

# **REQUEST FOR PROPOSAL**

**for**

## **INDEPENDENT FINANCIAL AUDIT SERVICES**

**No. 2015-01**

**Deadline for Submission:**      **Monday, September 14, 2015**, no later than  
10:00 AM Chamorro Standard Time (Guam Time)

**Place of Submission:**      Guam Waterworks Authority  
Procurement Office  
Gloria B. Nelson Public Service Building  
688 Route 15  
Mangilao, Guam 96913

## **PUBLIC ANNOUNCEMENT**

This Advertisement is paid with Guam Waterworks Authority funds

### **REQUEST FOR PROPOSAL No. 2015-01**

#### **Independent Financial Audit Services**

The Guam Waterworks Authority (GWA), a non-major component unit of the Government of Guam is soliciting proposals from a U.S. Certified Public Accounting Firm for an audit (to include the Single Audit Act Provision) of its financial operations for *FY 2015 through FY 2017*, subject to the availability of funds and certification from fiscal year to fiscal year, and with an option to renew for one additional fiscal year. Required audit reports include a report on the financial statements and reports on internal control and compliance.

Request for Proposal (RFP) packages may be obtained at GWA's Procurement Office in the Gloria B. Nelson Public Service Building in Mangilao, Guam anytime from Monday through Friday, excluding holidays between 8:00 a.m. and 5:00 p.m. The RFP may also be downloaded at the Office of Public Accountability's website at [www.opaguam.org](http://www.opaguam.org) or GWA's website at [www.guamwaterworks.org](http://www.guamwaterworks.org). **Deadline for submission of all proposals is 10:00 AM Chamorro Standard Time (Guam Time), September 14, 2015.** All proposals must be submitted to the attention of: Mark Miller, Interim General Manager.

GWA, with the written approval of the Public Auditor, reserves the right to reject any or all proposals, solicit new proposals, waive minor informalities or irregularities or award the Independent Auditor in whole or in part.

All questions regarding the proposal should be made in writing and directed to the Interim General Manager via facsimile at (671) 646-2335. Except to the above persons named, direct or indirect contact with Guam Waterworks Authority Management or Staff, Board members, or any person participating in the selection process is prohibited.

/s/   
Mark G. Miller  
Interim General Manager

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# I. INTRODUCTION

## **BACKGROUND:**

The Guam Waterworks Authority (GWA) is a Guam public corporation subject to the regulations of the Public Utilities Commission (PUC) of Guam. Pursuant to Public Law 23-119, GWA became an autonomous agency in 1996, and that status was changed to a public corporation by Public Law 27-76. GWA revenues are derived from its water and wastewater system. Currently, GWA is governed by an elected five-member Consolidated Commission on Utilities (CCU).

For further information related to audits of GWA, please refer to GWA's issued financial statements and relevant reports published on the OPA's website at [www.opaguam.org](http://www.opaguam.org). For other information, please visit GWA's website at [www.guamwaterworks.org](http://www.guamwaterworks.org).

## **RFP TIMETABLE:**

RFP package for interested parties available at the  
GWA Procurement Office or may be downloaded at  
[www.opaguam.org](http://www.opaguam.org)

**8:00 AM,**  
**August 14, 2015**

Deadline for requests to hold pre-proposal conference

**August 19, 2015**

Deadline for Receipt of Written Questions

**August 21, 2015**

Deadline for Answers to Written Questions

**August 28, 2015**

Deadline for receipt of un-priced proposals and sealed  
costs proposals at the GWA Procurement office

**10:00 AM,**  
**September 14, 2015**

## **SERVICES REQUIRED:**

GWA requires the services of qualified individuals or firms with general knowledge, skill and experience in auditing books and accounts. Solicitation for this RFP covers independent auditing services for fiscal years ending 2015, 2016, and 2017. The Guam Waterworks Authority may exercise the option to retain the selected offeror for one additional year of service, with the approval of the Public Auditor.

## II. SUBMISSION AND EVALUATION OF PROPOSAL

### 1. DESCRIPTION OF WORK INVOLVED

The Scope of Services required is described in Part "III" of this Request for Proposal.

### 2. TYPE OF CONTRACT

To be formulated after negotiations have concluded.

### 3. SUBMITTAL DATE

The required proposal (1 Original and 5 copies) must be submitted no later than **10:00 AM** Chamorro Standard Time (Guam Time), by **Monday, September 14, 2015**. Any proposals submitted after the deadline will not be accepted.

### 4. PRE-PROPOSAL CONFERENCES

Pre-proposal conferences, as appropriate, may be conducted in accordance with 2 G.A.R. § 3109(h) (Pre-Bid Conferences). Such a conference may be held any time prior to the date established for submission of proposals.

