



The Honorable
LOURDES A. LEON GUERRERO
Maga' Håga • Governor

The Honorable
JOSHUA F. TENORIO
Sigundo Maga' Låhi • Lieutenant Governor



Director
LINDA J. IBANEZ
Deputy Director
ERNEST G. CANDOLETA Jr.
Deputy Director

**INVITATION FOR BID (MULTI-STEP)
DESIGN-BUILD OF 20 TEMPORARY CLASSROOMS SCHOOL FACILITIES FOR
STUDENTS FROM SIMON SANCHEZ HIGH SCHOOL**

*The Honorable Lourdes A. Leon Guerrero, Governor of Guam and
Honorable Joshua F. Tenorio, LT. Governor of Guam, through the
Director of Department of Public Works (DPW), Vincent P. Arriola,
Announces the solicitation of a sealed bid proposal for:*

Project No. 730-5-1060-F-YIG

**Bid Security Deposit must accompany bid-15% of total bid amount and may be Cash,
Bid Bond, Certified or Cashier's Check made payable to:
Treasurer of Guam**

**Non-Refundable Fee: \$25.00 (Twenty-Five Dollars) required as Payment for each set
of Bid Documents.**

**Availability of Documents: -- August 20, 2025, CIP / Contracts Administration, Ground
Floor, Federal Highways Building, DPW, Upper Tumon.**

Please present receipt from the Permit Center Cashier – Building A, DPW, Upper Tumon.

**Pre-Bid Conference: – August 27, 2025, 9:00 am, Division of Capital Improvement
Projects (CIP) Ground Floor, CIP Conference Room, Upper Tumon. Pre-Bid and Site Visit
is Mandatory**

**Bid Submittal: -- September 18, 2025, 2:00 p.m. One (1) original and one (1) copy
must be submitted @ CIP Division, Ground Floor, Federal Highways Building,
Department of Public Works, Upper Tumon**

Department of Public Works reserves the right to reject any or all proposals and to waive
any imperfection in the proposals, which in its sole and absolute judgment will serve the
Government of Guam interests.


VINCENT P. ARRIOLA
DIRECTOR

 **18 AUG 2025**

This Ad Paid for with Government Funds

INVITATION FOR BIDS (MULTI-STEP)

**DESIGN-BUILD OF 20 TEMPORARY CLASSROOM SCHOOL
FACILITIES FOR STUDENTS FROM SIMON SANCHEZ HIGH SCHOOL**

PROJECT No.: 730-5-1060-F-YIG

LOURDES A. LEON GUERRERO
Governor of Guam

and

JOSHUA F. TENORIO
Lt. Governor of Guam

PREPARED BY:



**DIVISION OF CAPITAL IMPROVEMENT PROJECTS
CONTRACTS ADMINISTRATION SECTION
DEPARTMENT OF PUBLIC WORKS
GOVERNMENT OF GUAM**

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PREPARED BY:

**DIVISION OF CAPITAL IMPROVEMENT PROJECTS
CONTRACTS ADMINISTRATION SECTION
DEPARTMENT OF PUBLIC WORKS
GOVERNMENT OF GUAM**

2025

RECOMMEND APPROVAL:



JOHN F. CALANAYAN

Engineer Supervisor
Department of Public Works

Date: 5/20/25

APPROVED BY:



VINCENT P. ARRIOLA

Director,
Department of Public Works

Date: 5-20-25

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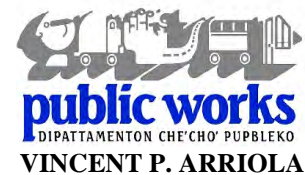
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Deputy Director

INVITATION FOR BIDS (Multi-Step)

The Governor of Guam, Lourdes A. Leon Guerrero, and Lt. Governor of Guam, Joshua F. Tenorio, through the Director of the Department of Public Works is soliciting Multi-Step bids for **“Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-YIG”**. Submittal of separate sealed envelopes of **Unpriced Technical Offer** with One (1) original and Five (5) copies and **Priced Bid** with One (1) original and One (1) copy, must be submitted at the same time in a separate labeled envelop at Contracts Administration and Technical Services Section, Division of Capital Improvement Projects, Ground Floor, Federal Highways Building Department of Public Works, Government of Guam no later than **2:00 P.M. on Thursday, September 18, 2025**.

