers.

Bill No. 21-34 also violates the Equal Protection Clause because the loss of GMH revenues will result in additional Legislative appropriations, and thereby place a substantial tax burden on Guam citizens. In *Guam Power Authority v. Bishop of Guam*, 383 F. Supp. 476 (D.C. Guam 1974), the Guam Legislature had passed a law requiring that the Guam Power Authority ("GPA") charge less for services to non-profit entities. The District Court of Guam ruled that the law violated equal protection because a lower rate to non-profit entities resulted in additional costs to ordinary consumers. 383 F. Supp. at 481-482. In other words, the taxpayers had to make up the difference.

Bill No. 21-34 is likewise inorganic because it will place an additional tax burden on Guam citizens to make up for the loss of GMH revenues. For every dollar that is paid to GRMC under the Government of Guam Health Plan, that is a dollar that does not go to GMH from the Government Health Plan. Furthermore, it is the taxpayers of Guam that will have to make up the lost revenues to GMH in order to keep it operational.

3. Bill No. 21-34 Violates the Due Process Rights of Health Insurers.

Under Bill No. 21-34, health insurers will be compelled to enter into a contract with GRMC and pay rates that they would otherwise reject, or not participate in the Government of Guam Health Plan. Compelling health insurers to pay increased rates with GRMC violates the Organic Act provision providing that "[n]o person shall be deprived of . . . property without due process of law." 48 U.S.C 1421b(e).

4. Bill No. 21-34 Is An Improper Delegation of Power.

Bill No. 21-34 requires that health insurers have a contract with GRMC in order to bid on the Government of Guam Health Plan. However, the Legislature cannot compel GRMC to have a contract with any particular health insurer. Similarly, the Legislature cannot control the rates that GRMC charges to any particular health insurer. GRMC, therefore, could decide to have a contract with only one health insurer, and thereby effectively decide who would be the exclusive provider of Government of Guam health care. In simple terms, GRMC (not the Executive or Legislative Branches) would be deciding the health insurer to be awarded the Government of Guam Health Contract. This is a textbook example of an improper delegation of both Legislative and Executive Authority to a private entity.

5. Bill No. 21-34 Impairs Health Insurers' Right to Contract.

The Organic Act provides that there can be no "law impairing the obligation of contracts." 48 U.S.C. 1421b(j). By requiring that health insurers have a contract with GRMC, the Legislature is prohibiting health insurers from having exclusive contracts with other hospitals, such as GMH. This is a clear impairment of a health insurer's right to contract. Furthermore, an exclusive contract with GMH would very likely result in a lower cost than a non-exclusive contract, and thereby reduce the cost of health care to Government of Guam employees.

6. Bill No. 21-34 Is An Ex Post Facto Violation.

Prior to Bill No. 21-34, health insurers had the contractual right to have a contract with a single hospital. The Organic Act provides that Guam's Legislature cannot pass legislation that makes improper an act that was proper when committed. 48 U.S.C. 1421b(j). However, Bill No. 21-34 becomes "effective upon enactment," and will thereby make improper that which was perfectly legal before its enactment.

7. Bill No. 21-34 is Special Legislation for GRMC.

While Bill No. 21-34 does not mention GRMC, but instead refers to "private hospitals operating on Guam," GRMC is the only private hospital on Guam. Therefore, Bill No. 21-34 is special legislation for GRMC. What about other private health care facilities, such as Clinics? Why have they been excluded from the contractual mandate? Are they not worthy of consideration or is the discrimination against them legal?

8. Bill No. 21-34 Will Cause the Government of Guam Health Care Costs to Skyrocket!

According to Eric Plinske, GRMC's Director of Corporate Affairs, in a news release dated February 13, 2017, "the going rate for a private room at GRMC is \$2,400.00 compared to \$600 for a semi private room at Guam Memorial Hospital ("GMH)." *Pacific News Center*, February 17, 2017. See also, *Guam Daily Post*, February 14, 2017. Incidentally, all of GRMC's rooms are private rooms. There are no semi-private room rates at GRMC. Mathematically it is simple to determine that health insurance premiums will rise just from the difference in cost of hospital room rates. And, unlike the rates at GMH, GRMC may raise its rates at any time without the benefit of a public hearing or legislative approval as would be required for an increase in rate at GMH.

Public Health conducted a cost analysis for fiscal year 2017 that shows GRMC's new per diem rate of \$5,075 will cost the government agency an additional \$23 million. If the rate were to be based on GMH's \$1,123 per diem rate, it would only cost about \$10 million. Multiply those costs over the entire population of covered lives for the Hof Guam health Plan and its yet another example of rising healthcare costs that cannot be ignored if GRMC is to be a required provider under the Government's Health Contract.

Because GRMC is a private for profit hospital it is not bound to any fee schedule or public oversight as it relates to pricing their services. With a guarantee of inclusion into the Government of Guam Health Plan, this Bill provides GRMC an unfair advantage in what should be a competitive healthcare marketplace. In an anti-competitive environment prices will skyrocket, patient care and quality will be compromised and the Government of Guam its employees, and retirees will be left holding the bag. Simply said, if this Bill passes into law GRMC will have no reason to negotiate or address what is significantly higher costs compared to GMH or other on-island providers.

In addition to practically killing GMH, the Government's attempt to force a private company to contract with another private entity as part of competitive RFP process such as the Government of Guam Health Plan creates an anti-competitive environment and is not sound public policy. What will undoubtedly result is an absolute unwillingness on GRMC's part to negotiate rates or fees with health plan providers in a captured healthcare market.

9. TakeCare's Perspective.

TakeCare has been a health plan provider for the Government of Guam Health Plan since FY2013. As a health plan provider for the Government of Guam, TakeCare has partnered with the Government during times of financial hardship and has continued to provide health insurance coverage to retirees even though premiums were not paid under the terms of TakeCare's contract with the Government. Those financial hardship conditions still exist and to this day TakeCare is still not receiving the full contribution of the Government of Guam share of premiums for retirees.

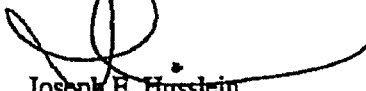
As we already know from past experience, the Government of Guam has been unable to meet its existing obligations for retiree health insurance premium payment and if this bill passes it will create even more dire financial conditions for the Government.

For the past three fiscal years TakeCare has provided the Government of Guam with numerous exclusive and non-exclusive proposals that would have saved the Government of Guam, its employees and retirees tens of millions of dollars in healthcare costs. To be clear, those savings were realized largely due to the fact that Guam Regional Medical City ("GRMC") was not part of TakeCare's health insurance offerings. If this Bill passes, TakeCare would be forced to include GRMC into its health insurance proposal causing any real or potential savings over existing rates to completely evaporate. Requiring that GRMC be a participating network provider for the Government of Guam Health Plan will cause rates to rise exponentially.

Bill No. 21-34 is a significant step in the wrong direction and will only serve to drive health insurance premiums upward for the Government of Guam, its employees, and retirees. It will certainly jeopardize the viability of GMH. This bill is not in the Government's best interests and is contrary to the aim and objective of the recently passed legislation in Bill No. 3-34. If the Government seeks to control the inflationary rates of healthcare spending under its health plan benefits, this Bill should not be passed.

For all the reasons outlined above TakeCare asks you to consider the impact this legislation will have on Government of Guam taxpayers, employees and retirees who rely on the Government of Guam for health insurance, and prevent this Bill from being enacted into law.

Sincerely,



Joseph E. Husslein,  
CEO and Health Plan Administrator

cc: TakeCare Representatives

*1 Misa Trossel Kabira Na Likelikesuran*  
 BILL STATUS

|              |                                                                                                                                                                                            |                      |          |                                                 |                      |                                                                 |                      |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------|-------------------------------------------------|----------------------|-----------------------------------------------------------------|----------------------|
| R. J.P. Cruz | AN ACT TO ADD § 4502(h)(1) OF CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THAT ALL PRIVATE HOSPITALS BE COVERED UNDER THE GOVERNMENT OF GUAM HEALTH INSURANCE CONTRACT. | 2/14/17<br>5:01 p.m. | 02/17/17 | Committee on Appropriations<br>and Adjudication | 3/16/17<br>2:00 p.m. | Fiscal Note<br>Request<br>2/17/17<br><br>Fiscal Note<br>3/16/17 | WITHDRAWN<br>3/23/17 |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------|-------------------------------------------------|----------------------|-----------------------------------------------------------------|----------------------|

# EXHIBIT 15

**LEGISLATIVE HISTORY**  
**PUBLIC LAW 34-83**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 1/4/77<br>1:55 p.m.            | 3/7/77<br>12:00 P.M.                         | 2/7/77<br>2:00 P.M.                                                | 2/27/77<br>5:17 p.m. | Final Note<br>Required<br>2/25/77<br>Final Note<br>2/15/77 | NOTES                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------|--------------------------------------------------------------------|----------------------|------------------------------------------------------------|--------------------------------------------------------------------|
| <p>IN FACT TO AMEND §§ 409(a) AND 409(b), BOTH OF ARTICLE 1, CHAPTER 4, TITLE 4, WISCONSIN CODE ANNOTATED, RELATIVE TO HEALTH INSURANCE PROPOSAL PLAN FOR GOVERNMENT OF WISCONSIN EMPLOYEES AND RETIREES AND POSTER CHILDREN IS RECOMMENDED BY THE GOVERNMENT OF WISCONSIN HEALTH INSURANCE REFORM TEAM TO A MAJOR LAYER EQUILIBRIUM FOR COMPENSATION AND TO INVESTING THE LEGISLATURE OF FINAL APPROVAL AUTHORITY OVER ANY CONTRACT ENTERED INTO BY THE MAJOR LAYER EQUILIBRIUM FOR THE SAME.</p> | <p>DATE PASSED<br/>3/7/77</p>  | <p>TRANSMITTED<br/>3/7/77<br/>12:00 P.M.</p> | <p>COMMITTEE ON APPROPRIATIONS<br/>AND ADJUDICATION<br/>3/7/77</p> | <p>3/26/77</p>       |                                                            | <p>Archives: 8/7/77<br/>Mets and Comm Dec. No.<br/>145-17-4073</p> |
| <p>IN FACT TO AMEND §§ 409(a) AND 409(b), BOTH OF ARTICLE 1, CHAPTER 4, TITLE 4, WISCONSIN CODE ANNOTATED, RELATIVE TO HEALTH INSURANCE PROPOSAL PLAN FOR GOVERNMENT OF WISCONSIN EMPLOYEES, RETIREES, AND POSTER CHILDREN IS RECOMMENDED BY THE GOVERNMENT OF WISCONSIN HEALTH INSURANCE REFORM TEAM TO A MAJOR LAYER EQUILIBRIUM FOR COMPENSATION; AND TO INVESTING THE LEGISLATURE OF FINAL APPROVAL AUTHORITY OVER ANY CONTRACT ENTERED INTO BY THE MAJOR LAYER EQUILIBRIUM FOR THE SAME.</p>  | <p>DATE PASSED<br/>3/13/78</p> | <p>TRANSMITTED<br/>3/7/78<br/>1:04 P.M.</p>  |                                                                    |                      |                                                            | <p>NOTES</p>                                                       |



2

**I MINA'TRENTAI KUÁTRO NA LIHESLATURAN GUÁHAN**  
**2017 (FIRST) Regular Session**

Bill No. 3-34 (COR)

Introduced by:

B. J. F. Cruz

AN ACT TO *AMEND* §§ 4301(a) AND 4302(c)(2), BOTH OF ARTICLE 3, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENSURING THAT *ONLY* THE MOST ECONOMICAL AND BENEFICIAL HEALTHCARE INSURANCE PROPOSAL PLAN FOR GOVERNMENT OF GUAM EMPLOYEES AND RETIREES AND FOSTER CHILDREN IS FORWARDED BY THE GOVERNMENT OF GUAM HEALTH INSURANCE NEGOTIATING TEAM TO *I MAGA'LÁHEN GUÁHAN* FOR CONSIDERATION; AND TO DIVESTING THE LEGISLATURE OF FINAL APPROVAL AUTHORITY OVER ANY CONTRACT ENTERED INTO BY *I MAGA'LÁHEN GUÁHAN* FOR THE SAME.

1        **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2        Section 1. Subsection 4301(a) of Article 3, Chapter 4, Title 4, Guam Code  
3        Annotated, is hereby *amended* to read:

4        "(a) *I Maga'lahi* (the Governor) is authorized to enter contracts and reject  
5        proposals, with the written concurrence of the Speaker of *I Liheslaturan Guáhan*  
6        (the Guam Legislature) or the Chief Justice of the Supreme Court of Guam whose  
7        consents may be withheld in their sole discretion, with one (1) or more insurance  
8        companies, authorized to do business in Guam, for group insurance, including, but  
9        *not* limited to, hospitalization, medical care, life, and accident, for all employees or  
10       separate groups of employees, and foster children, of the government of Guam. If  
11       the Legislative or Judicial Branches of government elect to enter into separate  
12       contracts for their employees as authorized in § 4301(c), *I Maga'lahi shall* obtain

the written concurrence of the Branch electing to remain with the Executive Branch before the group insurance contract is entered into or a proposal rejected. The government *shall not* be construed as an agent of any insurance company in negotiating or administering this group insurance program. Health benefits provided under this authority may be self-funded and administered by a third party if it is determined to be cost-effective. No government funds shall be authorized or expended and no contract shall be executed with any healthcare respondent/provider for group insurance for all employees or separate groups of employees, and foster children, of the government of Guam, whose proposal does not represent the most economical and beneficial healthcare insurance proposal plan, as defined in § 4302(c)(2) of this Article, as determined by the negotiating team, as defined in § 4302(c) of this Article.

Section 2. Subsection 4302(c)(2) of Article 3, Chapter 4, Title 4, Guam Code Annotated, is hereby *amended* to read:

"(2) The negotiating team upon selection and review of the single best available proposals by participating healthcare respondent(s)/provider(s), which reflect shall be the most economical and beneficial healthcare insurance proposal plan for government of Guam employees and retirees, and foster children, shall forward said the accepted proposals to *I Maga'låhen Guåhan* for consideration, and to *I Liheslaturan Guåhan* for its review final approval no later than July 31, and prior to the annual legislative sessions wherein the upcoming fiscal year budget for the government of Guam is before *I Liheslaturan Guåhan* for consideration. Notwithstanding any other provision of law, rule, or regulation, the most economical and beneficial healthcare insurance proposal plan for government of Guam employees and retirees, and foster children, shall be defined as the lowest cost option of either the exclusive or non-exclusive proposal.

1 The negotiating team shall forward only the single most economical and  
2 beneficial healthcare insurance proposal plan for government of Guam employees  
3 and retirees, and foster children, to I Maga'låhen Guåhan, and shall not forward  
4 both an exclusive and a non-exclusive proposal to I Maga'låhen Guåhan."

5 **Section 3. Effective Date.** This Act shall become effective upon enactment.

6 **Section 4. Severability.** *If* any provision of this Act or its application to any  
7 person or circumstance is held invalid, the invalidity shall not affect other provisions  
8 or applications of this Act that can be given effect without the invalid provision or  
9 application and to this end the provisions of this Act is severable.

**SPEAKER BENJAMIN J.F. CRUZ**

Committee on Appropriations and Adjudication  
ator@senatorbjcruz.com | www.senatorbjcruz.com



*I Mina'trentai Kudtro na Liheslatura Gudhan*

**THE 34TH GUAM LEGISLATURE**

163 Chalan Santo Papa, Hagåtña, Guam 96910  
T: (671) 477-2520/1 | F: (671) 477-2522

## COMMITTEE REPORT DIGEST

Bill No. 3-34 (COR), As Introduced - B. J.F. Cruz - "An act to amend §§ 4301(a) and 4302(c)(2), both of Article 3, Chapter 4, Title 4, Guam Code Annotated, relative to ensuring that only the most economical and beneficial healthcare insurance proposal plan for government of Guam employees and retirees and foster children is forwarded by the government of Guam Health Insurance Negotiating Team to *I Maga'lahaen Guahan* for consideration; and to divesting the Legislature of final approval authority over any contract entered into by *I Maga'lahaen Guahan* for the same."

### I. OVERVIEW

Bill No. 3-34 (COR) was introduced by Speaker Benjamin J.F. Cruz on January 4, 2017, and referred to the Committee on Appropriations and Adjudication on January 24, 2017.