### 5. FORM OF SUBMITTAL

Any proposals submitted after the above deadline will not be accepted. Submitted proposals must remain valid for at least ninety (90) days. **In response to this RFP, both a sealed technical and a sealed price/fee proposal, containing the offerors' cost and pricing data, must be submitted concurrently.** Each proposal must be in writing with 1 Original and 5 copies. The proposal must be submitted in a separate sealed envelope from the price proposal. The sealed envelope shall be marked plainly:

**Guam Waterworks Authority  
Attention: Mark G. Miller, Interim General Manager  
Request for Proposal No. 2015-01  
Independent Financial Audit Services  
Fiscal Years 2015, 2016, and 2017  
Technical Proposal**

In a second separate sealed envelope, the proposer shall also submit a cost or pricing data to include the schedule of proposed hourly rates for the type or types of audit services and a total all-inclusive maximum price for each of the three fiscal years to be audited. A price proposal should also be submitted for the additional year of service should GWA, with the approval of the Public Auditor, decide to retain the services of the selected offeror. The sealed envelope shall be marked plainly:

**Guam Waterworks Authority  
Attention: Mark G. Miller, Interim General Manager  
Request for Proposal No. 2015-01  
Independent Financial Audit Services  
Fiscal Years 2015, 2016, and 2017  
Price Proposal**

The sealed envelopes containing the offeror's technical and price proposal shall also indicate the offeror's name, address, and contact information, as well as the date of proposal submission.

**6. REPORT DUE DATES**

The audits must be completed with preliminary financial statements and auditor reports submitted for review by GWA and the Office of Public Accountability (OPA) no later than January 31<sup>st</sup> of each year. Final reports shall be issued no later than February 28<sup>th</sup> of each fiscal year.

Note: The report date of the opinion should be no more than 60 days before the actual issuance of the report. For example, if the final report is to be issued March 1, the report shall not be dated earlier than January 1.

**7. TRADE SECRETS AND PROPRIETARY DATA**

Offerors may designate those portions of their proposal that contain trade secrets or proprietary data to be confidential. Designated portions must be explicitly marked "CONFIDENTIAL".

**8. CONTENTS OF THE PROPOSAL**

Proposals must be in writing and shall contain the following: At a minimum, the proposal shall contain:

- a. 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, a mailing address, telephone number(s), facsimile number, email address, date of the proposal, and the title and number of the RFP. A designated contact person, his or her title, address, telephone, facsimile number and email address should also be included;
- b. The age of the offeror's business and the average number of employees over the past year; and the size of the firm's governmental audit staff that would be assigned to perform the scope of services;
- c. Copy of business license, whether from Guam or any other United States location. A Guam business license is not required in order to submit a proposal, but is a pre-condition for award and entering into contract with GWA and OPA. In the event that an offeror is not licensed to do business on Guam and is selected for the award, the offeror must obtain all necessary Guam licenses within thirty (30) days of the selection notification. Specific information on Guam licenses may be obtained from the Department of Revenue and Taxation;
- d. Copy of the most recent external Quality Control Peer Review report performed on the CPA firm, together with Management Letter Comments and any other communication relative to the Peer Review Report;
- e. Copy of the firm's Permit to Practice and a copy of the Permit to Practice as a Certified Public Accountant for the auditor authorized to sign the audit report, from Guam or any other United States jurisdiction. The Permits to Practice issued by the

Guam Board of Accountancy is not required in order to submit a proposal, but is a pre-condition for award and entering into contract with GWA and OPA. In the event that an offeror does not have the Permits to Practice on Guam and is selected for the award, the offeror shall obtain all necessary Permits within thirty (30) days of the selection notification.

- f. A list of current contracts with Government of Guam entities and federally funded entities. If none, indicate none;
- g. The personnel, equipment, and facilities to perform the services currently available or demonstrated to be available at the time of contracting;
- h. The qualifications and experience of key persons who would be assigned to perform the required services;
- i. Continuing professional education for those individuals to be assigned to the audit for the last three calendar years, i.e., partner-in-charge, auditor-in-charge, and other auditors;
- j. A listing of other contracts under which services similar in scope, size, and discipline for the required services were performed or undertaken in the past five years;
- k. Plan for performing the required services, including a description of the firm's plan, capacity, and ability to timely submit the annual financial audits no later than February 28<sup>th</sup>, following the fiscal year end; earlier release is encouraged;
- l. A statement indicating the Firm's/Individual(s)'s understanding of the project's potential problems and/or any special concern(s) the vendor may have.
- m. A statement that the offeror has established and implemented an Affirmative Action Plan;
- n. Affirmation that the offeror is independent of the government of Guam as defined in the generally accepted auditing standards and Government Auditing Standards;
- o. The individual(s) or firm shall provide information on the result of any federal or state desk reviews of its audit during the past five (5) years. In addition, the firms shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past five (5) years with the Guam Board of Accountancy or the Guam Society of CPAs; if no federal or state desk review or disciplinary action was conducted or taken, affirmation that there is none is required;
- p. Affidavits attached to this RFP notarized in the state or territory of the offeror's principal place of establishment;
- q. List of references identifying most recent clients and not to exceed five customers with contact name, title, complete address, phone number, email addresses, and