The contract time is Sixty (60) calendar days for Design and Ninety (90) calendar days for Construction. All bids must be accompanied by a Bid Security, in the amount of 15% of the total bid amount. Acceptable forms of bid security may be bid bond, certified check or cashier's check made payable to the Treasurer of Guam.

A non-refundable amount of \$25.00 is required as payment for each set of IFB (Multi-Step) documents, which can be obtained from the Contracts Administration and Technical Services Section, Division of Capital Improvement Projects, Ground Floor, Federal Highways Building Department of Public Works, Government of Guam commencing on **August 20, 2025**. A receipt of payment at the cashier at the Permit Center, Building “A”, Department of Public Works should be presented when applying for the IFB documents.

This Invitation for Bids (IFB) Multi-Step is available to download from DPW's website at www.dpw.guam.gov. **If downloaded, the Twenty Five U.S. Dollars (\$25.00) non-refundable fee is waived.** Also, upon obtaining the IFB (Multi-Step) Documents, prospective Bidders must complete the Acknowledgement of Receipt Form set forth as **Attachment A-9** to this IFB (Multi-Step) and return the completed form to DPW in order to receive any addenda or other notices related to this IFB (Multi-Step). Failure by prospective Bidders to submit the Acknowledgement of Receipt Form to DPW may result in the prospective Bidder not receiving notices from DPW regarding this IFB (Multi-Step) including addenda, or proposals may be deemed non-responsive.

The Department of Public Works hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color and national origin in consideration for an award. The right is reserved to reject any or all proposals and to waive any imperfection in the proposals

The right is reserved to reject any or all proposals and to waive any imperfection in the proposals in the interest of the Government of Guam.

A pre-bid conference will be held on **August 27, 2025 at 9:00 A.M.** at the Contracts Administration and Technical Services Section, Division of Capital Improvement Projects, Ground Floor, Federal Highways Building Department of Public Works. A site investigation on the proposed project will be conducted immediately after the pre-bid conference, to allow prospective bidders to familiarize themselves with the project's site conditions. **Attendance for the pre-bid conference and site visit is mandatory.**



VINCENT P. ARRIOLA
Director

I.PROJECT SITE AND DESCRIPTION

The project is located in Yigo, Facilities will be placed near GPS coordinates 13.525553, 144.875816, on Lot 10119-12-2, Yigo Guam. See drawing for exact location. The work consists of the design and construction of sets of prefabricated modular structures array (20 Each) for a total of 20 temporary classrooms, building pads, and access ramps, several temporary restrooms, and metal canopies, site improvements to include fencing, paved walkways and utility connections, and temporary basin for water runs off for the Temporary school facility for Students from Simon Sanchez High School.

II.TIME OF COMPLETION

The work shall commence at the time stipulated in the Notice to Proceed and shall be fully completed within the time frame indicated below:

- **Project Design Must be Completed within Sixty (60) calendar days upon issuance of Intent of Award.**
- **Project Construction Must be Completed within Ninety (90) calendar days upon issuance of Notice To Proceed.**

Complete the Design and Construction for the Temporary school facility for Students from Simon Sanchez High School per the plans and specifications.

III.INVITATION FOR BID.

Multi-Step Procurement: This Invitation for Bid (hereinafter called “IFB (Multi-Step)”) is a multi-step procurement issued in accordance with 5GCA §5211(h) and GAR Division 4§3109(r). Multi-step sealed bidding is a two phase process consisting of a technical first phase (hereinafter referred to as “Phase I”) composed of one or more steps in which bidders submit Unpriced Technical Offers to be evaluated, and a second phase (hereinafter referred to as “Phase II”) in which those bidders whose technical offers are deemed to be acceptable during the Phase I have their Price Bids considered. It is designed to obtain the benefits of the competitively sealed bidding by award of a contract to the lowest responsive, responsible bidder and the same time obtain the benefits of the competitive sealed bidding procedure through the solicitation of Unpriced Technical Offers and the conduct of discussions to evaluate and determine the acceptability of Unpriced Technical Offers.