The Committee on Appropriations and Adjudication convened a public hearing on Friday, February 10, 2017, beginning at 2:00PM in the Guam Legislature Public Hearing Room. The hearing for Bill No. 3-34 (COR) began at 2:04PM and ended at 3:42PM. ✓

### Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all Senators on February 2, 2017, and February 8, 2017, via email. Copies of the hearing notices are appended to the report.

### Senators Present

Speaker Benjamin J.F. Cruz, *Chairperson*  
Vice Speaker Therese M. Terlaje, *Member*  
Senator Régine Biscoe Lee, *Member*  
Senator Telena C. Nelson, *Member*  
Senator Joseph S. San Agustin, *Member*  
Senator James V. Espaldon, *Member*  
Senator Thomas A. Morrison, *Member*  
Senator Louise Borja Muna

### Appeared Before the Committee

Ms. Christine W. Baletto, *Director, Department of Administration*  
Attorney Shannon J. Taitano, *Legal Counsel, GovGuam Health Insurance Negotiating Team*  
Mr. Frank Campillo, *Health Plan Administrator, Calvo's SelectCare Insurance*  
Mr. Eric L. Plinske, *Director of Corporate Affairs, Guam Regional Medical City*

**Vice Speaker Terlaje:**

"Does our RFP require coverage at both hospitals or is it certain hospitals?"

**Ms. Taitano:**

"I believe it is just for hospitalization. I don't recall..."

**Director Baletto:**

"And that's why I think we would need to research because I don't believe you can name all the clinics and say, you must provide access to all of these hospitals, to all of the clinics, to all of these pharmacies. I don't know if we are able to do that."

**Vice Speaker Terlaje:**

"Do you - I was going to ask the carriers this question, but I'll ask. Can you list the difference in services in the different hospitals that we have? Or difference in services that employees are getting at off-island hospitals. What makes them different? When they say they want choice, is it that they want a certain service that another hospital does not provide. Or is it really just choice that is not a critical item?"

**Ms. Taitano:**

"I've been told by some employees when they like the option to choose the different carriers, it's the rates they compare because the plans are the same. I've been told, too that it's the service they receive from the different carriers. Some prefer one carrier over the other. That's what has been conveyed to me."

**Vice Speaker Terlaje:**

"Customer service?"

**Ms. Taitano:**

"Yes."

**Director Baletto:**

"Responsiveness, especially when it comes to claims, any paper work, or coordination of services, if you need to fly off-island—we hear some of those comments as well: There are some carriers who are more responsive or quicker to set those things up as opposed to maybe someone else that they might have had experience with."

**Vice Speaker Terlaje:**

"I would be interested if the government of Guam is going to require an exclusive contract because of cost or find ways to save on cost. Would you be

Unfortunately we are not the ones to determine the splits, unless we grab it back."

**Mr. Campillo:**

"But you could legislate that."

**Chairman Cruz:**

"We may have to take that back. Thank you for being the one suggesting it."

**Vice Speaker Therese Terlaje:**

"I'm sorry I am not familiar with this but, [quoting from Mr. Campillo's testimony] "... whereby [the Guam Memorial Hospital Authority] limits its charges to the Medicare rates for the GovGuam population". Do they have one set of rates for Medicare and then another set of rates for insurance companies? Is that how it works?"

**Mr. Campillo:**

"So, GMH is paid by Medicaid, Medicare and [Medicaid Integrity Program], a set of rates that are basically based on the Medicare reimbursement factor. The rest of us have to pay a different rate. It is based on their published rate schedule. We used to get a prompt payment discount if we paid in thirty (30) days. That was eliminated. So, that's the schedule that applies to third-party payers. I'm suggesting, why charge your population more? After all, it is GovGuam taking care of GovGuam employees so allow us to pay GovGuam based on the Medicare fee schedule."

**Vice Speaker Terlaje:**

"Do you think the government could make an agreement for GovGuam subscribers? We set a rate like that?"

**Mr. Campillo:**

"It's your hospital. You can do whatever you want."

**Vice Speaker Terlaje:**

I'll ask the Attorney General.

**Mr. Campillo:**

"You are already paying Medicaid based on Medicare. Thank you very much."

Mr. Eric Plinske greeted members of the Committee and introduced himself as Director of Corporate Affairs for the Guam Regional Medical City. He then proceeded to read his written testimony (*appended to this report*). The written testimony — while expressing

support for the measure's intent—sought amendments that would require all qualified insurers participating in the GovGuam Health Insurance Program to include both private and public hospitals as in-network providers.

Mr. Plinske further noted:

"Mr. Speaker, I appreciate the time. One of the things we mentioned [was] choice and I know [we've] talked about economies of scale and bargaining power and that's what insurance companies have when they deal with providers and they will negotiate rate discounts because of their bargaining power and their economies of scale. But when they don't sign a contract with a provider those rates remain at the list rate and they go on to the customer. As a non-participating provider, the biggest thing that people don't understand and I would assume you may have a difficult time understanding what non-participating provider means and the famous quote, eligible charges. What that means and I can explain in detail right now, for instance the one plan who has not put us in their network, it doesn't mean that there's necessarily savings anywhere it just means those costs are going to have to go to someone else. We are holding over five million dollars (\$5 million) of claims for that provider. We have not sent those to the customer—your GovGuam employees, retirees, federal workers—because we are in negotiations to try and work out an agreement. We're not really that close right now, unfortunately.

"The three (3) other plans on-island have all signed with us a long time ago. So, if we were to release those bills to those patients, we are going to have to eventually, if those good faith efforts don't work. Imagine the bankruptcies that people will face if they have to pay these full bills under eligible charges. And it's not just the one plan, all health plans have this clause. If you are non-participating provider they only pay directly for emergency services under the... it's called [the Emergency Medical Treatment and Labor Act (EMTALA)]. No hospital can turn away a patient due to money issues. You accept them and you must stabilize them. Many times that emergency visit results in an admission. As a non-participating provider there are many hoops that are followed. First, they come into the emergency room, you have no agreement with this health plan but you are supposed to within twenty four (24) hours or twelve (12) hours notify the non-participating, the plan that you are not a network provider in of the emergency room visit in order for any payment whatsoever to be paid.

"Then, if there is an admission, require another notice with pre-authorization approval to be provided to the hospital for what would be called, pre-authorization to admit to a non-participating provider. Now, even if you got

that, it doesn't mean the plan is going to pay anything to the hospital. The whole bill is going to the patient, that full price and the only way that patient is going to get any money back is if they first, pay the full bill with no discounts because they don't get the benefit of a negotiated agreement and those negotiated rates.

"Now, if a miracle happens and they end up finding the money to pay that bill then they get to go to the health plan and seek reimbursement generally at seventy percent (70%) of eligible charges. What does that mean? That means usually the lowest of the low of any rate they can look at: Medicare rate, the lowest network rate--GMH likely and a range of other ones, some physician fees. There's about three to four (3-4) different ones they could refer to; usually it'll be the lowest of the low.

"As an example of that is a private room at GRMC at list price, the lowest and we're a private room hospital where GMH is a semi-private room hospital with some private rooms. A surgical room for instance is twenty four hundred dollars (\$2400). It's about six hundred dollars (\$600) semi-private at GMH. Now, just that one service you went to the hospital at GRMC, and many times you have no choice. If you are in an ambulance, you are going to be taken to the nearest hospital whether that hospital is in your network or not and if you are not stable and you need to be admitted, it's going to be done. You really don't have a choice there. We are going to treat you no matter what. And we are not going to ask you during that process what plan you've got or if you have any money.

"So, now you go twenty four hundred dollars (\$2400) just for the room. Somehow you find the money to pay for that. And believe me there are surgeries and many other expenses going to be--we are just looking at the room. If you heard seventy percent (70%) of eligible charges you might think, well that's not bad. Some plans have eighty percent (80%) of charges if you are in network, seventy percent (70%) of eligible charges--that doesn't sound too bad. The bill goes through and you pay for the whole twenty four hundred (\$2400). Now, you go to the plan to seek reimbursement. Now, you'll find out likely the reference rate is the six hundred dollar (\$600) room rate at GMH. That's a semi-private room, seventy percent (70%) of that room rate. That's about four hundred and twenty dollars (\$420). The rest you eat--over two thousand dollars (\$2000). What was the real result? About seventeen percent (17%) of the bill was reimbursed but that's only if the person had the money to pay the hospital up front. Rarely do they have that. Who would? If you have a major set of surgeries: tens of thousands of dollars for sure, and who's got that money laying around? Seventeen percent (17%) if you can even find the money to pay up front that you might be eligible to get paid and reimbursed back to you while you eat the eighty



**Mr. Campillo:**

"Let me tell you the other side of that coin. If the government of Guam obligates the health insurance plans to include everybody, then you take the ability for the health insurance plans to negotiate. You have to balance it. I can see the perspective of a company and a hospital that has invested a significant amount of dollars to be included in our plans. I can see their perspective. But on the other hand, I think that we live in a free enterprise world, you need to allow health insurance plans to be able to negotiate accordingly."

**Mr. Francis Santos** approached the Committee and proceeded to testify.

"Thank you Mr. Speaker and colleagues. Then, I would argue that you have an issue with the [Qualifying Certificates (QCs)] that we all benefit as insurance carriers and as a hospital. Because my understanding with the QC benefit is that we as the residents of Guam will get a benefit from the hospital and the insurance carriers. So, if you are going to allow this system to not choose this hospital verses this hospital then we should really look at why we are giving QCs. Because the promise was no, I'm going to allow this hospital to come to our island, offer this benefit and offer more importantly to the residents that cannot afford to come to the hospital. Again, I caution you to examine that closely. I'll speak on behalf of GRMC, you [wanted] us to be on this island and provide this service. So, we are here today. All we are asking is that give the residents of Guam the chance to choose the hospital and just put us in the network, is all we are saying. We'll negotiate. That's our challenge to negotiate with the carriers. I will say I don't want to comment at this point because we recently transmitted the bill on behalf of the GPA and GWA employees to ask the Legislature to consider separating us out of the group health insurance and at that time I'll submit my testimony recognizing both bills and how they address group health insurance in total. Thank you very much."

**Chairman Cruz:**

"When you were just speaking, were you speaking as a taxpayer or an official from GRMC?"

**Mr. Santos:**

"I have this crazy hat; sometimes three (3) hats actually. I can speak on behalf of the industry if they allow me at times and sometimes they do. I have to speak on behalf of GRMC because of the value it brings to this community and just as a resident taxpayer who at times questions why we do QCs. This issue at this point is that it is a done deal. We've given QCs to insurance carriers because that's the benefit for the risk they take and then you asked GRMC to invest two hundred and fifty million dollars (\$250 million). So, we are here today asking that all the residents of Guam be afforded to come to this hospital."

Mr. Campillo:

"I gave you my perspective that I don't feel the need to mandate that."

Senator James V. Espaldon:

"Mr. Speaker, if I may? What [Mr. Plinske] had testified to...I guess the implication as it is relative to this particular bill is that if we were to go down this road and entertain this in session that only the lowest price carrier then it kicks in and the testimony that if we're going to go down that road then at least include the other hospital. Otherwise, any carrier who does not include would probably be able to bid the lowest price. I just want to make sure. Is that what really is being said the past ten (10) minutes just to make it clear in my mind?"

Mr. Campillo:

"I think [Mr. Plinske] said it clear and that is that it is a fact that the new hospital has a higher price cost than GMH. And you are right. If you are going to look at the least expensive hospital, it's the same way when we go to the Philippines and go to Green Hills to buy stuff. Cheap does not clearly bring quality and I think that if you are going to mandate and you go with the lowest cost possible, health plans as very well explained by [Director Baleto], you are going to find ways to carve out the least expensive items of the health plan. That's going to create that. But if you mandate that a health plan needs to contract with someone then you also take away the ability for health plans to really work on behalf...at the end of the day, you are going to sign up and you are going to be able...the health plan will be able to sign up the networks that they feel are going to be best for the individual members that are going to sign up with them and the health plans either work with the provider and provides what is good quality or not. That's why it allows choice for members to differentiate between a quality health plan and one that may not be quality."

Senator Espaldon:

"I just wanted to clarify and make sure that I understood exactly what's being said. [Mr. Plinske], if you would like to join us again, I'd love to have him come back up."

Mr. Plinske:

"We actually work very well with all the health plans. Take Care is a strong provider of health plans and we look forward with working with them and come to an agreement. Jeff and the team at Take Care, we have no animosity. What happens if you don't...and I think we're talking about a hospital and we're talking about clinics. There's a little bit of a difference I think to say a specialty hospital where there is no...[Mr. Campillo] mentioned that there was one entity no one else paid those rates."

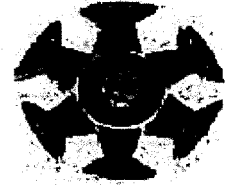
# **EXHIBIT 2**



Lourdes Leon Guerrero  
Governor  
Joshua Tenorio  
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION  
(DIPATTAMENTON ATMENESTRASION)  
DIRECTOR'S OFFICE  
(Ufisinan Direktot)

Post Office Box 884 \* Hagåtña, Guam 96932  
TEL: (671) 475-1250 \* FAX: (671) 477-6788



Edward Birn  
Director  
Edith C. Pangelinan  
Deputy Director

MAR 27 2019

Procurement No. DOA/HRD-RFP-GHI-20-001

Dear Prospective Offeror:

*Buenas yan Hafa Adail*

We would like to thank you for your interest in submitting a proposal to provide health insurance services to the Government of Guam's Group Health Insurance Program.

On an annual basis, the Government of Guam issues a Request for Proposal (RFP) to interested health insurance companies licensed to do business on Guam under the laws of Guam, to provide group health insurance coverage to Government of Guam employees, retirees, survivors, their covered dependents and foster children under the legal custody of the Child Protective Services Division of the Department of Public Health and Social Services. Therefore, this is to invite your company to submit a proposal to this RFP. Negotiations are tentatively scheduled for the week of June 3, 2019.

To register as an interested company, you must complete and email the "Acknowledgement of Receipt of RFP" form to [leonora.candaso@doa.guam.gov](mailto:leonora.candaso@doa.guam.gov), [naomi.sablan@doa.guam.gov](mailto:naomi.sablan@doa.guam.gov), and [suzanne.kohlmann@aon.com](mailto:suzanne.kohlmann@aon.com). In the event any amendments to the RFP are issued, the acknowledgement will ensure that all interested parties are informed of such change(s). The Government of Guam and the Department of Administration shall not be liable for failure to provide notice to any party who did not register contact information.

Thank you in advance for your response and we look forward to working with your company.

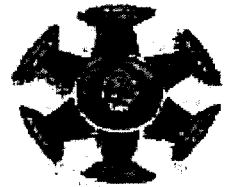
Edward Birn, Director  
Department of Administration



**Lourdes Leon Guerrero**  
 Governor  
**Joshua Tenorio**  
 Lieutenant Governor

**DEPARTMENT OF ADMINISTRATION**  
*(DIPATTAMENTON ATMENESTRASION)*  
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**Edward Birn**  
 Director  
**Edith C. Pangellinan**  
 Deputy Director

**ACKNOWLEDGEMENT OF RECEIPT OF RFP**

**Procurement No.: DOA/HRD-RFP-GHI-20-001**

**Attention:** Human Resources Division, Employee Benefits Branch

**From:** \_\_\_\_\_

**Subject:** Registration of interest to provide Health Insurance services  
 FY 2020 Health Insurance Program

To register as an interested company, you must complete and email the following information to the following individuals: leonora.candaso@doa.guam.gov, naomi.sablan@doa.guam.gov, and suzanne.kohlmann@aon.com. The Negotiating Team cannot guarantee that your company will receive any amendments or notices to the RFP that may be issued unless the information below is completed and submitted as provided herein. All carriers are advised to register as soon as the RFP is retrieved from the DOA website.