facsimile number. Contact listed should be capable of providing an appropriate testimonial for the work performed, if requested by GWA and/or OPA.

**9. DISCUSSIONS**

The evaluation committee may conduct discussions with any offeror to (1) determine in greater detail such offeror's qualifications and (2) explore with the offeror the scope and nature of the required services, its 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, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be opened to public inspection except as otherwise provided in the contract.

**10. EVALUATION**

The following factors and their relative importance will be used in evaluating the Proposals:

**30 points Maximum**

- a. The capacity and ability of the offeror to issue the final financial audits for FY 2015, 2016, and 2017 within the specified time of no later than February 28<sup>th</sup>, following the fiscal year end;

**30 points Maximum**

- b. The plan for performing the required services, including understanding of the project's potential problems and/or any special concerns;

**20 points Maximum**

- c. Qualification of offeror as evidenced by its submission and discussion with offeror in accordance with items 8 and 9. More specifically, the offeror's ability to perform the services as reflected by technical training and education, general experience, character, integrity, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

**10 points Maximum**

- d. The personnel, equipment, and facilities to perform the services currently available or demonstrated to be available at the time of contracting; and

**10 points Maximum**

- e. The record and quality of past performance of similar work, including clientele/references input regarding the level of customer satisfaction with similar audit relationships.

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**100 points (Total Maximum)**

**11. SELECTION OF BEST-QUALIFIED OFFEROR AND PROPOSAL**

The Evaluation Committee shall consist of:

- Two members from GWA selected by the GWA Chief Financial Officer.
- Two members from the OPA.



- One member of the Guam Society of Certified Public Accountants, or other Accountants' Association, selected by the Public Auditor in consultation with GWA.
- a. 1 G.C.A § 1908 provides that the Public Auditor shall select the auditing firm and shall have oversight over the audits. Accordingly, GWA has acknowledged that OPA shall have the authority to oversee, direct and supervise the audit(s) contracted in this proposal/agreement. OPA shall have access to all working papers of the Auditor. The Auditor shall advise OPA of all communications made to GWA. The Auditor shall provide drafts of all reports, including but not limited to financial statements, audit findings, internal control compliance reports and management letters to GWA concurrently to OPA. The Auditor's final reports shall not be issued to external parties without the consent of the GWA and OPA.

The Auditor shall provide the final reports to GWA and OPA, in the form and content to be determined by OPA (.pdf format), for publication of these reports on the World Wide Web at [www.opaguam.org](http://www.opaguam.org) and [www.guamwaterworks.org](http://www.guamwaterworks.org).

- b. Proposals shall be evaluated only on the basis of the evaluation factors stated in this Request for Proposals. After the Evaluation Committee completes the validation of qualifications for each offeror, the evaluation of each proposal, and discussions made pursuant to 2 G.A.R., Div. 4, Chap. 3, §3114(i), if any, have been completed, the Evaluation Committee shall make a recommendation to the Public Auditor as to the most qualified offeror based on the highest overall score and being the first choice of the majority of the evaluators. In the event that (1) the offeror with the highest overall score is not the same as the first choice of the majority of the evaluators or (2) there is a tie in the overall score of two or more offerors, the first choice of the majority of the evaluators will prevail. The Public Auditor may accept or reject the Evaluation Committee's recommendation. If the recommendation is rejected, the Public Auditor may require the Evaluation Committee to conduct a second evaluation or take any action necessary to ensure the proposals are evaluated in accordance with the evaluation factors set forth in the Request for Proposals, or any action permitted by Guam Procurement Laws and Regulations. If the Public Auditor accepts the Evaluation Committee's ranking of the offerors, the Public Auditor, pursuant to 1 G.C.A. §1908 and §1921, shall select, in the order of their respective qualification ranking, no fewer than three (3) acceptable offerors or such lesser number if less than three (3) acceptable proposals were received, deemed to be the best qualified to provide the required services.