IV. AVAILABILITY

This IFB is available for download from DPW’s website at www.dpw.guam.gov and public inspection at DPW’s office located at 542 North Marine Corps Drive, Upper Tumon, Guam 96913, Monday through Friday, excluding holidays, between 8:00 a.m. and 5:00 p.m. A copy of the IFB may be picked up at the DPW office or e-mailed to a prospective bidders by DPW upon receipt of payment of a non-refundable fee of Twenty five U.S. Dollars (\$50.00) payable in cash, or by cashier’s or certified check payable to the Treasurer of Guam / DPW. **Upon obtaining this IFB, prospective bidders must complete the Acknowledgement of Receipt Form set forth as a single point of contact (see Attachment “A-9”) to this IFB and return the completed form to DPW in order to receive any addenda or other notices related to this IFB (5GCA 5220 (b)). Failure by prospective bidders to submit the Acknowledgement of Receipt Form to DPW may result in the prospective bidder not receiving notices from DPW regarding this IFB, including addenda,**

point deductions during the proposal evaluation process, or proposals may be deemed non-responsive.

V.AUTHORITY.

This IFB (Multi-Step) solicitation is issued subject to all the provisions of the Guam Procurement Act. The IFB (Multi-Step) requires all parties involved in the preparation, negotiation, performance, or administration of contract to act in good faith.

VI. BIDS.

Bids must be in writing and signed in ink.

1. Unpriced Technical Offer: Bidders must submit their Unpriced Technical Offer clearly marked as such, one (1) as “ORIGINAL” and five (5) copies must be submitted to DPW shall be placed in a separate sealed envelope addressed to the Director of Public Works Government of Guam, 542 North Marine Corps Drive, Tamuning, Guam 96913 and clearly labeled with IFB Project Number, IFB Project Title and Proposal Due Date. The original should be unbound and each hard copy must be separately bound. Erasures or other changes in a proposal must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions unexplained erasures or alterations or items not called for in the IFB, or irregularities of any kind may be rejected by DPW as being non-compliant.

2. Priced Bids: Bidders are also at the same time must submit their Priced Bid clearly marked as such, one (1) as “ORIGINAL” and one (1) copy, and shall be placed in a separate sealed envelope from the Unpriced Technical Offer. Priced Bids shall be made on the forms furnished by DPW and shall be enclosed in a sealed envelope addressed to the Director of Public Works, Government of Guam, 542 North Marine Corps Drive, Tamuning, Guam 96913 and endorsed with the name of the bidder and the title “**Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-YIG**”.

Attention is called to the fact that bidders not only bid to assume the obligations and liabilities imposed upon the Contractor in the form of contract, but expressly make certain of the representations and warrants made therein. No effort is made to emphasize any particular provision of the contract, but bidders must familiarized themselves with every provision and its effect.

VII.BID SECURITY (Pursuant to 5GCA § 5212)

Each bid must be accompanied by a deposit in the amount of not less than fifteen percent (15%) of the total bid price if the bid is greater than \$100,000.00 for which award can be made. Such deposit may be in the form of a bid bond, cashier's check or certified check made payable to the Treasurer of Guam. Should the successful bidder fail or refuse to execute and deliver the contract and performance and payment bonds required within fifteen (15) calendar days after acceptance of his bid by the Government, he shall forfeit to the Government of Guam as liquidated damages for such failure or refusal the security deposited with his bid.

VIII. PLANS AND SPECIFICATIONS

This invitation for bids consists of the following documents:

- a) Bid Invitation Documents
 - 1. Invitation for Bid
 - 2. Instructions to Bidders

- b) Bid Submittal Documents
 - 1. Unpriced Technical Offer
 - 2. Bid Price Form
 - 3. Bid Bond Form
 - 4. Major Shareholders Disclosure Affidavit
 - 5. Non-Collusion Affidavit
 - 6. Affidavit Re No Gratuities or Kickbacks
 - 7. Affidavit Re Ethical Standards
 - 8. Affidavit Re Contingent Fees
 - 9. Restrictions Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government Property
 - 10. Declaration Re Compliance with U.S. DOL Wage Determination