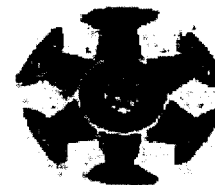
|                                    |                    |
|------------------------------------|--------------------|
| <b>Date:</b>                       |                    |
| <b>Company Name:</b>               |                    |
| <b>Contact Person &amp; Title:</b> |                    |
| <b>Contact Information:</b>        | Telephone No.: ( ) |
|                                    | Facsimile No.: ( ) |
|                                    | E-Mail address:    |
|                                    | E-Mail address:    |
| <b>Mailing address:</b>            |                    |
|                                    |                    |
|                                    |                    |
| <b>Street address:</b>             |                    |
|                                    |                    |
|                                    |                    |



Lourdes Leon Guerrero  
Governor  
Joshua Tenorio  
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION  
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Edward Birn  
Director  
Edith C. Pangellinan  
Deputy Director

Procurement No.: DOA/HRD-RFP-GHI-20-001

Description: FY 2020 Health Insurance Program  
Request for Proposal (RFP)

**SPECIAL REMINDER TO PROSPECTIVE OFFERORS**

Offerors shall carefully read all sections of this Request for Proposal (RFP) and be informed of all its terms and conditions. Offerors are especially alerted to the sections entitled "Proposal Contents and Requirements" in the RFP, and are asked to ensure that all required documents and information are included in their proposal.

Compliance with the following is mandatory, but not inclusive of all the requirements of the RFP:

- ❑ Carriers are advised to produce 1 original and 12 duplicate copies of their proposal. The original should be clearly marked as **original** and the 12 copies should be numbered as 1 of 12, 2 of 12, etc. The original and 12 numbered duplicate copies should be sent to the Director of the Department of Administration.
- ❑ To be qualified, pursuant to Title 4 GCA § 4302(c), an offeror shall submit a proposal made up of two parts; first an exclusive proposal, and second, a non-exclusive proposal, and meet the minimum requirements specified in the RFP (see Exhibit A for list).
- ❑ An exclusive proposal means a proposal based upon the assumption that the Government will contract with only one health insurance provider that is selected by the Negotiating Team from up to three different Health Insurance Carriers that all negotiate best and final offers with the Negotiating Team.
- ❑ A non-exclusive proposal means a proposal based upon the assumption that the Government may contract with up to three health insurance carriers that negotiate best and final offers with the Negotiating Team. If only two Health Insurance Carriers submit qualified proposals, the Non-exclusive proposal shall mean a proposal based upon the assumption that the Government will contract with more than one Health Insurance Carriers that negotiate best and final offers with the Negotiating Team.
- ❑ As set out hereafter, the exclusive proposal and the non-exclusive proposal shall be submitted together as a single submittal by each offeror.
- ❑ Each proposal must be organized, fully assembled and complete.
- ❑ All offerors should submit their cost proposal within the original response.
- ❑ **Affidavit Forms**
  - A. The Government requires five (5) different Affidavits and one (1) Declaration Form (Exhibit G Forms A, B, C, D, E & F).
  - B. Form A, Affidavit Disclosing Ownership and Commissions must be made between the dates of issuance of this RFP and the dates that proposals are due, so long as the ownership listing mentioned in the Affidavit is for the

365 day period preceding the date the offeror submits the proposal.

C. One original of each form and twelve (12) copies of each form must be submitted. The original form shall be submitted with the original proposal and the copies shall be submitted with the proposal copies.

- ⓪ The Questionnaire and Pricing information provided in Excel format with the RFP package, **must be completed and returned in Excel format, as well as in PDF format**, to ensure no changes were mistakenly made to the excel file during our analysis phase. Each proposal type, exclusive and non-exclusive, must have the excel format responses completed entirely.
- ⓪ Redlined contract responses **must be returned in Word format.**
- ⓪ Copies of the Negotiating Team's desired plan designs and alternatives are included with this RFP. Offerors must specify in their proposal any components to which they cannot comply and any changes they desire to the proposed plan design.
- ⓪ Pursuant to Title 4 GCA § 4302(g), health insurance carriers contracted with the Government must provide specific claim level detail to the Government. Exhibit F is provided as a monthly claims summary by coverage. Claims data presented as Exhibit C in the RFP are enough for carriers to submit a proposal.

**For Insured and Reinsurance Proposals:**

- ⓪ All reinsurers that assume accident and health risks ceded by the offeror must be licensed to transact reinsurance business in Guam. A copy of the current certificate of authority of the insurer and the reinsurer and a summary of each reinsurance treaty (is) must be submitted together with the proposal.
- ⓪ The offeror must submit a copy of the reinsurance agreement or reinsurance treaty that transfers the risks for accident and health insurance. The submitted reinsurance agreement or reinsurance treaty must be duly authenticated by the reinsurer as the entire agreement between the offeror and the reinsurance company.

**For Administration and Reinsurance Proposals:**

- ⓪ All offerors must be licensed to transact reinsurance business in Guam. A copy of the current certificate of authority of the administrator and the reinsurer must be submitted together with the proposal.

**For all Proposers:**

- ⓪ Adherence to the Administrative Procedures and the Marketing Guidelines is required.
- ⓪ Offerors must read and review the Administrative Procedures (Exhibit H) and sign and submit the Administrative Procedures along with their proposal.
- ⓪ Offerors must read and review the Marketing Guidelines (Exhibit I) and sign and submit the Marketing Guidelines along with their proposal.
- ⓪ Premium, Enrollment and Claim information is included in the RFP as Exhibit C.
- ⓪ This solicitation does not commit the Government of Guam to enter into negotiations, award a contract, to award an exclusive contract, to award non-exclusive contracts, to pay costs incurred, or contract for any services.
- ⓪ The Government of Guam will conduct the health insurance program in compliance with all Federal and local statutes.
- ⓪ Prospective offerors are required to register as an interested party by completing the "Acknowledgement of Receipt of RFP" and submitting the Acknowledgement of Receipt as soon as possible.
- ⓪ Questions regarding this RFP must be submitted in writing in **Word or in email, not PDF**, and received by the Director of the Department of Administration as instructed in the RFP. **Prospective offerors are encouraged to submit their questions as soon as they are formulated.**

▮ **Proposal due dates:**

All hard copies of proposals must be received by the Director of the Department of Administration no later than **4:00 p.m., May 3, 2019, Chamorro standard time**. Hard copies of the entire proposal must be received by this due date and will be the determining factor for the purpose of timely submission. Hard copy of proposals received after this time and date will not be accepted. An electronic version of the proposal must also be uploaded to the secure file transfer site no later than **4:00 p.m., May 3, 2019 Chamorro, standard time**. This SFTS tool was developed to provide a secure method for facilitating file transfers from outside parties. Prospective offerors will receive website access to the SFTS upon submission of the Acknowledgement of Receipt as instructed in the RFP.

▮ **RFP packages are available online at the Department of Administration's website at [www.hr.doa.guam.gov](http://www.hr.doa.guam.gov).**





**Lourdes Leon Guerrero**  
Governor  
**Joshua Tenorio**  
Lieutenant Governor

**DEPARTMENT OF ADMINISTRATION**  
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**Edward Birm**  
Director  
**Edith C. Pangelinan**  
Deputy Director

**DEPARTMENT OF ADMINISTRATION**

Procurement No.: DOA/HRD-RFP-GHI-20-001  
**FY 2020 GROUP HEALTH INSURANCE PROGRAM**  
**REQUEST FOR PROPOSAL**  
**(RFP)**

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- Exhibit H, Administrative Procedures
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## **I. GENERAL INFORMATION**

### **A. Purpose and Background**

Pursuant to Title 4, Chapter 4 of the Guam Code Annotated, Section 4301, the Governor of Guam is authorized to enter into contracts and reject proposals with one or more insurance companies for group insurance including but not limited to hospitalization, medical care, life and accident. In connection with such group benefits, the Government of Guam (Government) is accepting proposals from interested and qualified health insurance companies (including health maintenance organizations), and/or Third Party Administrators coupled with Reinsurance, licensed under applicable Guam laws, to provide health insurance coverage for eligible Government of Guam active employees, retired employees, survivors of retired employees and their covered dependents. This RFP is also issued to contract with health insurance carrier(s) to cover foster children under the legal custody of the Child Protective Services Division of the Department of Public Health and Social Services. All health insurance companies and/or Third Party Administrators coupled with Reinsurance must be licensed and comply with all regulatory requirements as promulgated by the Guam Insurance Commissioner, pursuant to the Insurance Statute of Guam and other applicable laws.

The intent, pursuant to Title 4 GCA §4302(c), is to present to the Governor of Guam the most economical and beneficial healthcare insurance proposal plan defined as the lowest cost option of either the exclusive or non-exclusive and not forward both an exclusive and a non-exclusive proposal to the Governor.

All qualified proposals, consisting of one exclusive proposal and one non-exclusive proposal, will be reviewed, evaluated and scored separately by the Negotiating Team. The Negotiating Team is established pursuant to Title 4 GCA §4302. The top three ranked exclusive proposals and the top three ranked non-exclusive proposals will be chosen, and those offerors will enter into negotiations with the Negotiating Team.

At the conclusion of negotiations, the Negotiating Team will use established criteria stated in the RFP and rank the three exclusive negotiated agreements. The lowest cost option between the exclusive and non-exclusive will be presented to the Governor. The executed contract or contracts will be offered to the employees and retirees of the Government of Guam.

We are looking for a one-year rate quote.

Currently, the Government has two (2) health insurance carriers: SelectCare and TakeCare. Each carrier offers two (2) plans to active employees, retirees, survivors and their dependents: PPO 1500 and HSA 2000 deductible plans. Each carrier also offers a Retiree Supplemental Plan to eligible retirees. All retired employees and survivors of a retired employee who are enrolled in Medicare (Parts A and B), and who participate by electing either Class I or Class II coverage, are required to enroll in the Retiree Supplemental Plan as mandated in Public Law 34-95. All carriers provide preferred provider organizations. Carriers must refer to the required plan designs and options for the description of FY2020 desired plan designs. Enrollment into these plans is voluntary.

There are approximately 251 foster children currently enrolled in the Foster Plan. Please refer to enrollment census data for those enrolled in the insurance plan.

The Group Health Insurance Rules and Regulations promulgated by the Department of Administration in April 1986, and the Rules of Procedure for the Negotiating Team promulgated in November 2013 are attached as Exhibit J.

### **B. General Authority for Procurement**

The Negotiating Team is issuing this Request for Proposal (RFP) subject to the competitive selection procedures for professional services found in the Guam Procurement Law (Title 5 GCA § 5001, *et seq.*) and its regulations (Title 2 GAR Div. 4 § 1101, *et seq.*) Specifically, the procedure for this RFP is found at Title 2 GAR Div. 4, § 3114 and its subsections. Title 4 GCA §§ 4301 and 4302 require the acquisition of group health insurance for government employees, retirees and survivors by virtue of a Request for Proposal.

The Guam Code Annotated (GCA) and the Guam Administrative Rules and Regulations (GARR) are available from the web site of Guam's Compiler of Laws found at <http://www.guamcourts.org/CompilerofLaws/index.html>.

Nothing in this RFP or any process carried out pursuant to this RFP is meant to confer a right to any offeror to be awarded a contract or a right to enter into a contract with the Government.

**C. All Parties to Act in Good Faith**

The Guam Procurement Law and the Guam Procurement Regulations require that all parties involved in the preparation of proposals; the preparation of the RFP; the evaluation and negotiation of proposals; and the performance or administration of contracts to act in good faith.

**D. Liability for Costs to Prepare Proposal**

The Government is not liable for any costs incurred by any offeror in connection with the preparation of its proposal. By submitting a proposal, the offeror expressly waives any right it may have against the Government for any expenses incurred in connection with the preparation of its proposal.

**E. Applicability of Guam Procurement Law and Guam Group Benefits Law**

If any part of this RFP is contrary to the Guam Procurement Law (Title 5 GCA §§ 5001-5908), Guam Procurement Regulations (Title 2 GAR Div. 4 § 1101. - 12601), or Guam Group Benefits Law (Title 4 GCA §§ 4301 – 4308) or contains ambiguous terms, then such portion of the RFP shall be interpreted or resolved in favor of or according to the provisions of these laws and regulations.

**F. Licensing and Other Statutory Requirements**

All offerors must comply with Guam laws and procurement regulations and should provide a copy of a current Certificate of Authority issued by the Insurance Commissioner of Guam at the time of proposal submission. In the event any risks for accident and health is reinsured or transferred by the offeror to a reinsurance company, the reinsurer that assumes the risk must also have a current Certificate of Authority to transact reinsurance business on Guam. Any offeror that fails to submit the required copy of Certificate(s) of Authority and insurance license will not be permitted to enter into negotiations with the Negotiating Team. The requirements of having a Certificate of Authority by an insurance company and insurance licenses shall be continuous and shall be maintained during the period the carrier maintains an insurance service contract with the Government.

Pursuant to 22 GCA §18308.1 (form approval) and §18501.1 (rate approval), insurance health carriers are to file the proposed forms and rates for the GovGuam health insurance through System for Electronic Rate and Form Filing ("SERFF"). Every health insurance policy form/contract filed with the Commissioner for approval must be accompanied by a filing fee of Twenty Dollars (\$20.00) and every health insurance rate request filed with the Commissioner for approval must be accompanied by a filing fee of (\$200.00). Carriers are required to timely submit the proposed policy and proposed rate in order to meet the statutory time-line, noting the proposed rate is subject to the Governor's approval.

**G. Registration as Interested Party or Offeror and Fee for RFP**

The RFP is available on-line at the Department's web site without charge at [www.hr.doa.guam.gov](http://www.hr.doa.guam.gov).

All parties who receive an RFP and who are possibly interested in submitting a proposal must register as an interested party by filling out the "Acknowledgment of Receipt of RFP" form and delivering it as instructed within the time permitted. Only registered companies are assured of receiving any amendments to the RFP and responses to inquiries.

**H. Restrictions Against Sex Offenders**

If a contract is awarded, then the offeror must warrant that no person in its employment who has been convicted of a sex offense under the provisions of Title 9 GCA Chapter 25 or of an offense defined in Title 9 GCA Chapter 28 Article 2, 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 Offense Registry, shall provide services on behalf of the offeror while on Government property, with the exception of public highways.

If any employee of an offeror is providing services on Government property and is convicted subsequent to an award of a contract, then the offeror warrants that it will notify the Government of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services on Government property.

If the offeror is found to be in violation of any of the provisions of this section, then the Government will give notice to the offeror to take corrective action. The offeror shall take corrective action within twenty-four hours of such notice, and the offeror shall notify the Government when action has been taken. If the offeror fails to take corrective steps within twenty-four hours of notice, then the Government in its sole discretion may suspend temporarily the contract until corrective action has been taken.

**I. Duration of Contract**

The duration of any contract resulting from this RFP shall be for one year from October 1, 2019 through September 30, 2020.

**J. Confidentiality and Proprietary Information**

Pursuant to the procurement law, after an award of a services contract, the contract and proposal become public record. Proposals that are not awarded a contract remain private and the Government may not disclose them to the public. The full procurement record also becomes public record, including the proposals of awarded offerors except for those portions designated as confidential. **Offerors must identify in their cover letter what items they deem proprietary and request that those items be maintained in confidence in addition to marking those specific items in their proposal.** See Title 2 GAR, Div. 4 §3114(h)(2).

Prospective offerors are advised that rate information contained in the best and final offer will be communicated to the Governor and the Legislature.

**K. Time is of the Essence**

The Government intends for the services requested by the RFP to go into effect on October 1, 2019. An offeror awarded a contract must file the health insurance policy with the Insurance Commissioner of Guam and pay the applicable fees **at least forty-five (45) days prior to the policy's effective date** of October 1, 2019 (**Friday, August 16, 2019**). No health insurance policy or endorsement shall become effective unless filed with the Insurance Commissioner for approval at least forty-five (45) days prior to its effective date. According to Title 22 GCA § 18311, failure to follow this time frame is a crime. Section 18311 provides:

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and shall, upon conviction be subject to a fine of not more than one thousand dollars (\$1,000.00) if the person convicted is not a natural person, or if the person convicted is a natural person, a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment.

Furthermore, the insurance laws prohibit advertisement of any rates unless the rates are filed with the Insurance Commissioner **at least forty-five (45) days prior** to the effective date of the rates or the advertisement of the rates, whichever comes first. Persons violating this provision are subject to a civil fine of up to \$5,000.00 pursuant to Title 22 GCA § 18504.

Therefore, time is of the essence, and all registered interested parties and potential offerors are asked to keep the applicable laws in mind, and to act accordingly.