The head of the purchasing agency or his or her designee, shall open the sealed priced proposal of and begin negotiations with the best qualified offeror listed in the qualification ranking of the offerors approved by the Public Auditor. If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, and, pursuant to 1 G.C.A. §1908 and §1921, the Public Auditor approved the final contract, the contract shall be awarded to that offeror.

If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the procurement file and the head of the purchasing agency conducting the procurement or a designee of such officer shall advise such offeror of the termination of negotiations which shall be confirmed by written notice within three (3) days.

Upon failure to negotiate a contract with the best qualified offeror, the head of the purchasing agency or the designee of such officer may enter into negotiations with the next most qualified offeror listed in the qualification ranking of offerors approved by the Public Auditor. If compensation contract requirements, and contract documents can be agreed upon, then the contract shall be awarded to that offeror. If negotiations again fail, negotiations shall be terminated as set forth above and commence with the next qualified offeror listed in the qualification ranking of offerors approved by the Public Auditor.

Should the head of the purchasing agency or a designee of such officer be unable to negotiate a contract with any of the offerors initially selected as the best qualified offerors, offers may be re-solicited or additional offerors may be selected, as set forth above, based on original acceptable submissions in the order of their respective qualification ranking and negotiations may continue as set forth above until an agreement is reached and the contract is awarded.

All offerors will be notified in writing of the outcome of the evaluation. After the selection of the best qualified offeror and a successful negotiation regarding compensation, contract requirements, and contract documents is reached, the sealed envelopes containing Part II (Fee) from offerors not awarded the contract will be returned.

**\*END OF SUBMISSION AND EVALUATION OF PROPOSAL\***

### III. SCOPE OF SERVICES FOR ANNUAL INDEPENDENT AUDIT

#### SERVICES REQUIRED

The Guam Waterworks Authority requires the services of a regionally recognized U.S. Certified Public Accounting Firm/Individual with general knowledge, skill, and experience in auditing financial statements and federal awards compliance of state and local governments. GWA, with the approval of the Public Auditor, retains the option to renew the contract for one additional year.

#### 1. DESCRIPTION OF WORK INVOLVED

- a. Assist management with the preparation of the annual financial statements for GWA, as a separate reporting unit, in accordance with accounting principles generally accepted in the United States of America, from trial balances provided by management from its books and records. (*Note: The auditor must ensure that the scope of these services is not to such an extent that would impair the auditor's independence.*)
- b. Perform financial statement audit of GWA in accordance with auditing standards generally accepted in the United States of America, and *Government Auditing Standards* issued by the United States Comptroller General. In conjunction with the financial statement audit, the following reports or communications should be provided by the Auditor:

*Item 1:* Auditor's report on the financial statements, and any supplementary information, expressing either an unqualified, qualified, adverse, or disclaimed opinion on the basic financial statements, a disclaimer of opinion on required supplementary information, and an in-relation-to (SAS-29) opinion on other supplementary information, to the extent applicable.

*Item 2:* Auditor's report on internal control over financial reporting and on compliance and other matters based on an audit of the financial statements pursuant to *Government Auditing Standards*, including the reporting of identified significant deficiencies and material weaknesses in internal control over financial reporting, and any identified instances of noncompliance material to the financial statements and any other matters, including abuse, required to be reported by *Government Auditing Standards*. (*Note: It is understood that the extent of the auditor's procedures over internal control over financial reporting and compliance and other matters will not be designed to express an opinion or any other level of assurance on such controls and compliance.*)

*Item 3:* A letter to management including any other findings and recommendations not included in the auditor's report in Item 2 above, that the auditor feels are worthy of communication to management.

- c. If federal awards expended by GWA during any financial statement audit period meet or exceed the audit threshold of the Single Audit Act of 1996, as amended, the auditor

will also perform a compliance audit over federal award programs in accordance with the Single Audit Act and U.S. Office of Management and Budget (OMB) Circular No. A-133, *Audits of States, Local Government, and Non-Profit Organizations (A-133)*, In conjunction with the A-133 compliance audit, the following reports or communications should be provided by the auditor:

*Item 1:* Auditor's (SAS-29) in-relation-to report on the schedule of expenditures of federal awards [*Note: This report may be included as part of the auditor's report on the financial statements and supplementary information discussed in (b-Item 1) above.*]

*Item 2:* Auditor's report on compliance with requirements applicable to each major program and on internal control over compliance prepared in accordance with OMB Circular A-133. Such report will provide an unqualified, qualified, adverse, or disclaimed opinion on each major program's compliance with applicable requirements; and a report on internal control over compliance. (*Note: It is understood that the extent of the auditor's procedures over internal control over compliance will not be designed to express an opinion or any other level of assurance on such controls.*)

*Item 3:* A schedule of findings and questioned costs, including a summary of auditor's results, financial statement audit findings required to be reported by *Government Auditing Standards*, federal award audit findings and questioned costs required to be reported by OMB Circular A-133, and management's responses and corrective action plan in regards to the findings.