- c) Contract Documents
 - 1. Formal Contract
 - 2. Special Provisions
 - 3. General Conditions
 - 4. General Statement of Work
 - 5. Temporary Alien Prevailing Wage Rates
 - 6. USDOL Wage and Benefits Rate Determination

IX.AMENDMENTS TO IFB

DPW reserves all rights to revise or amend this IFB prior to the date set for opening. Such revisions and amendments, if any, will be announced by an amendment or amendments to this IFB and shall be identified as such. The amendment shall refer the portions of the IFB (Multi-Step) it amends. Amendments and addenda shall be sent to all prospective bidders who have submitted the Acknowledgement of Receipt Form to DPW. All offerors/bidders must acknowledge receipt of amendments or addenda issued.

X.ACKNOWLEDGMENT OF AMENDMENTS.

The Invitation for Bids (Multi-Step) shall require the acknowledgment of the receipt of all amendments issued. 2 GAR, DIV. 4 § 3109(c)(6).

XI. CANCELLATION OF SOLICITATION

Prior to the date deadline set for proposal offers, this solicitation maybe cancelled in whole or in part when the DPW or his designee determines in writing that there are cogent and compelling reasons to believe that the cancellation of the solicitation is in the DPW best interest, in accordance with the Procurement Rules and Regulations; as provided for in the regulations 5 GCA §5225; 2 GAR, Div. 4 §3115(c).

DPW reserves all rights to cancel the solicitation and reject all bids and all proposals in whole or in part when the best interests of the Government as set forth in 2GAR Division 4§3115.

XII. REJECTION OF BIDS.

The Department of Public Works shall have the prerogative to reject any Bid in whole or in part if a determination is made that such rejection is in DPW's interest or in the best interest of the Territory of Guam as provided for in the regulations 2 GAR, Div. 4 §3115(e)(2).

XIII. ALTERNATE OR MULTIPLE PROPOSALS OR BID NOT ACCEPTED:

Alternate or multiple proposals or bid will not be accepted. Any Offeror or Bidder submitting alternate, multiple, or otherwise altered proposals or bid will be deemed nonresponsive and disqualified from this solicitation. 2GAR, Div. 4 §3102(d).

XIV.NO LATE BIDS

Bids must be received at the Division of Capital Improvement Projects, Federal Highways Conference Room, Ground Floor, Federal Highways Building, Department of Public Works by the Bid Due Date set forth in this IFB. Email or facsimile Bids will not be accepted. Regardless of cause, late Bids will not be accepted and will automatically be disqualified from further consideration. It shall be the Offeror's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late bids will not be opened and may be returned to the Bidder at the expense of the Bidder or destroyed if requested.

XV.DPW NOT RESPONSIBLE FOR PREPARATION COSTS.

The costs for developing and delivering bids in response to this IFB and any subsequent presentations of the bid as requested by DPW shall be at the sole cost and expense of the Bidder. DPW is not liable for any expense incurred by the Bidder in the preparation, delivery, and/or presentation of its bid or any other costs incurred by the Bidder.

XVI.SCHEDULE OF EVENTS.

SCHEDULE	
EVENT	DATE
IFB Availability Date	August 20, 2025
Mandatory Pre-Bid Conference & Site Visit , at the DPW, Capital Improvement Division, 1st Floor conference room, Highways Building, 542 North Marine Corps Drive, Tamuning, Guam 96913.	August 27, 2025 at 9:00 A.M.
Deadline for Receipt of Written Question	August 29, 2025
DPW Issuance of Answers to Written Question	September 4, 2025
Unpriced Technical Offer & Priced Bid Due Date	No later than 2 P.M. on Thursday, September 18, 2025
Place of IFB submittal	CIP Division, Ground Flr, Federal Highways Building, Dept. of Public Works