**L. Authority of Negotiating Team's Consultant**

The Negotiating Team has contracted with a consultant, Aon, to assist the Negotiating Team with this procurement. All proposals will be reviewed by the Negotiating Team and its consultant. The consultant is authorized to communicate with any offeror or registered party and to request and obtain information.

**M. Type of Contract**

The contract to be awarded is a Fixed Price contract.

**N. Other Information**

- a. This solicitation may be cancelled as provided for in the Guam procurement law and regulations.

- b. Any proposal may be rejected in whole or in part when in the best interest of the Territory of Guam as provided for in Guam procurement law and regulations

**O. Minimum Wage as Determined by U.S. Department of Labor**

The offeror awarded a contract under this solicitation agrees to comply with Title 5, Sections 5801 and 5802. In the event that the offeror employs persons whose purpose, in whole or in part, is the direct delivery of service contracted by the Government, then the offeror awarded a contract under this solicitation shall pay such employees, at a minimum, in accordance with the U.S. Department of Labor Wage Determination for Guam and the Northern Marianas Islands in effect on the date of a contract. In the event that the contract is renewed by the Government, the offeror awarded a contract under this solicitation shall pay such employees in accordance with the Wage Determination for Guam and the Northern Marianas Islands promulgated on a date most recent to the renewal date.

The offeror awarded a contract under this solicitation agrees to provide employees whose purpose, in whole or in part, is the direct delivery of service contracted by the Government those mandated health and similar benefits having a minimal value as detailed in the U.S. Department of Labor Wage Determination for Guam and the Northern Marianas Islands, and guarantee such employees a minimum of ten (10) paid holidays per annum per employee.

The current U.S. Department of Labor Wage Determination for Guam and the Northern Marianas Islands is attached hereto as Exhibit G, Form F.

**P. Patient Protection and Affordable Care Act Benefits To Continue**

It is the intent of this RFP, and the contract to result from it, to enter into an agreement that provides for all of the benefits, rights and responsibilities afforded as a result of the Patient Protection and Affordable Care Act (Public Law 111-148), and the regulations promulgated under the authority of the Act.

**Q. Experience Participation Ratio**

Consistent with Guam law, for purposes of any contract entered into as a result of this RFP:

- Target Experience means the amount calculated by multiplying (1) the total premiums earned by the Health Insurance Provider for the full twelve (12) month Plan Year ending the last day of the fiscal year under the Participating Policies issued to the government of Guam with respect to such Plan Year, by (2) a percentage not lower than eighty-six percent (86%);
- Actual Experience means an amount calculated by subtracting from the Target Experience all claims incurred during such Plan Year and paid in the time period ending six months after the end of the Plan Year by the Health Insurance Provider under all the Participating Policies (PPO 1500, HSA 2000, RSP, and Dental);
  - Claims are defined as: Payments to Medical, Dental, and Pharmacy Providers; Gym Membership payments
  - Excluded from Claims: Network access fees, Shared Savings or other cost containment programs, Wellness Incentives other than gym memberships, Quality Improvement incentives.
  - Note: The intent of this RFP is that Wellness and Quality Improvement incentives, quantifiable and payable directly to the member, will be included as claims in the numerator of the loss ratio calculation. Other general Quality Improvement activities and other costs are intended to be administrative costs for the carrier and are not to be included in the numerator of this calculation.
  - Subtracted from Claims: Pharmacy Rebates accrued during the plan year.
  - Premiums are calculated as premiums due in the course of the plan year October 1, 2019 to September 30, 2020: monthly enrollment by Plan and Class, multiplied by applicable premium rates by Plan and Class. Supporting documentation of this calculation must be provided with the annual statement of reconciliation
- Experience Refund means a positive Actual Experience. See Title 4 GCA §4302.3(g). The difference between: [86% (or higher, if specified) of Premiums] less [Claims defined above] will be refunded to the Government.

**R. Tax and Withholding Liability**

The Offeror assumes responsibility for its personnel and subcontractors providing services hereunder and will make all deductions and payments for social security and withholding taxes and for contributions to employment compensation funds, employee benefits, or any other payments required by the governments of the United States and Guam, if required. Offeror is responsible for paying when due any and all income taxes, gross receipts taxes, or any other taxes or assessments incurred as a result of the services

performed by the Offeror and Offeror's employees or agents under this Agreement or the compensation paid to Offeror for services performed under this Agreement in accordance with 11 GCA § 71114 (PL 33-166).

#### S. Status of Funding

Funds are not presently available for this solicitation. The government contribution is reasonably expected to be made available through an appropriation in the Fiscal Year 2020 Budget Act for the government of Guam. Subscriber contribution is reasonably expected to be made after enrollment in Fiscal Year 2020.

## II. PROPOSAL CONTENTS, REQUIREMENTS AND INSTRUCTIONS

### A. Proposal Contents and Requirements

#### INSTRUCTIONS CONSISTENT WITH P.L. 31-197.

A qualified proposal shall consist of two independent proposals: an exclusive proposal and a non-exclusive proposal. To be **qualified**, pursuant to Title 4 GCA §4302(c), an offeror shall submit a proposal made up of two parts; first, an exclusive proposal, and second, a non-exclusive proposal, and meet the minimum requirements specified in the RFP (see Exhibit A for list).

An **exclusive proposal** means a proposal based upon the assumption that the Government will contract with only one health insurance provider that is selected by the Negotiating Team from up to three different Health Insurance Carriers that all negotiate best and final offers with the Negotiating Team.

A **non-exclusive proposal** means a proposal based upon the assumption that the Government will contract with up to three health insurance carriers, that negotiate best and final offers with the Negotiating Team. If only two Health Insurance Carriers submit qualified proposals the Non-exclusive proposal shall mean a proposal based upon the assumption that the Government will contract with two Health Insurance Carriers that negotiate best and final offers with the Negotiating Team.

In this RFP, if the context so requires, any reference to 'proposal' is a reference to both the exclusive proposal and the non-exclusive proposal.

All proposals must be in writing and contain the following information in the order listed below:

1. **Cover letter.** Include the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract, and type of business. The offeror shall designate a contact person and include his or her address and contact numbers, including e-mail address, if different from the offeror's. The designated person must be able to answer any questions asked by the Negotiating Team and its consultant regarding the offeror's proposal and must be able to negotiate the fee and other contract terms. Obligations committed by such signatures must be fulfilled.
2. **Acknowledgment of receipt of amendments.** If the Negotiating Team issues any amendments to the RFP, the offeror must acknowledge receipt of each individual amendment in its cover letter.
3. **Acknowledgement of responses:** If the Negotiating Team issues any responses to questions received about the RFP, the offeror must acknowledge receipt of each individual response in its cover memo.
4. **Description of company.** The offeror must provide a brief description of its company, its capabilities and other information which illustrates to the Negotiating Team the level of expertise with which the company can provide the services requested.
5. **Authorized signature.** All proposals must be signed with the firm name and by an authorized officer, representative, agent, or employee of the offeror. Proof of authority may be requested by the Negotiating Team.
6. **Administrative and Marketing Guidelines.** All offerors are required to review and sign the Administrative and Marketing Guidelines and submit such with their proposal.

7. Consistency with 2 GAR Div. 4, § 3114(f)(2). The Guam Procurement Regulations at Title 2 GAR Div. 4, § 3114(f)(2) describes the minimum factors the Negotiating Team must evaluate in proposals. Those minimum factors are:
- (A) the plan for performing the required services to include timelines to conduct the services, and explaining how the services will be performed;
  - (B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
  - (C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting and during the term of any resulting contract; and
  - (D) number of year's offeror's business has been in existence and a record of past performance of similar work to include a listing of other contracts under which services similar in scope, size or discipline to this RFP have been undertaken with contact names, addresses, and telephone numbers.
- All offerors must substantiate their ability to provide the insurance services requested in this RFP consistent with the minimum factors described in § 3114(f)(2).
8. Financially Stable. The offeror must demonstrate that it is financially capable to perform the scope of services under the RFP. **Please note that the government only requires 1 original and 1 copy of the audited financial and NAIC statements.** Please refer to Section II, item B.5, Form and Number of Proposal for distribution instructions. At a minimum, a proposal must contain satisfactory responses to the following:
- a. Each offeror must provide the most recent audited financial statements (2017 or most recent, if 2018 not available) for the healthcare insurance business only for the underwriting insurance company.
  - b. Each offeror must provide the most recent Annual Statement and Risk-Based Capital Report that has been filed with the National Association of Insurance Commissioners.
  - c. The insurance company or third party administrator must also provide proof that it has errors and omissions insurance that will suitably protect the Government, or proof in the form of a written statement indicating that it is willing to obtain the errors and omissions insurance.
  - d. If some part or all of the funds of the plan are to be held by an administrator, the administrator must also provide its most recent audited financial statements and proof that it has errors and omissions insurance, or proof in the form of a written statement indicating that it is willing to obtain the errors and omissions insurance.
  - e. Each offeror must also indicate the amount of any payment obligations for eligible services rendered by the Guam Memorial Hospital, other hospitals, physicians, and other health service providers which are outstanding. The information for each hospital, physician, and other provider must be separate.
  - f. Each offeror must indicate the amount of any potential payment obligations which are unpaid pending utilization review.
  - g. If the offeror contracts with a third party for utilization review services, the offeror must indicate the cost of such service.
9. Submission of Guam business license. All offerors, to include reinsurers and underwriters, must submit a copy of a current Guam business license. If a current license or licenses have not been obtained yet, then they must be obtained and copies submitted prior to conclusion of negotiations, and the cover letter must explain that the offeror does not have a current Guam business license or licenses. If a copy of the required business licenses is not submitted by the time and date that all the terms and conditions of a contract are agreed to between the parties, then negotiations shall



terminate and the offeror will be disqualified on the basis of being non-responsive.

10. **Submission of cost proposal.** All offerors must submit a cost proposal with their exclusive proposal and a cost proposal with their non-exclusive proposal. Please see Exhibit E. All offerors are required to submit fully insured medical and dental premiums and rates at a minimum. This information will be used along with current enrollment information to assist the Negotiating Team and its consultant in analyzing the cost portion of the proposal. The cost experience data must include the amounts spent in each of the categories specified in Section 500.3, paragraphs a through i of the group health insurance rules attached as Exhibit J. To assist with the offeror's preparation of its proposal, the Negotiating Team has provided certain information attached to this RFP and designated as Exhibits C through F. By submitting a proposal, the offeror certifies that the price submitted was independently arrived at without collusion. A Certification of the Cost or Pricing Data as provided in 2 GAR Div. 4 § 3118 will be required from the carrier(s) with whom a successful contract is negotiated.
11. **Proposed plan design.** Copies of the Negotiating Team's desired plan designs and alternatives are included with this RFP. Offerors must specify in their proposal any component to which they cannot comply and any changes they desire to the proposed plan design.
12. **Responses to all questions in Exhibit B and Exhibit E.** All offerors must answer questions found in Exhibit B and Exhibit E and attach the responses to both their exclusive and non-exclusive proposals. These answers need to be submitted on the enclosed excel format provided in the RFP package, as well as in PDF format, within the formal response.
13. **Submission of disclosure forms.** The Guam Procurement Law requires each offeror to make a number of disclosures. Some of the disclosures are required for an offeror to qualify to submit a bid or a proposal. An explanation of each disclosure follows. For the ease of making these required disclosures, the Negotiating Team is providing sample disclosure forms. There are six (6) disclosure forms labeled Forms A through F, and they are found in Exhibit G. They must be completed and included with the offeror's proposal. Note that a qualified proposal requires submission of only one set of disclosure forms from an offeror. Failure to complete and submit the forms may disqualify the offeror's proposal as being non-responsive.
  - a. **Affidavit Disclosing Ownership and Commissions (Form A).** As a condition of bidding and doing business with the Government, an offeror must disclose in the form of an affidavit the names of all persons owning more than ten percent of the outstanding interest of the offeror's business during the twelve-month period immediately preceding the date the proposals are due, including the percentage owned by each such person or entity. The affidavit must be made between the date of issuance of this RFP and the date that proposals are due, so long as the ownership listing mentioned in the affidavit is for the 365-day period preceding the date the offeror submits the proposal.

The same affidavit must also disclose the identity of anyone who has received or is entitled to receive a commission, gratuity, percentage, brokerage or other compensation or contingent arrangement for procuring a contract with the Government or for assisting the offeror in obtaining business related to this RFP, and the value or amounts. Please note that commissions, gratuities, percentages, contingency fees, or other compensation for the purposes stated herein are prohibited by Guam law, except that this prohibition does not apply to fees payable by the offeror upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business.
  - b. **Affidavit re Non-Collusion (Form B).** The offeror must represent that the offer is genuine and not a sham and that the offeror is not in collusion with others, that the offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other person to put in a sham proposal, to fix the cost of the contract, to secure any advantage against the Government or any person interested in the contract.
  - c. **Affidavit re No Gratuities or Kickbacks (Form C).** The offeror must represent that it has not violated, is not violating, and promises that it will not violate, the prohibition against gratuities and kickbacks set forth in the Guam Procurement Law. The prohibition is as follows: It is a breach of ethical standards for any person to offer, give, or agree to give any Government employee or former Government employee, or for any Government employee or former Government employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal thereof. Further, it shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement of the award of a contract or order.

- d. Affidavit re Ethical Standards (Form D). The offeror must represent that it has not knowingly influenced, and promises that it will not knowingly influence, a Government employee to breach any of the ethical standards set out in Guam's procurement code or regulations pertaining to ethics in public contracting.
  - e. Affidavit re Contingent Fees (Form E). The offeror must represent as a part of its proposal that such offeror has not retained any person or agency to solicit or secure a Government of Guam contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee or arrangement, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
  - f. Declaration for Compliance with US DOL Wage Determination (Form F). Offerors are required to declare in non-affidavit form that they are in compliance with 5 GCA § 5801 and § 5802 regarding wage determination, and the current applicable US DOL Wage Determination must be attached to the declaration.
14. Submission of Contract and Certificate of Insurance Changes and Additions. A proposed contract and a proposed certificate of insurance are included in the RFP at Exhibit L. **PLEASE NOTE: Each offeror is required to submit with its proposal any changes it desires to the proposed contract and to the proposed certificate of insurance. Without notice of requested changes from an offeror, the Negotiating Team will assume and rely upon the proposed contract and the proposed certificate of insurance as the basis of any agreement reached during negotiations.**

## B. Proposal instructions

1. Inquiries. All questions regarding this RFP must be submitted in writing in Word or in email, *not* PDF, and received by the Director of Administration on or before 4:00 p.m., Friday, April 5, 2019, Chamorro Standard time. Only potential offerors who have obtained an RFP and registered may submit written questions. The Negotiating Team will not respond to inquiries received after the inquiry deadline. Oral statements made by the Negotiating Team, its members or its consultant are not binding. The Negotiating Team will respond in writing and send the response via electronic mail. Potential offerors are encouraged to submit their questions as soon as it is formulated. Delivery of inquiries to the Negotiating Team must be emailed to all individuals as follows:

[edward.birn@doa.guam.gov](mailto:edward.birn@doa.guam.gov), [suzanne.kohlmann@aon.com](mailto:suzanne.kohlmann@aon.com) and cc: to both [leonora.candaso@doa.guam.gov](mailto:leonora.candaso@doa.guam.gov) and [naomi.sablan@doa.guam.gov](mailto:naomi.sablan@doa.guam.gov).

If an inquiry requires an interpretation of the RFP, then the Negotiating Team shall prepare a response in the form of an amendment to the RFP. All registered interested parties shall be provided the amendment. For responses which merely guide the inquirer, the Negotiating Team has the discretion to provide the response to only the inquirer, or to all registered interested parties, depending on the content of the inquiry and response.