- d. Ensure that the financial statements and auditor's reports meet any specific requirements contained in bond indentures, American Recovery and Reinvestment Act award agreements, or other contractual requirements relative to financial statement presentation and the audits.
- e. Submit the draft financial statements and accompanying auditor's reports to GWA management and the Office of Public Accountability no later than January 31<sup>st</sup> of each year, and issue the final reports no later than February 28<sup>th</sup> of each year.
- f. Provide copies of the final financial statements and accompanying auditor's reports as follows:
  - 25 bound copies - Office of Public Accountability
  - 25 bound copies – Guam Waterworks Authority

One electronic copy (e.g., .pdf format) will also be required to be submitted to both the GWA and OPA. The Public Auditor will publish these reports on the World Wide Web at [www.opaguam.org](http://www.opaguam.org) and GWA will also publish these reports at [www.guamwaterworks.org](http://www.guamwaterworks.org).

- g. Communicate to those charged with governance the other audit-related matters required to be communicated pursuant to generally accepted auditing standards (AU Section 380, *The Auditor's Communication with Those Charged with Governance*) and any other areas of concern that may be determined throughout the term of the engagement.
- h. Provide the following additional information or documents to the Office of Public Accountability:
  - i. Within 60 days after the close of the calendar year, submit a report on the Continuing Professional Education credits of each auditor involved in the audit during the period under contract;
  - ii. As soon as available, provide any peer review reports, including any review comments, that occur during the period under contract; and
  - iii. Provide copies of management representation letter and responses to inquiries from GWA legal counsel.

**\*END OF SCOPE OF SERVICES FOR ANNUAL INDEPENDENT FINANCIAL AUDIT\***

## IV. GENERAL TERMS AND CONDITIONS

### 1. **AUTHORITY**

This Request for Proposal (RFP) solicitation is issued subject to all the provisions of the Guam Procurement Act and the Guam Procurement Regulations. The RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

### 2. **GENERAL INTENTION**

Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and Conditions for the offeror to provide GWA with specified services.

### 3. **PROPOSALS**

The offeror is required to read each and every page of GWA's Request for Proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening. Proposals shall be filled out (typewritten) and signed in ink. Erasures or other changes in a proposal must be explained or noted over the signature of the offeror. Proposals containing any conditions, omissions, unexplained erasures or alternations or items not called for in the Proposal, or irregularities of any kind may be rejected by the Government as being incomplete.

### 4. **EXPLANATION TO OFFERORS**

No oral explanation in regard to the meaning of the specification will be made and no oral instructions will be given before the award of the proposal. Discrepancies, omissions, or doubts as to the meaning of the specifications should be communicated in writing to the named contact individual of the requesting agency/department for interpretation. Offerors should act promptly and allow sufficient time for a reply to reach them before submission of their proposals. Interpretation, if required, shall be made in the form of an amendment to the RFP, which will be forward to all prospective offerors, and its receipt by the offeror should be acknowledged on the proposal form.

### 5. **RECEIPT AND OPENING OF PROPOSALS**

Telegraphic proposals will not be considered, nor will modification by telegraph of proposals already submitted be considered. Proposals shall be hand carried and received at the place of opening on or before the opening date and time. Proposals received through the mail will not be accepted if such mail is received at the address showing after the submission date and time. Proposals will not be opened publicly.

### 6. **WITHDRAWAL OF PROPOSALS**

Proposals may be withdrawn on written request received from offeror(s) prior to the time fixed for opening. Negligence on the part of the offeror in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.

### 7. **LIABILITY FOR COST OF THE PROPOSAL**

GWA and OPA are not liable for any costs incurred by the offeror in connection with this RFP. By submitting a proposal, the offeror specifically waives the right against GWA and OPA for any expenses incurred in proposal preparation. Submitted proposals become the property of GWA and OPA. Offeror requests for the return of specific proprietary material may be honored.

### 8. **RIGHT TO AMEND OR CANCEL**

With the approval of the Public Auditor, GWA reserves the right to amend, supplement, or cancel the RFP, in whole or in part at any time.

The RFP may be amended or modified prior to opening of the proposals but not subsequent to opening of the proposals. Any amendment issued pursuant to this RFP must be acknowledged as being received by the potential offerors. Amendments shall be distributed within a reasonable time to allow prospective firms to consider the issue in preparing their proposals. If the time and date set for receipt of proposals will not permit such preparation, such time shall be increased to the extent possible in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

9. **RIGHT TO REISSUE**

GWA may, with the approval of the Public Auditor, re-solicit for proposals when it is deemed to be in the best interest of GWA.