XVII.PRE-BID CONFERENCES

Pre-Bid conferences & site visit(s) will be permitted prior to the date established herein for submission of Bid(s). The conferences & site visit(s) will be conducted only to explain the procurement requirements for this IFB (Multi-Step). The Authority will notify all bidders of any substantive clarification provided in response to any inquiry. The Authority will extend the due date if such information significantly amends the solicitation or makes compliance with the original proposed due date impractical. This Pre-Bid Conference and Site Visit is ***“Mandatory”***. This means the interested proposers or bidders must have a representative in attendance on the date and time of the Pre-Bid Conference in order to satisfy one (1) of the IFB (Multi-Step) requirements in determining ‘responsibility’ towards being a Qualified Bidder. A Proposer or bidder will be disqualified if they did not attend the Mandatory Pre-Bid Conference. It is not necessary to purchase the IFB (Multi-Step) packet before attending the Mandatory Pre-Bid Conference. Purchase of the IFB (Multi-Step) packet is necessary only when submitting a Bid (Unpriced Technical Offer and Priced Bid contained within a separately sealed envelope offer) on or before the deadline for bid submissions.

XVIII. PRE-BID QUESTIONS

Offerors with questions or requiring clarification or interpretation of any section within this IFB must address their questions in writing or via e-mail to the Director of Public Works as the procurement officer or its designee on or before the deadline set forth in the **IFB (Multi-Step) Schedule of Events**. Each question must provide clear reference to the section, page, and item of this IFB (Multi-Step) in question. Questions received after the deadline may not be considered.

XIX. EXPLANATION TO OFFERORS

No oral explanation in regard to the meaning of any part of this IFB (Multi-Step) will be made, and no oral instructions will be given before the award of the contract. Discrepancies, omissions, or doubts as to the meaning of the specification should be communicated in writing to the named contact individual of the requesting agency/department for interpretation. Questions about any part of this IFB (Multi-Step) should be communicated in writing to the DPW for interpretation. Offerors should act promptly and allow sufficient time for a written reply to reach them before the submission of their proposal. Interpretation, if required, shall be made in the form of an amendment to the IFB (Multi-Step) which will be forwarded to all Offerors and its receipt by the proposer must be acknowledged.

XX.DPW’s ANSWERS

DPW will provide an official written answer by the date set forth in the IFB (Multi-Step) Schedule of Events to all questions received by the stated due date. DPW’s response will be by written addendum. Any other form of interpretation, correction, or change to this RFP will not be binding with the DPW. Any written addendum will be forwarded to all entities or individuals who have picked up an RFP and are included on the Offeror register form. **All addenda shall form a part of the IFB (Multi-Step) documents and must be acknowledged upon receipt. Failure by any offeror to acknowledge receipt of each addendum shall be grounds for disqualifications.**

XXI. ALL TIMELY SUBMITTED MATERIALS BECOME THE PROPERTY OF DPW.

All materials submitted in response to this IFB (Multi-Step) become the property of DPW and shall be appended to any formal documentation, which would further define or expand any contractual/lease relationship between the government of Guam and the Bidder resulting from this IFB (Multi-Step) process.

XXII.LICENSING

Bidders are required to submit Business License issued by the Department of Revenue and Taxation, and a copy of current Certificate of Authorization (COA) to contract for architectural or engineering services issued by the Guam Board of Registration for Professional Engineers, Architects and Land Surveyors and Contractor's License.

XXIII.CONFLICT OF INTEREST

The Bid(s) shall also indicate any current or historical engagement or relationship with any public or private party that could potentially create a conflict of interest with DPW, the Government of Guam or any of its agencies or instrumentalities.

XXIV. DPW PRIMARY POINT OF CONTACT REGARDING THIS IFB (Multi-Step)

Any correspondence or communication by a potential Bidder must be made in writing via email addressed to John F. Calanayan, Engineer Supervisor at john.calanayan@dpw.guam.gov or by hand delivery at the Contracts Administration and Technical Services Section, Division of Capital Improvement Projects, Ground Floor, Federal Highways Building Department of Public Works. All written communications must reference “**Project No.: 730-5-1060-F-YIG**” in the subject or reference line.

XXV. MULTI-STEP PROCUREMENT REQUIREMENTS. (5GCA Chapter 5§ 5211 (h); 2GAR Division 4 § 3109

Bidders are required to submit at the same time in separate sealed envelopes. The following;

1. Phase I: Unpriced Technical Offer

Offers submitted by the bidders be evaluated solely in accordance with the criteria set forth in the Invitation for Bids, and be categorized as acceptable, potentially acceptable, that is reasonably susceptible of being acceptable, and unacceptable. 2GAR, Division 4, §3109(t) (4).