2. Sufficiency of proposals. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired. Elaborate artwork, expensive visual or other presentations are neither necessary nor desired. The Negotiating Team will look instead for the quality of the information provided. The onus will be on the offeror to convince the Negotiating Team of the offeror's capability to perform services through the documentation enumerated above in this paragraph. As each offeror will have its own unique operation, its financial

ability will be assessed individually based on its audited financial statements, convention form, A. M. Best report, and reinsurance treaties, as may be applicable. Factors that will be taken into consideration include, but are not limited to, the following:

- a. Any qualified audit opinion
- b. The ratio of current assets to current liabilities
- c. Adequacy of reserves
- d. Ability to generate underwriting gains
- e. History of overall profits or losses
- f. A. M. Best ratings
- g. Reinsurance
- h. Experience in health insurance or HMO underwriting
- i. Experience in Third Party Administration
- j. Risk-based capital report

3. Multiple representations of an insuring company. For the purposes of negotiating the costs and contractual terms, the insurance company shall designate a company representative who shall have full authority to make plan design and rating decision at the negotiation table on behalf of the company.
4. Late proposals. No proposal will be accepted after the deadline for submitting proposals. If a proposal is delivered to the Government of Guam after the deadline for submission, it will be time-stamped and dated by the Government. However, late proposals are considered non-responsive and will not be considered by the Negotiating Team.
5. Form and number of proposals. Each offeror shall prepare one (1) original and twelve (12) numbered hard copies of its proposal. The original and twelve (12) copies must be labeled as original and copies and sent to the Government.

In addition, each offeror should prepare only one (1) original and one (1) copy of its audited financial statements. The audited financial statements should be sent to the Director of the Department of Administration. Note: The original audited statement must be included in the original proposal.

Handwritten proposals are not acceptable. Each proposal must be organized, fully assembled and complete.

6. Where and how to submit proposals. Proposal packages must be sealed and mailed or delivered to the following names and addresses. The Government is not responsible for any delivery costs or postage due. Proposals will not be accepted via facsimile or electronic mail (email) as these two mediums do not allow for the proposal to be sealed or submitted in an original form with multiple copies as required by law. Proposals should be marked "confidential."

The original and twelve (12) copies of the proposal, along with the original and one (1) copy of the audited financial statement, shall be sent to:

If mailed, to:                    Director, Department of Administration  
                                         P.O. Box 884  
                                         Hagatna, Guam 96932

If delivered, to:                Department of Administration, Director's Office  
                                         590 S. Marine Corps Drive  
                                         Suite 224  
                                         International Trade Center (ITC) Building  
                                         Tamuning, Guam 96913

Additionally, one (1) electronic copy of the proposal in its original formats (MS Excel, Word, PDF, etc.), along with one electronic copy of the audited financial statement, shall be uploaded by the due date to the consultant's Managed File Transfer (MFT) site.

7. **Due date and time for proposals.** All hard copies of proposals, including a printed copy of the excel file, must be received by the Director of the Department of Administration no later than **4:00 p.m., May 3, 2019, Chamorro Standard Time**. Hard copies of the entire proposal (including hard copies of the Questionnaire and Pricing portions) must be received by this due date and will be the determining factor for the purpose of timely submission. Hard copy of proposals received after this time and date will not be accepted.

Please note that Guam is one day ahead of the continental United States. The offeror is responsible for submitting the proposals in a timely manner regardless of choice of delivery method. The offeror's transfer of its proposal to the U.S. Post Office or to a delivery company does not constitute receipt by the Government.

### **III. GENERAL PROCEDURES**

#### **A. Receipt and registration of proposals**

Proposals and modifications to proposals will be time-stamped upon receipt and held in a secure place until the established due date. The Government will keep a Register of Proposals Received identifying the proposals, the names of the offerors, and the number of modifications received, if any, by each offeror. The Register is not open for public inspection until after award of a contract. Proposals of offerors not awarded contracts do not become public records.

#### **B. Opening of proposals**

After the deadline for submission of proposals and as soon as practical, the proposals will be unsealed by at least two authorized Government representatives who shall be procurement administrators for purposes of this RFP as assigned by the Director of Administration. They shall at all times conduct the administration of this procurement together in the presence of each other. Proposals will not be opened publicly, nor disclosed to unauthorized persons.

#### **C. Proposal evaluation and negotiation procedure**

1. **Phase I.** Phase I is the initial screening of all proposals to determine whether the minimum requirements specified in the RFP were met, including submission of qualified proposals as required by Title 4 GCA §§ 4302(c) and 4301.1(e), (f), and (g), submission of all disclosure forms, and whether the proposals were signed as required. The lack of any of the disclosure forms or other information required to be submitted may be cause for a finding of non-responsiveness. Proposals will then be re-sealed and held in safe-keeping by one of the administrators until time for evaluation. If any proposal is determined to be non-responsive by the Negotiating Team, such offeror shall be notified in writing about the determination.

The Negotiating Team shall request of an offeror any documents or information for any proposals received and deemed to be non-responsive or not qualified that will cause said proposals to be responsive and qualified. A proposal shall only be disqualified or rejected if any offeror fails to submit the requested information to the Negotiating Team within three (3) business days after request.

At any time during Phase I, an offeror may be requested by the Negotiating Team or its consultant to provide clarification, documentation, data, or any other additional information to supplement its proposal. Failure to provide such additional information upon request and by the specified deadline may result in a determination that the offeror is non-responsive or non-responsive, whichever is applicable.

2. **Phase II.** Phase II consists of the evaluation of the information provided by the offerors pursuant to Section II of this RFP by the Negotiating Team and the ranking of the offerors based on the evaluation results. A relative weight is assigned to the factors which will be rated on a scale from zero (0) to one hundred (100), with zero (0) for no response and one hundred (100) being the highest possible score.

For purposes of evaluations, exclusive proposals will be evaluated and ranked together, for Phase II. The offerors will be ranked in accordance with the number of total points. The three highest ranked exclusive offerors will be invited to enter into

negotiations with the Negotiating Team. After the benefit of reviewing all offers, ranking all offers and determining through the evaluation process the top three highest ranked offerors, the Team will determine the order of negotiations in Phase III. The Negotiating Team will negotiate with offerors in accordance with the decision made about the order of negotiations. Offerors shall be available for negotiations commencing in the month of June 2019. Otherwise, the evaluations, the assignment of points, and the ranking of offerors and their proposals is for the Negotiating Team's informational purposes only.

During the evaluations, the Negotiating Team and the Consultant may conduct discussions with any offeror, either in person or telephonically. Discussions are discretionary to the Negotiating Team and the Consultant. The purposes of such discussions shall be (a) to determine in greater detail the offeror's qualifications; or (b) to explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.

Discussions shall not disclose any information derived from proposals submitted by other offerors. If requested by the Negotiating Team or its Consultant the issues clarified during discussion should be put into writing by the offeror and submitted to the Negotiating Team within three business days of conclusion of discussions, and may be submitted electronically or via facsimile. The Negotiating Team will provide further instructions as may be necessary.

If the qualified offeror marked any portion or portions of its proposal as being confidential because the information is proprietary information, then those portions shall be reviewed by the Negotiating Team to determine whether they contain confidential or proprietary material. If the Negotiating Team agrees, then the parties shall move on to Phase III. If the Negotiating Team does not agree, then the Negotiating Team must issue a written determination regarding the matter explaining why. If the offeror is dissatisfied with the written determination, then it may withdraw its proposal or submit a protest according to the procedures set out in the Guam Procurement Law.

Upon resolution of confidentiality issues, if any, the Negotiating Team will provide further instructions as may be necessary.

3. **Phase III.** Phase III is the negotiation process. The Negotiating Team is not bound to seek parity in plan design or rates in negotiations for an exclusive contract. See Rule 200.2, Rule 200.3 and Rule 200.4 of the Group Health Insurance Rules and Regulation, April 1986, found at Exhibit J. The Negotiating Team will require parity in plan design and parity in premium rate tier ratios in negotiations for a non-exclusive contract. Offerors selected to negotiate a non-exclusive contract with the Negotiating Team will be advised of the parity decisions of the Negotiating Team prior to commencement of negotiations for a non-exclusive contract.

Offerors, ranked based upon exclusive bid scoring, will be asked to negotiate both an exclusive and a non-exclusive contract with the Negotiating Team and Consultant.

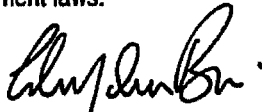
4. **Phase IV.** Phase IV is the evaluation, final ranking of exclusive and non-exclusive contracts, and choice of the most economical and beneficial offer for later presentation to the Governor. The Negotiating Team, using those factors set out in this RFP, will evaluate, rank and select the best and final offer. The Negotiating Team shall notify each registered offeror of the evaluation results to the extent permissible by law via facsimile or email.
5. **Phase V.** Phase V is the contract choice stage. The Governor of Guam decides whether to accept the recommendation of the Negotiating Team. By law, the contract must also be reviewed and approved by the Department of Revenue & Taxation, Bureau of Budget and Management Research, and the Attorney General before the Governor will provide his final approval by signing the contract. No contract is valid and binding until it is signed by the Governor. All finalists acknowledge that only the Governor may bind the Government to this contract and that the issuance of this Request for Proposal does not commit the Government of Guam to award a contract.

#### **D. Cancellation of RFP or solicitation**

The Negotiating Team may cancel this RFP or solicitation, in whole or in part, at any time, or may reject all proposals so long as the Negotiating Team makes a written determination that doing so is in the best interest of the Government and a contract has not yet been fully signed. In the event of cancellation or rejection of all proposals, proposals that have been unsealed shall remain the property of the Government and not returned to the respective offerors. A proposal that has not been unsealed (such as late proposals) will be returned to the offeror upon request of the offeror.

**E. Rejection of individual proposals**

The-Negotiating Team shall have the prerogative to reject proposals in whole or in part when doing so is in the best interest of the Government as provided for in the procurement laws.



Edward Bjm, Director  
Department of Administration

Date: 3/27/19

**EXHIBIT G**

**Form A  
AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSIONS**

CITY OF \_\_\_\_\_ )  
 \_\_\_\_\_ ) 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 ventures who have held more than 10% of the shares or interest in the offering business during the 365 days immediately preceding the submission date of the proposal are as follows *[if none, please so state]*:

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

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

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

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

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

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

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

**EXHIBIT G**

**Form B**  
**AFFIDAVIT re NON-COLLUSION**

CITY OF \_\_\_\_\_ )  
 ) ss.  
STATE OF \_\_\_\_\_ )

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

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

2. The proposal for the solicitation identified above is genuine and not collusive or a sham. The offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other offeror or person, to put in a sham proposal or to refrain from making an offer. The offeror has not in any manner, directly or indirectly, sought by an agreement or collusion, or communication or conference, with any person to fix the proposal price of offeror or of any other offeror, or to fix any overhead, profit or cost element of said proposal price, or of that of any other offeror, or to secure any advantage against the Government of Guam or any other offeror, or to secure any advantage against the Government of Guam or any person interested in the proposed contract. All statements in this affidavit and in the proposal are true to the best of the knowledge of the undersigned. This statement is made pursuant to 2 GAR Division 4 § 3126(b).

3. I make this statement on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

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

Subscribed and sworn to before me

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

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



**EXHIBIT G**

**Form C**

**AFFIDAVIT re NO GRATUITIES or KICKBACKS**

CITY OF \_\_\_\_\_ )  
 ) ss.  
STATE OF \_\_\_\_\_ )

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

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

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

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

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

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

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

Subscribed and sworn to before me

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

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires \_\_\_\_\_, \_\_\_\_\_.

AG Procurement Form 004 (Jul. 12, 2010)

**EXHIBIT G**

**Form D**  
**AFFIDAVIT re ETHICAL STANDARDS**

CITY OF \_\_\_\_\_ )  
STATE OF \_\_\_\_\_ ) ss.

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

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

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

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

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

**EXHIBIT G**

**Form E**  
**AFFIDAVIT re CONTINGENT FEES**

CITY OF \_\_\_\_\_ )  
 ) ss.  
STATE OF \_\_\_\_\_ )

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

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

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

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

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

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

Subscribed and sworn to before me

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

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

**EXHIBIT G**

**Form F**

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

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

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

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

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

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

**§ 5801. Wage Determination Established.**

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

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

**§ 5802. Benefits.**

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

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

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

Signature \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT G**

**Wage Determination List**

See attached.

WD 15-5693 (Rev.-8) was first posted on www.wdol.gov on 01/01/2019

\*\*\*\*\*

REGISTER OF WAGE DETERMINATIONS UNDER  
THE SERVICE CONTRACT ACT  
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON D.C. 20210

Daniel W. Simms                      Division of  
Director                              Wage Determinations

Wage Determination No.: 2015-5693  
Revision No.: 8  
Date Of Revision: 12/26/2018

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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                              |          | 13.57 |
| 01012 - Accounting Clerk II                             |          | 15.23 |
| 01013 - Accounting Clerk III                            |          | 17.04 |
| 01020 - Administrative Assistant                        |          | 17.71 |
| 01035 - Court Reporter                                  |          | 17.22 |
| 01041 - Customer Service Representative I               |          | 10.89 |
| 01042 - Customer Service Representative II              |          | 12.25 |
| 01043 - Customer Service Representative III             |          | 13.37 |
| 01051 - Data Entry Operator I                           |          | 12.15 |
| 01052 - Data Entry Operator II                          |          | 13.25 |
| 01060 - Dispatcher, Motor Vehicle                       |          | 14.37 |
| 01070 - Document Preparation Clerk                      |          | 13.71 |
| 01090 - Duplicating Machine Operator                    |          | 13.71 |
| 01111 - General Clerk I                                 |          | 10.29 |
| 01112 - General Clerk II                                |          | 11.28 |
| 01113 - General Clerk III                               |          | 12.32 |
| 01120 - Housing Referral Assistant                      |          | 19.20 |
| 01141 - Messenger Courier                               |          | 11.16 |
| 01191 - Order Clerk I                                   |          | 12.57 |
| 01192 - Order Clerk II                                  |          | 13.71 |
| 01261 - Personnel Assistant (Employment) I              |          | 15.57 |
| 01262 - Personnel Assistant (Employment) II             |          | 17.25 |
| 01263 - Personnel Assistant (Employment) III            |          | 19.22 |
| 01270 - Production Control Clerk                        |          | 20.08 |
| 01290 - Rental Clerk                                    |          | 11.10 |
| 01300 - Scheduler, Maintenance                          |          | 15.39 |
| 01311 - Secretary I                                     |          | 15.39 |
| 01312 - Secretary II                                    |          | 17.22 |
| 01313 - Secretary III                                   |          | 19.20 |
| 01320 - Service Order Dispatcher                        |          | 12.73 |
| 01410 - Supply Technician                               |          | 17.71 |
| 01420 - Survey Worker                                   |          | 15.26 |

|                                                      |       |
|------------------------------------------------------|-------|
| 01460 - Switchboard Operator/Receptionist            | 9.67  |
| 01531 - Travel Clerk I                               | 12.77 |
| 01532 - Travel Clerk II                              | 13.83 |
| 01533 - Travel Clerk III                             | 14.78 |
| 01611 - Word Processor I                             | 13.48 |
| 01612 - Word Processor II                            | 15.13 |
| 01613 - Word Processor III                           | 16.92 |
| 05000 - Automotive Service Occupations               |       |
| 05005 - Automobile Body Repairer, Fiberglass         | 13.58 |
| 05010 - Automotive Electrician                       | 13.06 |
| 05040 - Automotive Glass Installer                   | 12.10 |
| 05070 - Automotive Worker                            | 12.10 |
| 05110 - Mobile Equipment Servicer                    | 10.27 |
| 05130 - Motor Equipment Metal Mechanic               | 13.71 |
| 05160 - Motor Equipment Metal Worker                 | 12.10 |
| 05190 - Motor Vehicle Mechanic                       | 13.71 |
| 05220 - Motor Vehicle Mechanic Helper                | 10.12 |
| 05250 - Motor Vehicle Upholstery Worker              | 12.10 |
| 05280 - Motor Vehicle Wrecker                        | 12.10 |
| 05310 - Painter, Automotive                          | 12.87 |
| 05340 - Radiator Repair Specialist                   | 12.10 |
| 05370 - Tire Repairer                                | 10.40 |
| 05400 - Transmission Repair Specialist               | 13.58 |
| 07000 - Food Preparation And Service Occupations     |       |
| 07010 - Baker                                        | 10.47 |
| 07041 - Cook I                                       | 10.88 |
| 07042 - Cook II                                      | 12.63 |
| 07070 - Dishwasher                                   | 9.04  |
| 07130 - Food Service Worker                          | 9.31  |
| 07210 - Meat Cutter                                  | 11.86 |
| 07260 - Waiter/Waitress                              | 9.12  |
| 09000 - Furniture Maintenance And Repair Occupations |       |
| 09010 - Electrostatic Spray Painter                  | 16.21 |
| 09040 - Furniture Handler                            | 9.87  |
| 09080 - Furniture Refinisher                         | 16.21 |
| 09090 - Furniture Refinisher Helper                  | 11.97 |
| 09110 - Furniture Repairer, Minor                    | 14.11 |
| 09130 - Upholsterer                                  | 16.21 |
| 11000 - General Services And Support Occupations     |       |
| 11030 - Cleaner, Vehicles                            | 9.13  |
| 11060 - Elevator Operator                            | 9.13  |
| 11090 - Gardener                                     | 12.58 |
| 11122 - Housekeeping Aide                            | 9.23  |
| 11150 - Janitor                                      | 9.23  |
| 11210 - Laborer, Grounds Maintenance                 | 9.50  |
| 11240 - Maid or Houseman                             | 9.13  |
| 11260 - Pruner                                       | 8.51  |
| 11270 - Tractor Operator                             | 11.51 |
| 11330 - Trail Maintenance Worker                     | 9.50  |
| 11360 - Window Cleaner                               | 10.31 |
| 12000 - Health Occupations                           |       |
| 12010 - Ambulance Driver                             | 17.77 |
| 12011 - Breath Alcohol Technician                    | 17.77 |
| 12012 - Certified Occupational Therapist Assistant   | 24.38 |
| 12015 - Certified Physical Therapist Assistant       | 24.38 |
| 12020 - Dental Assistant                             | 14.21 |
| 12025 - Dental Hygienist                             | 32.84 |
| 12030 - EKG Technician                               | 23.96 |
| 12035 - Electroneurodiagnostic Technologist          | 23.96 |
| 12040 - Emergency Medical Technician                 | 17.77 |
| 12071 - Licensed Practical Nurse I                   | 15.88 |
| 12072 - Licensed Practical Nurse II                  | 17.77 |
| 12073 - Licensed Practical Nurse III                 | 19.81 |
| 12100 - Medical Assistant                            | 11.54 |
| 12130 - Medical Laboratory Technician                | 17.11 |