10. **FAILURE TO NEGOTIATE CONTRACT WITH OFFERORS INITIALLY SELECTED AS BEST QUALIFIED**

Should GWA be unable to negotiate a contract with the offeror initially selected as the best qualified, negotiations may continue with the next qualified offeror in accordance with the procedures and process herein specified, subject to the approval of the Public Auditor.

11. **METHOD OF AWARD & LICENSING**

The Evaluation Committee, with the approval of the OPA, reserves the right to waive any minor informality or irregularity in proposals received. GWA, with the approval of the OPA, shall have the prerogative to award, amend, or reject proposals in whole or in part. It is the policy of GWA to award proposals only to offerors duly authorized and licensed to conduct business in Guam. Offerors licensed in the United States or outside of Guam, must obtain the necessary Guam licenses and Permits within 30 days of selection notification. Specific information on licenses and permits may be obtained from the Director of Revenue and Taxation and the Guam Board of Accountancy, respectively.

12. **RIGHT TO REJECT PROPOSAL**

GWA and OPA may make such investigations as deemed necessary to determine the ability of the offeror to perform the work, and the offeror shall furnish to GWA all such information and data for this purpose as GWA may request. The Evaluation Committee, with the approval of the Public Auditor, reserves the right to reject the offeror if the evidence submitted by, or investigation of such offeror fails to satisfy the Evaluation Committee that such offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein. Conditional proposals will not be accepted. This right of reject and/or cancel is also pursuant to 2 G.A.R., Div. 4, Chap. 3, §3115(d)(2)(A).

13. **PAYMENT OF SERVICES**

Payment for any contract entered into as a result of this RFP will be made no more frequently than monthly upon receipt of the offeror's billing statement on a net 30-day basis. Offerors are notified that they are subject to the Guam Business Privilege Tax and the Guam Income Tax, as well as all other taxes or government fees that may be applicable. Specific information on taxes may be obtained from the Guam Department of Revenue and Taxation.

The Procurement Administrator must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period.

If funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first, the multi-term contract will be cancelled. This does not affect either the territory's rights or the contractor's rights under any termination clause in the contract. In the event of cancellation under 2 G.A.R. § 3121(e)(1)(C), the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

14. **CONTROL**

The GWA Interim General Manager or his designee and the Public Auditor will meet periodically with the Offeror/Auditor's representative for the purpose of reviewing progress and providing necessary guidance to the offeror in solving problems.

15. **JUSTIFICATION OF DELAY**

The offeror who is awarded the proposal guarantees that the service will be completed within the agreed upon completion date. If, however, the offeror cannot comply with the completion requirement, it is the offeror's responsibility to advise GWA and OPA in writing explaining the cause and reasons of the delay. GWA, with the approval of the Public Auditor, may make a reasonable extension of time, but no later than May 31st.

**16. EQUAL EMPLOYMENT OPPORTUNITY**

Section 3.01 of the Executive Order 10935 dated March 7, 1965 requires the offeror not to discriminate against any employee or applicant for employment because of race, creed, color or national origin. The offeror will take affirmative action to ensure that employees are treated equally during employment without regard to their race, creed, color or national origin.

**17. ASSIGNMENT**

Assignment will not be accepted without prior written approval from GWA and the Public Auditor. Request for approval of assignment must be made with submission of proposal. No assignment will be accepted if request is not made in writing with the proposal.

**18. DETERMINATION OF RESPONSIBILITY OF OFFEROR**

The Evaluation Committee shall use the following criteria in determining responsibility of the offeror, and reserves the right to secure additional information from offerors necessary to determine whether or not they are responsible in each of the following:

- The ability, capacity, and skill of the offeror to perform;
- Whether the offeror can perform promptly and/or within the specified time periods;
- The character, integrity, reputation, judgment experience, and efficiency of the offeror;
- The quality of performance of the offeror with regard to awards previously made to the offeror;
- The offeror's past and present record of compliance with procurement laws and regulations;
- The sufficiency of the offeror's financial resources and ability to perform;
- The offeror's compliance with the specifications and requirement of this Request For Proposal; and
- If requested, the offeror must meet all Americans with Disabilities Act regulations and requirements.

**19. CONTACT FOR CONTRACT ADMINISTRATION**

If your firm receives a contract as a result of this Proposal designate a person whom we may contact for prompt administration, showing:

Name: _____	Title: _____
Address: _____	Tel. No.: _____
_____	Fax No.: _____
_____	Email Address: _____

**20. CONTRACT PROVISIONS**

GWA reserves the right to include any part or parts of the offeror's proposal in the final contract with the offeror. Offeror will be subject to conditions and terms imposed by GWA.

By submitting a proposal, the offeror specifically understands and agrees that it has a duty to explain and clarify any and all conditions imposed on or included in its responses and questions in this RFP. The offeror further understands that it has an affirmative duty to inquire about and clarify any section of the RFP that the offeror does not understand or that the offeror believes may be susceptible to more than one interpretation.

**21. SPECIAL PERMITS AND LICENSES**

The offeror shall, at his own expense, procure all permits, certificates, and license and shall give all notices and necessary reports required by law for the General Scope of the work. Failure to maintain required licenses or permits shall be grounds for immediate termination of contract.



## 22. AUDITOR WORKING PAPERS

1. **Retention.** The auditor shall retain working papers and reports for a minimum of five years after the date of issuance of the auditor's report(s) to GWA, unless the auditor is notified in writing by the cognizant agency of audit, oversight agency of audit, pass-through entity, or OPA to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, OPA, or GWA is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.
2. **Access.** Audit working papers shall be made available upon request to the cognizant agency for audit or its designee, a Federal agency providing direct or indirect funding, GAO, or OPA at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

## 23. LAWS TO BE OBSERVED

1. The offeror should be familiar with federal and local laws, codes, ordinances, and regulations, which, in any manner, affect those engaged or employed in the work, or the material or equipment used in or upon the site, or in any way affect the conduct of the work. No misunderstanding or ignorance on the part of the offeror will in any way serve to modify the provision of the contract.
2. **Prohibition Against Gratuities and Kickbacks** The offeror duly represents that he or she has not violated, is not violating, and will not violate the prohibition against gratuities and kickbacks set forth in the Guam procurement law as follows (2 G.A.R., Div. 4, Chap. 11, §11107(3)) :

*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 therefore. 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 subcontract or order.*

3. **Ethical Standards** The offerors shall duly represents that he, she, they or it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in the Guam procurement laws and regulations pertaining to ethics in public contracting. (2 G.A.R., Div. 4, Chap. 11, §11103(b))
4. **Covenant Against Contingent Fees** The offeror warrants that no person was retained for a commission, percentage, brokerage, or contingent fee to solicit or secure any resultant contract upon agreement. Breach of this warranty shall give [Entity Name] the right to terminate the contractor, or at its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through *bona fide* established commercial or selling agencies maintained by the contractor for the purpose of securing business. (2 G.A.R., Div. 4, Chap. 11, §11108(f) and (h))
5. **Wage Determination Established and Benefits** The offeror has read and understand the provisions of 5 GCA §5801 and §5802, which read:
  - a. §5801. Wage Determination Established.
    - i. 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.

b. 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.

c. §5802. Benefits.

i. 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.

d. That the offeror is in full compliance with 5 GCA §5801 and §5802, as may be applicable to the procurement referenced herein.

6. **Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues.** (§5253 of Title 5 Guam Code Annotated)

a. No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway.

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

c. Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or Requests for Proposals shall state all the conditions in §5253(b).

d. Any contractor found in violation of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.”

24. **STATUS OF CONTRACTOR/CONSULTANT (OFFEROR)**

The offeror and its officers, agents, servants and employees are independent contractors performing professional services for GWA.

25. **INSURANCE**

Offeror shall procure and maintain at his or her own expense all necessary comprehensive insurance for his/her employees including but not limited to Worker's Compensation and general liability insurance.

26. **CONFIDENTIAL OR PROPRIETARY INFORMATION**

Offerors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential. After the award, the proposal of the offeror who is awarded the contract becomes part of the public procurement record. Proposals containing trade secrets or other proprietary information to be held in confidence must include a written request for non-disclosure. The request should clearly indicate the proprietary portions. GWA and Public Auditor will examine the request, determine its validity, and either grant or deny it. If denied, GWA will notify the requesting offeror in writing as to what and why portions will be disclosed. The offeror may then withdraw the proposal or submit a protest according to law. If the proposal is not withdrawn and no protest is received, then GWA or Public Auditor may disclose those portions of the proposal for which a non-disclosure request was not granted.

27. **APPLICABILITY OF GUAM AND FEDERAL PROCUREMENT LAW**

If any part of this RFP is contrary to any applicable federal procurement regulations, contrary to the Guam Procurement Law, or contains ambiguous terms, then such portion of the RFP shall be interpreted or resolved in favor of or according to the provisions of the applicable federal regulations and Guam procurement Law.