|                                                              |       |
|--------------------------------------------------------------|-------|
| 12160 - Medical Record Clerk                                 | 12.37 |
| 12190 - Medical Record Technician                            | 17.77 |
| 12195 - Medical Transcriptionist                             | 15.88 |
| 12210 - Nuclear Medicine Technologist                        | 39.04 |
| 12221 - Nursing Assistant I                                  | 11.03 |
| 12222 - Nursing Assistant II                                 | 12.43 |
| 12223 - Nursing Assistant III                                | 13.54 |
| 12224 - Nursing Assistant IV                                 | 15.22 |
| 12235 - Optical Dispenser                                    | 17.77 |
| 12236 - Optical Technician                                   | 15.88 |
| 12250 - Pharmacy Technician                                  | 15.49 |
| 12280 - Phlebotomist                                         | 15.22 |
| 12305 - Radiologic Technologist                              | 22.64 |
| 12311 - Registered Nurse I                                   | 20.70 |
| 12312 - Registered Nurse II                                  | 25.32 |
| 12313 - Registered Nurse II, Specialist                      | 25.32 |
| 12314 - Registered Nurse III                                 | 30.64 |
| 12315 - Registered Nurse III, Anesthetist                    | 30.64 |
| 12316 - Registered Nurse IV                                  | 36.72 |
| 12317 - Scheduler (Drug and Alcohol Testing)                 | 22.01 |
| 12320 - Substance Abuse Treatment Counselor                  | 22.01 |
| 13000 - Information And Arts Occupations                     |       |
| 13011 - Exhibits Specialist I                                | 19.26 |
| 13012 - Exhibits Specialist II                               | 23.86 |
| 13013 - Exhibits Specialist III                              | 29.18 |
| 13041 - Illustrator I                                        | 19.26 |
| 13042 - Illustrator II                                       | 23.86 |
| 13043 - Illustrator III                                      | 29.18 |
| 13047 - Librarian                                            | 26.42 |
| 13050 - Library Aide/Clerk                                   | 15.33 |
| 13054 - Library Information Technology Systems Administrator | 23.86 |
| 13058 - Library Technician                                   | 16.64 |
| 13061 - Media Specialist I                                   | 17.21 |
| 13062 - Media Specialist II                                  | 19.26 |
| 13063 - Media Specialist III                                 | 21.47 |
| 13071 - Photographer I                                       | 17.06 |
| 13072 - Photographer II                                      | 19.06 |
| 13073 - Photographer III                                     | 23.63 |
| 13074 - Photographer IV                                      | 28.92 |
| 13075 - Photographer V                                       | 35.00 |
| 13090 - Technical Order Library Clerk                        | 17.04 |
| 13110 - Video Teleconference Technician                      | 17.18 |
| 14000 - Information Technology Occupations                   |       |
| 14041 - Computer Operator I                                  | 15.71 |
| 14042 - Computer Operator II                                 | 16.26 |
| 14043 - Computer Operator III                                | 18.13 |
| 14044 - Computer Operator IV                                 | 20.14 |
| 14045 - Computer Operator V                                  | 22.31 |
| 14071 - Computer Programmer I (see 1)                        | 15.73 |
| 14072 - Computer Programmer II (see 1)                       | 19.50 |
| 14073 - Computer Programmer III (see 1)                      | 23.84 |
| 14074 - Computer Programmer IV (see 1)                       |       |
| 14101 - Computer Systems Analyst I (see 1)                   | 24.23 |
| 14102 - Computer Systems Analyst II (see 1)                  |       |
| 14103 - Computer Systems Analyst III (see 1)                 |       |
| 14150 - Peripheral Equipment Operator                        | 15.71 |
| 14160 - Personal Computer Support Technician                 | 20.14 |
| 14170 - System Support Specialist                            | 21.24 |
| 15000 - Instructional Occupations                            |       |
| 15010 - Aircrew Training Devices Instructor (Non-Rated)      | 24.23 |
| 15020 - Aircrew Training Devices Instructor (Rated)          | 29.32 |
| 15030 - Air Crew Training Devices Instructor (Pilot)         | 33.30 |
| 15050 - Computer Based Training Specialist / Instructor      | 24.23 |
| 15060 - Educational Technologist                             | 25.10 |



|                                                                 |       |
|-----------------------------------------------------------------|-------|
| 15070 - Flight Instructor (Pilot)                               | 33.30 |
| 15080 - Graphic Artist                                          | 20.47 |
| 15085 - Maintenance Test Pilot, Fixed, Jet/Prop                 | 32.74 |
| 15086 - Maintenance Test Pilot, Rotary Wing                     | 32.74 |
| 15088 - Non-Maintenance Test/Co-Pilot                           | 32.74 |
| 15090 - Technical Instructor                                    | 17.65 |
| 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                                               | 9.78  |
| 16030 - Counter Attendant                                       | 9.78  |
| 16040 - Dry Cleaner                                             | 11.30 |
| 16070 - Finisher, Flatwork, Machine                             | 9.78  |
| 16090 - Presser, Hand                                           | 9.78  |
| 16110 - Presser, Machine, Drycleaning                           | 9.78  |
| 16130 - Presser, Machine, Shirts                                | 9.78  |
| 16160 - Presser, Machine, Wearing Apparel, Laundry              | 9.78  |
| 16190 - Sewing Machine Operator                                 | 11.94 |
| 16220 - Tailor                                                  | 12.44 |
| 16250 - Washer, Machine                                         | 10.24 |
| 19000 - Machine Tool Operation And Repair Occupations           |       |
| 19010 - Machine-Tool Operator (Tool Room)                       | 16.21 |
| 19040 - Tool And Die Maker                                      | 20.37 |
| 21000 - Materials Handling And Packing Occupations              |       |
| 21020 - Forklift Operator                                       | 13.96 |
| 21030 - Material Coordinator                                    | 20.08 |
| 21040 - Material Expediter                                      | 20.08 |
| 21050 - Material Handling Laborer                               | 11.37 |
| 21071 - Order Filler                                            | 9.66  |
| 21080 - Production Line Worker (Food Processing)                | 13.96 |
| 21110 - Shipping Packer                                         | 13.33 |
| 21130 - Shipping/Receiving Clerk                                | 13.33 |
| 21140 - Store Worker I                                          | 14.21 |
| 21150 - Stock Clerk                                             | 19.94 |
| 21210 - Tools And Parts Attendant                               | 13.96 |
| 21410 - Warehouse Specialist                                    | 13.96 |
| 23000 - Mechanics And Maintenance And Repair Occupations        |       |
| 23010 - Aerospace Structural Welder                             | 20.69 |
| 23019 - Aircraft Logs and Records Technician                    | 16.09 |
| 23021 - Aircraft Mechanic I                                     | 19.70 |
| 23022 - Aircraft Mechanic II                                    | 20.69 |
| 23023 - Aircraft Mechanic III                                   | 21.74 |
| 23040 - Aircraft Mechanic Helper                                | 13.70 |
| 23050 - Aircraft, Painter                                       | 18.50 |
| 23060 - Aircraft Servicer                                       | 16.09 |
| 23070 - Aircraft Survival Flight Equipment Technician           | 18.50 |
| 23080 - Aircraft Worker                                         | 17.38 |
| 23091 - Aircrew Life Support Equipment (ALSE) Mechanic I        | 17.38 |
| 23092 - Aircrew Life Support Equipment (ALSE) Mechanic II       | 19.70 |
| 23110 - Appliance Mechanic                                      | 16.21 |
| 23120 - Bicycle Repairer                                        | 12.96 |
| 23125 - Cable Splicer                                           | 19.59 |
| 23130 - Carpenter, Maintenance                                  | 14.47 |
| 23140 - Carpet Layer                                            | 15.16 |
| 23160 - Electrician, Maintenance                                | 17.86 |
| 23181 - Electronics Technician Maintenance I                    | 15.16 |
| 23182 - Electronics Technician Maintenance II                   | 16.21 |
| 23183 - Electronics Technician Maintenance III                  | 18.31 |
| 23260 - Fabric Worker                                           | 14.11 |
| 23290 - Fire Alarm System Mechanic                              | 15.43 |
| 23310 - Fire Extinguisher Repairer                              | 13.06 |
| 23311 - Fuel Distribution System Mechanic                       | 17.26 |

|                                                                                   |       |
|-----------------------------------------------------------------------------------|-------|
| 23312 - Fuel Distribution System Operator                                         | 13.06 |
| 23370 - General Maintenance Worker                                                | 11.96 |
| 23380 - Ground Support Equipment Mechanic                                         | 19.70 |
| 23381 - Ground Support Equipment Servicer                                         | 16.09 |
| 23382 - Ground Support Equipment Worker                                           | 17.38 |
| 23391 - Gunsmith I                                                                | 13.06 |
| 23392 - Gunsmith II                                                               | 15.16 |
| 23393 - Gunsmith III                                                              | 17.26 |
| 23410 - Heating, Ventilation And Air-Conditioning<br>Mechanic                     | 16.58 |
| 23411 - Heating, Ventilation And Air Contidioning<br>Mechanic (Research Facility) | 17.63 |
| 23430 - Heavy Equipment Mechanic                                                  | 17.39 |
| 23440 - Heavy Equipment Operator                                                  | 16.21 |
| 23460 - Instrument Mechanic                                                       | 17.26 |
| 23465 - Laboratory/Shelter Mechanic                                               | 16.21 |
| 23470 - Laborer                                                                   | 11.37 |
| 23510 - Locksmith                                                                 | 16.21 |
| 23530 - Machinery Maintenance Mechanic                                            | 21.03 |
| 23550 - Machinist, Maintenance                                                    | 17.26 |
| 23580 - Maintenance Trades Helper                                                 | 10.23 |
| 23591 - Metrology Technician I                                                    | 17.26 |
| 23592 - Metrology Technician II                                                   | 18.35 |
| 23593 - Metrology Technician III                                                  | 19.43 |
| 23640 - Millwright                                                                | 17.26 |
| 23710 - Office Appliance Repairer                                                 | 16.21 |
| 23760 - Painter, Maintenance                                                      | 13.95 |
| 23790 - Pipefitter, Maintenance                                                   | 17.52 |
| 23810 - Plumber, Maintenance                                                      | 16.45 |
| 23820 - Pneudraulic Systems Mechanic                                              | 17.26 |
| 23850 - Rigger                                                                    | 17.26 |
| 23870 - Scale Mechanic                                                            | 15.16 |
| 23890 - Sheet-Metal Worker, Maintenance                                           | 15.37 |
| 23910 - Small Engine Mechanic                                                     | 15.16 |
| 23931 - Telecommunications Mechanic I                                             | 19.01 |
| 23932 - Telecommunications Mechanic II                                            | 19.76 |
| 23950 - Telephone Lineman                                                         | 18.24 |
| 23960 - Welder, Combination, Maintenance                                          | 17.82 |
| 23965 - Well Driller                                                              | 17.26 |
| 23970 - Woodcraft Worker                                                          | 17.26 |
| 23980 - Woodworker                                                                | 13.06 |
| 24000 - Personal Needs Occupations                                                |       |
| 24550 - Case Manager                                                              | 14.16 |
| 24570 - Child Care Attendant                                                      | 10.09 |
| 24580 - Child Care Center Clerk                                                   | 12.58 |
| 24610 - Chore Aide                                                                | 10.38 |
| 24620 - Family Readiness And Support Services<br>Coordinator                      | 14.16 |
| 24630 - Homemaker                                                                 | 16.12 |
| 25000 - Plant And System Operations Occupations                                   |       |
| 25010 - Boiler Tender                                                             | 17.26 |
| 25040 - Sewage Plant Operator                                                     | 19.28 |
| 25070 - Stationary Engineer                                                       | 17.26 |
| 25190 - Ventilation Equipment Tender                                              | 11.97 |
| 25210 - Water Treatment Plant Operator                                            | 19.28 |
| 27000 - Protective Service Occupations                                            |       |
| 27004 - Alarm Monitor                                                             | 10.90 |
| 27007 - Baggage Inspector                                                         | 9.13  |
| 27008 - Corrections Officer                                                       | 12.05 |
| 27010 - Court Security Officer                                                    | 12.05 |
| 27030 - Detection Dog Handler                                                     | 10.90 |
| 27040 - Detention Officer                                                         | 12.05 |
| 27070 - Firefighter                                                               | 12.05 |
| 27101 - Guard I                                                                   | 9.13  |
| 27102 - Guard II                                                                  | 10.90 |

|                                                                     |               |
|---------------------------------------------------------------------|---------------|
| 27131 - Police Officer I                                            | 12.05         |
| 27132 - Police Officer II                                           | 13.40         |
| 28000 - Recreation Occupations                                      |               |
| 28041 - Carnival Equipment Operator                                 | 12.37         |
| 28042 - Carnival Equipment Repairer                                 | 13.42         |
| 28043 - Carnival Worker                                             | 9.14          |
| 28210 - Gate Attendant/Gate Tender                                  | 13.18         |
| 28310 - Lifeguard                                                   | 11.01         |
| 28350 - Park Attendant (Aide)                                       | 14.74         |
| 28510 - Recreation Aide/Health Facility Attendant                   | 10.76         |
| 28515 - Recreation Specialist                                       | 18.26         |
| 28630 - Sports Official                                             | 11.74         |
| 28690 - Swimming Pool Operator                                      | 17.71         |
| 29000 - Stevedoring/Longshoremen Occupational Services              |               |
| 29010 - Blocker And Bracer                                          | 20.23         |
| 29020 - Hatch Tender                                                | 20.23         |
| 29030 - Line Handler                                                | 20.23         |
| 29041 - Stevedore I                                                 | 18.85         |
| 29042 - Stevedore II                                                | 21.64         |
| 30000 - Technical Occupations                                       |               |
| 30010 - Air Traffic Control Specialist, Center (HFO) (see 2)        | 38.15         |
| 30011 - Air Traffic Control Specialist, Station (HFO) (see 2)       | 26.30         |
| 30012 - Air Traffic Control Specialist, Terminal (HFO) (see 2)      | 28.97         |
| 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         |
| 30051 - Cryogenic Technician I                                      | 24.12         |
| 30052 - Cryogenic Technician II                                     | 26.63         |
| 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                                    | 14.62         |
| 30082 - Engineering Technician II                                   | 16.41         |
| 30083 - Engineering Technician III                                  | 18.36         |
| 30084 - Engineering Technician IV                                   | 22.34         |
| 30085 - Engineering Technician V                                    | 27.83         |
| 30086 - Engineering Technician VI                                   | 33.66         |
| 30090 - Environmental Technician                                    | 21.78         |
| 30095 - Evidence Control Specialist                                 | 21.78         |
| 30210 - Laboratory Technician                                       | 20.74         |
| 30221 - Latent Fingerprint Technician I                             | 24.12         |
| 30222 - Latent Fingerprint Technician II                            | 26.63         |
| 30240 - Mathematical Technician                                     | 23.34         |
| 30361 - Paralegal/Legal Assistant I                                 | 19.44         |
| 30362 - Paralegal/Legal Assistant II                                | 23.68         |
| 30363 - Paralegal/Legal Assistant III                               | 28.99         |
| 30364 - Paralegal/Legal Assistant IV                                | 33.88         |
| 30375 - Petroleum Supply Specialist                                 | 26.63         |
| 30390 - Photo-Optics Technician                                     | 21.93         |
| 30395 - Radiation Control Technician                                | 26.63         |
| 30461 - Technical Writer I                                          | 22.17         |
| 30462 - Technical Writer II                                         | 27.10         |
| 30463 - Technical Writer III                                        | 32.79         |
| 30491 - Unexploded Ordnance (UXO) Technician I                      | 24.24         |
| 30492 - Unexploded Ordnance (UXO) Technician II                     | 29.33         |
| 30493 - Unexploded Ordnance (UXO) Technician III                    | 35.16         |
| 30494 - Unexploded (UXO) Safety Escort                              | 24.24         |
| 30495 - Unexploded (UXO) Sweep Personnel                            | 24.24         |
| 30501 - Weather Forecaster I                                        | 24.12         |
| 30502 - Weather Forecaster II                                       | 29.34         |
| 30620 - Weather Observer, Combined Upper Air Or<br>Surface Programs | (see 2) 20.74 |