**\*END OF GENERAL TERMS AND CONDITIONS\***

AFFIDAVIT 1

NON-COLLUSION AFFIDAVIT

RFP No. 2015-01

Type of Service Being Offered: \_\_\_\_\_

Name of Offeror (Firm or Individual): \_\_\_\_\_

STATE OF \_\_\_\_\_ )

)

SS.

CITY OF \_\_\_\_\_ )

\_\_\_\_\_ being first duly sworn, deposes and says:

That he/she is \_\_\_\_\_ ( the respondent, a partner of the respondent, an officer of the respondent) making the foregoing identified bid or proposal; that such bid or proposal is genuine and not collusive or a sham; that said respondent has not colluded, conspired, connived or agreed, directly or indirectly, with any other respondent or person, to put in a sham proposal or to refrain from making an offer, and 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 respondent or of any other respondent, or to fix any overhead, profit or cost element of said proposal price of respondent or of that of any other respondent, or to secure any advantage against the Government of Guam or any other respondent, or to secure any advantage against the Government of Guam or any person interested in the proposed contract; and that all statements in this affidavit and proposal are true.

\_\_\_\_\_

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

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE PROPOSAL.**

AFFIDAVIT 2

MAJOR SHAREHOLDER DISCLOSURE AFFIDAVIT

RFP No. 2015-01

Name of Offeror (Firm or Individual): \_\_\_\_\_

STATE OF \_\_\_\_\_ )

)

SS.

CITY OF \_\_\_\_\_ )

1. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the undersigned and that

[please check one]:

[ ] The respondent is an individual or sole proprietor and owns the entire interest in the offeror's company.

[ ] The respondent is a corporation, partnership, joint venture, or association, and the persons, companies, partners, or joint ventures that have held more than 10% of the shares or interest in the offeror's business for the twelve months preceding the submission of this proposal are as follows [if none, please so state]:

<u>Name</u>	<u>Address</u>	<u>% of Shares of Interest Held</u>
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2. Further, I say that the persons who have received or are entitled to received 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>
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3. 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 to personally to update the disclosure required by 5 GCA § 5233 by delivering another affidavit to the government.

\_\_\_\_\_  
Signature of individual if offeror is a sole Proprietorship; Partner, if the offeror is a Partnership; Officer, if the offeror is a Corporation.

SUBSCRIBED AND SWORN to before me this \_\_\_day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE PROPOSAL.**

### AFFIDAVIT 3

## SPECIAL PROVISIONS AFFIDAVIT

If a contract for services is awarded to the bidder or offeror, then the service provider must warranty that they will comply with the following laws and regulations identified in item 23 of section IV of the RFP:

1. The offeror should be familiar with federal and local laws, codes, ordinances, and regulations, which, in any manner, affect those engaged or employed in the work, or the material or equipment used in or upon the site, or in any way affect the conduct of the work. No misunderstanding or ignorance on the part of the offeror will in any way serve to modify the provision of the contract.
2. **Prohibition Against Gratuities and Kickbacks** The offeror duly represents that he or she has not violated, is not violating, and will not violate the prohibition against gratuities and kickbacks set forth in the Guam procurement law as follows (2 G.A.R., Div. 4, Chap. 11, §11107(3)) :  

*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 therefore. 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 subcontract or order.*
3. **Ethical Standards** The offerors shall duly represents that he, she, they or it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in the Guam procurement laws and regulations pertaining to ethics in public contracting. (2 G.A.R., Div. 4, Chap. 11, §11103(b))
4. **Covenant Against Contingent Fees** The offeror warrants that no person was retained for a commission, percentage, brokerage, or contingent fee to solicit or secure any resultant contract upon agreement. Breach of this warranty shall give [Entity Name] the right to terminate the contractor, or at its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through *bona fide* established commercial or selling agencies maintained by the contractor for the purpose of securing business. (2 G.A.R., Div. 4, Chap. 11, §11108(f) and (h))
5. **Wage Determination Established and Benefits** The offeror has read and understand the provisions of 5 GCA §5801 and §5802, which read:
  - a. §5801. Wage Determination Established.
    - i. 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.
  - b. 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.

c. §5802. Benefits.

i. 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.

d. That the offeror is in full compliance with 5 GCA §5801 and §5802, as may be applicable to the procurement referenced herein.

6. **Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues.** (§5253 of Title 5 Guam Code Annotated)

a. No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway.

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

c. Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or Requests for Proposals shall state all the conditions in §5253(b).

d. Any contractor found in violation of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.”

\_\_\_\_\_  
Signature of individual if offeror is a sole Proprietorship; Partner, if the offeror is a Partnership; Officer, if the offeror is a Corporation.

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE PROPOSAL.**