|                                                               |         |       |
|---------------------------------------------------------------|---------|-------|
| 30621 - Weather Observer, Senior                              | (see 2) | 23.00 |
| 31000 - Transportation/Mobile Equipment Operation Occupations |         |       |
| 31010 - Airplane Pilot                                        |         | 29.33 |
| 31020 - Bus Aide                                              |         | 8.15  |
| 31030 - Bus Driver                                            |         | 9.69  |
| 31043 - Driver Courier                                        |         | 8.97  |
| 31260 - Parking and Lot Attendant                             |         | 8.93  |
| 31290 - Shuttle Bus Driver                                    |         | 9.99  |
| 31310 - Taxi Driver                                           |         | 9.43  |
| 31361 - Truckdriver, Light                                    |         | 9.78  |
| 31362 - Truckdriver, Medium                                   |         | 11.61 |
| 31363 - Truckdriver, Heavy                                    |         | 13.89 |
| 31364 - Truckdriver, Tractor-Trailer                          |         | 13.89 |
| 99000 - Miscellaneous Occupations                             |         |       |
| 99020 - Cabin Safety Specialist                               |         | 14.30 |
| 99030 - Cashier                                               |         | 9.12  |
| 99050 - Desk Clerk                                            |         | 9.70  |
| 99095 - Embalmer                                              |         | 24.24 |
| 99130 - Flight Follower                                       |         | 24.24 |
| 99251 - Laboratory Animal Caretaker I                         |         | 21.62 |
| 99252 - Laboratory Animal Caretaker II                        |         | 22.67 |
| 99260 - Marketing Analyst                                     |         | 20.09 |
| 99310 - Mortician                                             |         | 24.24 |
| 99410 - Pest Controller                                       |         | 14.61 |
| 99510 - Photofinishing Worker                                 |         | 12.74 |
| 99710 - Recycling Laborer                                     |         | 13.02 |
| 99711 - Recycling Specialist                                  |         | 19.69 |
| 99730 - Refuse Collector                                      |         | 12.39 |
| 99810 - Sales Clerk                                           |         | 9.46  |
| 99820 - School Crossing Guard                                 |         | 16.14 |
| 99830 - Survey Party Chief                                    |         | 21.65 |
| 99831 - Surveying Aide                                        |         | 12.31 |
| 99832 - Surveying Technician                                  |         | 16.00 |
| 99840 - Vending Machine Attendant                             |         | 21.84 |
| 99841 - Vending Machine Repairer                              |         | 27.71 |
| 99842 - Vending Machine Repairer Helper                       |         | 21.84 |

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors, applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is the victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

**ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:**

**HEALTH & WELFARE: \$4.48 per hour or \$179.20 per week or \$776.53 per month**

**HEALTH & WELFARE EO 13706: \$4.18 per hour, or \$167.20 per week, or \$724.53 per month\***

\*This rate is to be used only when compensating employees for performance on an SCA-covered contract also covered by EO 13706, Establishing Paid Sick Leave for Federal Contractors. A contractor may not receive credit toward its SCA obligations for any

paid sick leave provided pursuant to EO 13706.

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.) (See 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 rates may not be listed on 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 survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances 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, based on and related to user or system design specifications;

(3) 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. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT 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 employed (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 25% 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, dying, 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 re-grading 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, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is 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 \$.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.

**\*\* SERVICE CONTRACT ACT DIRECTORY OF OCCUPATIONS \*\***

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition (Revision 1), dated September 2015, unless otherwise indicated.

**\*\* REQUEST 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 (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees (See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which

shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). 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 occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order the 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 recommendations and pertinent information including the position of the contractor and the employees, to the U.S. Department of Labor, Wage and Hour Division, for review (See 29 CFR 4.6(b)(2)(ii)).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.
- 6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

Information required by the Regulations must be submitted on SF-1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" should be used to compare job definitions to ensure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination (See 29 CFR 4.152(c)(1)).

## EXHIBIT H

### GOVERNMENT OF GUAM ADMINISTRATIVE PROCEDURES

**A. Good Faith Negotiations**

Both teams shall be fully committed to good faith negotiations. Both teams shall carefully and respectfully listen to the other and shall make best efforts to reach satisfactory agreements on all issues. Both teams shall fully cooperate in providing any clarification or documentation reasonably requested by the other. If one team disagrees with a position taken by the other, the disagreeing team will detail its concerns, which will be duly considered and responded to by the other team.

**B. Expenses**

The Government will make every effort to secure a site conducive to negotiations on Government facilities. In the event such arrangements cannot be made, the offerors will make such arrangements. If arrangements are made by the offeror, expenses relating to the accommodations for the negotiations site are the responsibility of the offeror. The site will include basic office equipment and a caucus room for both parties. Equipment includes a flip chart or white board, access to a telephone, facsimile machine and a photocopier machine. The offeror will advise the Government of Guam of the negotiation site for the approval of the Government.

**C. Confidentiality**

1. During the course of the negotiations, no matters regarding the negotiations shall be discussed with anyone except members of the negotiating teams or officials of either the Government of Guam or the Insurance Company who are directly involved with the negotiations.
2. Utmost care shall be taken to ensure that no other person gains access to any negotiation information or materials.

**D. Media/Ex Parte Communications**

If any communications are to be made to the media or other persons outside those immediately involved in the negotiations, such communications shall be prepared and presented jointly by the negotiating teams. Further, except for necessary information on benefits and administration, no carrier shall release any information to the media, or to any enrollee or other person regarding any aspect of the plan, including its profitability or the reasons for rate or benefit changes, without the Government of Guam's written approval.

**E. Copies**

If one team submits a document to the other team, the submitting team shall, at the same time, provide a copy of such document to each member of the other team.

**F. Caucusing**

1. Either team may call a caucus at any time. However, both teams shall make best efforts to consolidate issues to discuss during caucuses and to use the designated caucus times rather than interrupting the negotiations.
2. The team calling the caucus may remain in the negotiating room and the other team will excuse itself, unless otherwise agreed.

**G. Negotiated Changes**

Negotiated contractual changes shall be memorialized in writing and signed by the authorized insurance representative and Chairperson during the negotiations and, if needed, taped at the conclusion of the negotiations.

**H. Tape Recording**

1. In general, the negotiations will not be tape recorded, except that agreements reached during the negotiations may be taped at the conclusion of the negotiations.
2. Notwithstanding the provisions of paragraph H.1 above, either team shall be entitled to tape sections or all of the negotiations, if they so desire, provided they notify the other team before they begin the taping.



**I. Allotted Time**

Each offeror's negotiations shall be concluded within three days. If additional time is requested by the plan, such may be granted by the Government of Guam's team at its sole option.

**J. Impasses**

1. If the teams cannot reach an agreement on a particular issue, that issue shall be set aside, if at all possible, and the negotiations proceeded with. Such issue may be revisited at a later stage in the negotiations.
2. If an agreement is not reached on all issues by the close of the negotiations, the Government of Guam's team will recommend against contracting with such Insurance Company.

**K. Approval by the Governor**

All written or taped agreements made by the Government of Guam's negotiating team are subject to the final approval by the Governor of Guam.

**L. Other Approval**

Each insurance company shall have a final decision maker at the negotiating table at all times. However, if the commitments made require approval from a company officer or board not at the negotiating table, the Insurance Company shall disclose the officer's name and title or the name of the board on the following line: \_\_\_\_\_.

**M. Marketing**

The plan selected shall comply with the Government of Guam's Marketing Guidelines (Exhibit I). No plan shall market its proposed plan to Government of Guam employees or retirees or dependents thereof prior to receiving written approval from the Director of the Department of Administration.

**N. Agreement to Administrative Procedures**

The Government of Guam and the Insurance Company shall adhere to these administrative procedures, which are pertinent to the Group Health Insurance Negotiations.

Insurance Company: \_\_\_\_\_

Print/Signature/Date: \_\_\_\_\_

**EXHIBIT I**  
**GOVERNMENT OF GUAM**  
**MARKETING GUIDELINES FOR HEALTH INSURANCE CARRIERS**

These marketing guidelines apply to all Health insurance carriers contracting with or intending to contract with the Government of Guam.

**A. MARKETING MATERIALS**

1. Each carrier is required to follow the SOB format for publication and inclusion in the marketing brochures. No deviation to the format is allowed. SOB format will be provided by the Government of Guam to carriers awarded a contract.
2. Each carrier shall prepare a Government of Guam plan brochure, setting forth the benefits and conditions of the plan, for distribution to subscribers and prospective subscribers. Brochures must identify items such as cheat sheet, Q & A's, highlights of changes, information on how to access benefits and changes to benefits should they become Medicare eligible, guidance to seek assistance at urgent care as supposed to GMHA in case of non-emergency situations, etc.
3. Carriers must insert language advising subscribers that providers change during the contract period.
4. Carriers must provide a listing of providers who accept Medicare in the RSP brochure.
5. Carriers shall make available, upon requests, marketing products to include provisions of alternative format/services (audio tape, radio announcements, large print braille, and use of ASL Interpreters, open/closed captions for videos, ASCII, HTML or word processing form on a computer diskette or CD, or HTML on an accessible website) upon request.
6. Each carrier may prepare other marketing materials, including newspaper and other media advertising copy, in addition to those required in paragraphs 1 above. Each carrier may also include with the marketing materials company-branded items such as pens, pencils, note pads, ID card wallets, and other similar items. The aggregate value of such items *shall not* exceed Five Dollars (\$5.00) per set of marketing materials.
7. All marketing materials, including company-branded items, must be submitted to the Government of Guam's Director of the Department of Administration or his or her designee with a written statement signed by an appropriate officer of the carrier certifying that the materials have been prepared in accordance with these guidelines.
8. The Government of Guam's Director of the Department of Administration must approve the content of all marketing materials and company-branded items in writing. Such written approval, however, does not guarantee the carrier that its marketing materials will be free from future scrutiny or that the carrier will not attract penalties should the marketing materials later be determined to be out of compliance with these guidelines.
9. Marketing materials and company-branded items which have not been approved for content may not be distributed or displayed. Further, no marketing materials may be distributed or displayed prior to the date specified in writing by the Director of the Department of Administration. No marketing materials will be approved for distribution or display prior to the conclusion of negotiations with all carriers.
10. Once approved for content and distribution and display, all marketing materials, excluding newspaper and other media advertising copy, must be made available to the Government of Guam subscribers, prospective subscribers, agencies and departments as quickly as possible.

**B. MARKETING STANDARDS**

1. All marketing materials, including newspaper and other media advertising and open enrollment presentations, must be truthful and not misleading.
2. All marketing materials must be worded simply, clearly and concisely so that they are readily understandable.

3. All marketing materials must contain sufficient detail to ensure accuracy.
4. At least the plan brochure should contain a statement that full details of the plan are contained in the carrier's contract with the Government of Guam.
5. If an insurance company markets wrongful products, benefits or advertises in their brochure incorrect information, the insurance company must place at least 2 media advertisements, in addition to giving memos to all enrollees, satisfactory to DOA, of correct version. Plans must also prepare an insert of corrected information and include it in all brochures, if not already corrected the language in the brochure.

**D. PENALTIES FOR NON-COMPLIANCE**

1. Failure to conform to these guidelines may result in corrective action by the Department of Administration. Such corrective action will be appropriate to the circumstances. For example, if a carrier indicates benefits or other plan provisions that are more favorable to enrollees than those specified in the Government of Guam contract, the carrier will be required to provide those more generous benefits or provisions without additional compensation for the entire contract year(s).
2. Interpretation and enforcement of these guidelines *shall be at the sole discretion* of the Director of the Department of Administration. The Government of Guam shall have no liability with regard to the alleged or actual failure to enforce these guidelines.

**E. EXPENSES**

1. A Personnel/Payroll Officers meeting will be conducted prior to the Open Enrollment Period. The **purpose of this meeting** is to advise all department representatives of the benefits available and premiums for the Health insurance program. The insurance company awarded the contract will secure and absorb the cost of the Personnel/Payroll Officers Meeting. The insurance company shall make best efforts to limit its costs to those items necessary to meet the purpose of the meeting. Specifications will be provided by the Government.
2. All expenses involved in the preparation and distribution of marketing materials shall be borne by the respective carrier. The Government of Guam shall have no liability with regard to any marketing materials or any costs which may be incurred because of any alleged or actual delay in the approval or a carrier's marketing materials."

**F. AGREEMENT TO MARKETING GUIDELINES**

By signing below, the offeror agrees to comply with the Marketing Guidelines.

Insurance Company: \_\_\_\_\_

Print/Signature/Date \_\_\_\_\_

**EXHIBIT J**

**GOVERNMENT OF GUAM  
GROUP HEALTH INSURANCE  
RULES AND REGULATION**

**APRIL, 1986**

**\*\*\*\*\***

**GOVERNMENT OF GUAM NEGOTIATING TEAM  
RULES OF PROCEDURE**

**Adopted by virtue of Public Law 32-083**

**November 2013**

100.0 STATUTORY AUTHORITY:

100.1 Pursuant to the authority vested in the Director of Administration by Section 4302 (b), Title 4 of the Guam Code Annotated, as amended by Public Law 18-17:52, the following rules and regulations are promulgated setting forth the information the Director of Administration requires from the companies or legal entities interest in providing health care coverage and the method by which such information shall be reported.

In accordance with that authority, all information and documentation required to be submitted under these rules and regulations shall be confidential and may not be disclosed or released by the Government of Guam without the prior written approval of the carrier. Note, however, that audited financial statements acquired by the Government of Guam pursuant to Section 4302(a), Title 4 of the Guam Code Annotated, shall be public records.

200.0 PURPOSE AND POLICY:

200.1 The purpose of these rules and regulations is to set up the standardization of the information the Director of Administration shall require from all existing or prospective carriers that desire to provide or continue to provide health care services to the Government of Guam active employees, retired employees, survivors of retired employees and covered dependents thereof.

The government is cognizant that not all carriers, insurance companies or legal entities operate on the same fiscal year or maintain universal fiscal, utilization, claim or similar health care industry required data. Consequently, each carrier shall make a good faith effort to supply the information required under these rules and regulations. If the carrier is unable to comply with a particular requirement, it shall submit a written statement to the Director of Administration prior to the deadline established in Section 300.1 explaining how it was not able to comply and what information it submitted in an effort to satisfy the requirements under these rules and regulations. The negotiating team shall review the documentation and determine whether the carrier has complied with the requirements. Nothing in these rules and regulations shall restrict the negotiating team from requiring additional information in order to ensure that uniform information is provided by each carrier.

200.2 By statue, the negotiating team has the authority to recommend for the scope and content of the Government of Guam group health/dental insurance programs.

200.3 The Director of Administration and the negotiating team are committed to the concept of providing Government of Guam enrollees with comprehensive health benefit plan and ensuring that such benefits are delivered efficiently and economically for all participants in the plan.

200.4 It is the policy of the Government of Guam to provide its enrollees to be covered by health benefits plan to be covered by health benefits plan under a minimum benefits package arrangement. The minimum benefits package is to be used uniformly when soliciting bids from any interested carriers authorized to provide these services pursuant to applicable laws. All benefits in any proposal are to be at least equal to those of the Government of Guam standard medical expense plan as mandated by Section 4302(d), Title 4 of the Guam Code Annotated. The carrier may propose additional benefits.

200.5 The minimum benefit package will be made available to all lawfully authorized carriers interested in providing coverage for the medical expenses of the Government of Guam enrollees.

200.6 The negotiating team shall require sufficient data from each carrier making a bid to be satisfied that the Government of Guam and its enrollees shall receive good value for their premium payments. In addition, each carrier that submits a proposal which has previously provided coverage for the Government of Guam enrollees shall provide reports of its past financial experience of the plan. All procedural and regulatory requirements shall be complied with on or before the deadline described in Section 300.1, unless the Director of Administration or the negotiating team determines that it is in the best interest of the enrollees to grant a waiver.

300.0

**DEADLINE FOR SUBMISSION OF PROPOSAL:**

300.1

All information required to be submitted by carriers under these rules and regulations shall be submitted no later than ten (10) days prior to the scheduled negotiation or within ten (10) days upon receipt of subsequent written notice of the Director of Administration. If a carrier fails to submit the required information, in part or in whole, the negotiating team need not negotiate or consider the carrier's proposal unless it determines that it is in the best interest of the Government to do so.

400.0

**GENERAL BIDDING AND OPERATIONAL REQUIREMENTS:**

400.1

Each carrier seeking to contract or continue to contract with the Government of Guam under the group health insurance plan shall provide the information in Section 500 of these rules and regulations and shall also furnish to the negotiating team or Director of Administration, as the case may be; information in writing on the points listed below. If the carrier is currently providing health benefits to GovGuam enrollees, any changes contained in its proposal set forth in items C and E of this paragraph shall be reported in writing to the negotiating team.

- A. A written statement to the negotiating team affirming the financial capacity of the plan to provide the proposed benefits. At a minimum, this demonstration shall include the carrier's audited profit and loss statement sheet and balance sheet for its preceding fiscal year.

If the company is not organized in the United States or Guam, the annual statements of its United States department shall be submitted to the Director of Administration. If the benefits are guaranteed in whole or in part by an insurance company, the post recent "convention form" of annual statement is to be furnished.

If some part or all of the funds of the plan are to be held by an administrator for such purposes as paying claims or refunds, the administrator is to indicate in writing to the negotiating team if he or she is willing to provide a fidelity bond and errors and omissions insurance that will suitably protect the Government of Guam in the event a contract is made with the administrator. The audited financial statements of the administrator for the most recent twelve (12) month period are also to be furnished to the Director of Administration.

- B. Carriers will be required to submit documentation to the Director of Administration that there exists an adequate mechanism for maintaining records on enrollees. The above-mentioned administrator or carrier shall provide a written statement to the negotiating team stating whether or not funds received from the Government of Guam have been maintained in a separate fiduciary account prior to payments made pursuant to its contractual obligation.
- C. Documentation to the Director of Administration that the carrier has an effective program for containing costs for medical services, hospital confinements and any other benefits shall be provided. This includes, but is not limited to, arrangements for:
1. Effective peer review and utilization review mechanisms for monitoring health care costs. This includes pre-admission authorization of the need for and allowable period of hospitalization, and ongoing review of hospital confinements that exceed the pre-authorized periods. Carrier shall be required to submit to the Director of Administration the most recent peer review and utilization report of the Government of Guam's account, but no later than 30 days after the date of the report.
  2. A mechanism for coordinating benefits when a person is insured by more than one health insurance plan for the same condition, to at least keep benefits from exceeding covered expenses incurred.
- D. Each carrier shall submit to the Director of Administration statistical report(s) showing utilization and claims data on the Government of Guam enrollees covered thereunder. If the plan's premium is community-rated, then the carrier shall provide some indication of the percentage the Government of Guam enrollees group represents of the total community covered by the carrier and the percentage of claims and expenses of the carrier incurred by the Government of Guam enrollees. The method of making this allocation is to be equitable and is to be explained to the Director of Administration. Each carrier shall provide specific information about the portion of costs due to

specific benefits. These benefits shall include but are not limited to hospitalization, physical examinations and mental care in and outside the hospital. Each carrier shall also provide enrollment information by age and sex of member, separately for enrollees.

- E. Each carrier shall set forth in writing to the Director of Administration the manner in which it handles medical costs and services provided to an enrolled individual in the event of an accident or illness which occurs while off-island, whether in a state of the United States or a foreign country. The carrier shall also indicate its practice for sending enrollees to a state or foreign country for treatment not obtainable in Guam.

500.0 RATES AND RETENTIONS:

500.1 Each carrier shall include in its proposal to the Director of Administration Form GHI-1. Each carrier shall identify whether the rate which will be proposed represents a community rate (actuarially factored if necessary for difference time periods or benefits provisions), or an experience rate based on past claims/benefits adjusted or anticipated experience of the Government of Guam's group. The Director of Administration requires each carrier to factor out the results of the Government of Guam's group when the premium rate structure was based on the total experience of all covered individuals in Guam.

500.2 Each carrier shall submit an explanation to the Director of Administration of how adverse or favorable experience of the GovGuam plan will be reflected in future rates. The plan is ordinarily to be based on the experience of the GovGuam enrollees covered by the carrier under their program. If applicable, the plan must demonstrate and explain differences in assumptions between the Government of Guam program and the community or prospective rated groups.

500.3 If a plan is not experience rated, the carrier must identify the assumptions used to derive the monthly premium rate for or the portion of it due to at least each of the following, plus such others as the carrier considers appropriate. However, whether carrier is experience rated or is not experience rated, it will be required, where applicable, to submit data on the following:

- a. Capitation rate for physician's services
- b. Off-island referrals
- c. Hospitalization
- d. Prescription drugs
- e. Administrative expenses
- f. Specialist referrals (on-island)
- g. Physical examinations
- h. Maternity and obstetrical benefits
- i. Savings from Medicare, coordination of benefits (COB), discounts from PPOs or others.

Each Carrier shall submit additional information to the Director of Administration about features of or conditions developing with its program that warrant consideration by the negotiating team. This could be because of such reasons as actual or potential excessive utilization of the benefit(s) or because new medical developments may warrant changing a benefit. It is expected that the items which will require evaluation of emerging experience will be investigated and reviewed by the consulting actuary of the Government of Guam, who will verify relevant factors such as the reasonableness of trend factors, claim or service costs, and expense charges, and make such necessary recommendations to the negotiating team and the Director of Administration.

500.4 The Director of Administration in concert with the negotiating team may from time-to-time establish the premium categories. Each carrier shall submit its proposal in the following premium class categories, and each carrier in order to contract under the group health insurance program shall provide coverage for each premium class category below as defined in existing contract of participating carriers:

- CLASS I - Single employees
- CLASS II and III - Employee and family

500.5 The following items are required:

- A. Each Carrier shall submit as part of its proposal For GHI-1.
- B. Each Carrier that has previously contracted with the Government of Guam under the group health insurance program must submit Form GHI-2 for the previous contract year. In addition, each Carrier shall submit as far as practicable, a current or updated Form GHI-2.

600.0 OTHER PROVISIONS:

600.1 Severability Clause: If any provision of these rules and regulations, or any rule, regulation or order promulgated hereunder, or the application of any such rule, regulation or order to any person or circumstances shall be held invalid, by a court of competent jurisdiction, the remainder of these rules and regulations or orders to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

600.2 Superseding Clause: These rules and regulations supersede any and all subsequent contracts between the Government and a carrier for the provision of health care service and coverages to Government of Guam employees and retirees; and all administrative rules, regulations, directives, orders and provisions affecting these rules and regulations at the time these rules and regulations are lawfully promulgated under the Administrative Adjudication Law of Guam, and furthermore, that these rules and regulations may be subordinated to legislative laws enacted subsequent to the date of promulgation of these rules and regulations.

700.0 DEFINITIONS:

"Benefits" means hospital services, professional services and other authorized health care services. Alternatively, "benefits" means the various coverages provided by a carrier under the health benefit plan of the Government of Guam.

"Carriers" means a voluntary association, corporation, partnership, or other nongovernmental organization which is engaged in providing, paying for, or reimbursing all or part of the cost of health benefits under group insurance policies and contracts, or under medial or hospital service agreements, in consideration of premiums or other periodic charges payable to the carrier.

"Community rating system" (Community rate) means a system of fixing rates of payments for health services. Under such a system, rates of payments may be determined on a per person or per family basis and may vary with the number of persons in a family, and rates must be equivalent for all individuals and for all families of similar composition. This does not preclude changes in the rates of payments for health services based on a community rating system which are established for new enrollments or re-enrollments and which changes do not apply to existing contracts until the renewal of such contracts.

"Days" means calendar days unless otherwise specified.

"Director of Administration" means the Director of the Department of "Administration.

"Enrollee" means a subscriber or a dependent of a subscriber who is entitled to receive health services under a health insurance contract.

"Enrollment" means the process of converting an eligible population having the HMO or indemnity option to the HMO subscriber population or vice versa; alternatively, the aggregate of subscribers to an HMO or indemnity insurance.

"Subscriber" means an individual who enters into a health service contract, or on whose behalf a health maintenance contract is entered into, with a licensed health maintenance organization or a health insurance carrier and to whom evidence of coverage is issued. "The subscriber is differentiated from the enrollees, who are defined as anyone covered under the contract.

"Utilization review" means prospective, concurrent and retrospective review and analysis of date related to utilization of health care resources in terms of cost, effectiveness, efficiency, control and quality.



## **EXHIBIT K**

### **GOVERNMENT OF GUAM MANDATORY CONTRACT REQUIREMENTS FY 2020 GROUP HEALTH INSURANCE PROGRAM**

#### **Government of Guam Group Health Insurance Contract Requirements**

**Offerors must comply with the Government of Guam Group Health Insurance Contract requirements which include PPACA. A summary of PPACA benefits and uniform glossary of terms is included on the following website:  
<http://www.ccifo.cms.gov/resources/other/index.html#sbcug>**

It is the intent of this contract to provide all of the benefits, rights and responsibilities afforded as a result of the Patient Protection and Affordable Care Act (Public Law 111-148), and the regulations promulgated under the authority of this Act.

#### **Participating Contract**

A fully participating contract will be implemented effective 10/1/18 that allows for an annual accounting settlement – no later than 4/1/19 – which will produce either a positive or negative balance after accounting for Incurred claims and guaranteed retention. This surplus will be returned to GovGuam either toward reducing any needed rate increase or in cash. If the result is a deficit, the amount of the deficit will be added to any needed rate increase for FY 2019 provided the incumbent vendor continues to be the insurance provider.

#### **Guaranteed Renewability of Health Insurance Coverage**

In the event that the government of Guam invokes the protection afforded by the Health Insurance Portability and Accountability Act of 1996, as amended, found at Section 2712 of the Public Health Services Act, and its regulations, for the guaranteed renewability of health insurance coverage the parties agree that coverage would be continued until a new contract is in place with the first ninety (90) days of coverage guaranteed at the same rate and plan designs.

#### **Important Requirement of any Certificate of Insurance or Group Health Insurance Agreement:**

The process to resolve disputes between the insurance carrier and the covered person (the subscriber and eligible dependents) related to denial of coverage by the insurance provider, to include rescissions, eligibility, pre-exclusion, medical necessity denial, and post-service reimbursement, must be consistent with the Patient Protection and Affordable Care Act and applicable regulations to include 45 CFR 147.136 and 29 CFR 2560.503. Requirements or provisions for an arbitration process to resolve disputes related to denial of coverage by the insurance carrier, to include rescissions, eligibility, pre-exclusion, medical necessity denial, and post-service reimbursement are not acceptable and will not be agreed to.

**EXHIBIT L**

**See attached for contracts & certificates of insurance**

**PPO1500, 2000HSA, Retiree Supplemental Plan, Dental, and Foster Plan**

# **EXHIBIT 3**



LOURDES A. LEON GUERRERO, Governor (*Maga'håga*)  
JOSHUA F. TENORIO, Lt. Governor (*Sigundo Maga'låhi*)



EDWARD M. BIRN  
Director (*Direktor*)  
EDITH C. PANGELINAN  
Deputy Director (*Sigundo Direktor*)

DIRECTOR'S OFFICE (*Ufisinan Direktor*)

MAY 21 2019

Joseph Husslein  
President and CEO  
Arvin Lojo  
Health Plan Administrator  
TakeCare Insurance Company, Inc.  
Baltej Pavillion, Suite 308  
415 Chalan San Antonio  
Tamuning, Guam 96913

TAKECARE INSURANCE CO., INC.

Received By/Department  
ADMIN  
Date/Time  
5:28 PM

Re: Government of Guam Procurement No. DOA/HRD-RFP-GHI-20-001

Dear Mr. Husslein

We are in receipt of your letter dated May 3, 2019, in which you are protesting the Government of Guam Procurement No.: DOA/HRD-RFP-GHI-20-001. This letter serves as a denial of your protest.

**Untimely Filed**

In your letter you challenge the validity of Public Law 35-2. Public Law 35-2 was enacted on March 7, 2019. The RFP was published on April 1, 2019 with the requirement to consider only those offers with all hospitals on Guam with in-network coverage as mandated in Public Law 35-2. The publication date of April 1 is the date TakeCare was on notice that the RFP included this requirement. The date by which TakeCare was not able to secure a business opportunity is not relevant to this procurement.

As such, the protest is beyond the 14-day time period of when you knew or should have known of the facts giving rise to the protest to lodge a written protest. See 5 G.C.A. § 5425(a). Your letter of protest is denied as not being timely submitted.

**Beyond the Scope**

In addition to the letter being untimely, it is also beyond the scope of this procurement.

An actual or prospective offeror or contractor who may be aggrieved may protest *in connection with the method of source selection, solicitation or award of a contract*. See 5 G.C.A. § 5425(a) (emphasis added).

First, TakeCare is not an actual or prospective offeror or contractor. According to your letter, TakeCare has not been able to secure an agreement with GRMC that would qualify TakeCare as an eligible offeror according to the terms of the RFP. Second, your letter of protest does not raise complaints about the method of source selection, solicitation, or award of a contract as provided in the law. See 5 G.C.A. § 5425(a).

Your letter of protest makes allegations against GRMC for which we have no information or knowledge to confirm, refute, or deny as we are not a party to the negotiations between GRMC and TakeCare. The dispute is between two private entities to which the government of Guam is not a party. The assertions made in your letter pertain to conduct outside the scope of the procurement process. As such, we are not able to respond to your letter of protest.

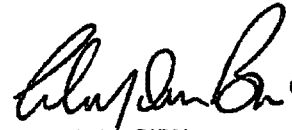
As earlier mentioned above, your letter makes legal arguments as to the validity of Public Law 35-2. The assertions made are beyond the scope of the Negotiating Team's role in this procurement. The Negotiating Team is required to follow the laws pertaining to Group Health Insurance which includes the mandate in Public Law 35-2. Therefore, the decision to include it in the RFP is neither arbitrary nor capricious. See 5 G.C.A. § 5245. It is not the Negotiating Team's duty in this procurement process to defend the legality of the law and therefore, it takes no position as to the arguments made in your letter. Until such time the law is repealed or amended, we are mandated to implement Public Law 35-2. Therefore, your protest is also denied as to being beyond the scope of this procurement.

**Request for Procurement Documents**

Attached are portions of the procurement record that are available for public inspection at this time.

**Decision and Appeal Available**

For the reasons set forth above, TakeCare's letter of protest is untimely filed and does not meet the requirements of a valid procurement protest. This further serves to inform you of the right to administrative and judicial reviews of this decision.



EDWARD M. BIRN  
Director, Department of Administration  
Chairperson, Negotiating Team

cc: Louie Yanza, Esq.