2. Phase II: Priced Bid: to be submitted at the same time with Unpriced Technical Offers

All Bidders whose Technical Offers are determined to be acceptable during the first phase have their Priced Bids considered, opened and evaluated.

Priced Bid associated for the **Design and Construction of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School** as stated in this IFB (Multi-Step) must be submitted together with the **Bid Price Form, Bid Bond Form** at the same time in a sealed envelope.

Priced Bid will not be opened and evaluated during Phase I but will be a part of the evaluation as a whole in determining the responsibility and responsiveness of the Offeror. DPW will pre-qualify all offerors according to the Evaluation Criteria contained in this IFB. Once a determination of the qualified offerors is made, then and only then will the Submitted Sealed Bids be opened and evaluated. ALL SEALED BIDS from un-qualified offerors will be RETURNED, UN-OPENED to the respective offerors.

This process of procurement is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time, obtain the benefits of the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of the technical offers.

XXVI.UNPRICED TECHNICAL OFFER REQUIREMENTS:

Bidders submitting bids in response to this IFB (Multi-Step) shall present satisfactory evidence that bidder or bidder's company has sufficient experience and that bidder or bidder's company is fully prepared with necessary capital, material, machinery and skilled workmen and supervision staff to satisfactorily complete the Project.

Accordingly, the Bidder must submit for review the following information. While all information submitted will remain confidential, DPW reserves the right to investigate the information submitted, as is deemed necessary, before a Contract is awarded, and to disqualify any Bidder if deemed to be in DPW's best interest.

Bidders must include in their Phase I sealed bid envelope a description of each of the following:

- a. Cover letter (must be on the bidder/offeror's letterhead)
 - **Point of Contact.** The individual executing the letter shall be identified by name and position and shall be authorized to bind the bidder/offeror contractually.
 - **Contract Information.** Include the bidder/offeror's name, address, telephone, and facsimile numbers, and email address. Also include the bidder/offeror's principal place of business.
- b. **Key Personnel.** Complete list of proposed project team, including design consultant(s) and major subcontractors and suppliers. Provide the name(s), education, qualifications, experience, and the role of each key personnel assigned to perform the services under this IFB (Multi-Step). Present an organizational chart identifying the relationships and duties of both the corporate staff and all proposed management and staff to be assigned to assist with the services under this IFB (Multi-Step). At a minimum, if the bidder is an individual, the offer should include a complete resume including license of the individual. If the

Offeror is a firm, the offer should include a resume of all the individuals including licenses who will be working on any engineering aspect of the project.

- c. Experience in construction and/or the supply and installation of proposed buildings. This section must include an introduction of your company, the names of key staff that will be assigned to the operations, and their experience and expertise.
- d. **Experience of Bidder/offeror.** The Project Manager will be the primary point of contact for the services provided under the contract. The proposed Project Manager shall be subject to approval by DPW. The Project Manager shall possess the following qualifications: hands-on management skills, strong leadership skills, great interpersonal skills, demonstrated full-time experience as a project manager on similar projects and have demonstrated technical competency on construction techniques, superb aptitude for teamwork; ability to manage multi-disciplinary teams; outstanding communication skills, oral and written, excellent organizational skills, excellent record keeping ability; demonstrated ability to adhere to project budget, demonstrated ability to adhere to project schedule.
 - Identify the proposed Project Manager
 - Provide his/her resume and describe his/her qualifications.
- e. Critical Path Method (CPM) baseline design and construction schedule.
- f. Bidder's past performance in accomplishing projects in agreed time including an explanation of any failure to complete within the specified timeframe.
- g. Detailed information that demonstrates the previous projects showing similar classroom/building facilities that the proposer has constructed in the last five (5) years will meet or exceed the requirements as set forth in this IFB (Multi-Step)
- h. Availability of plant, machinery and other equipment necessary for work including any machinery or equipment that Bidder might have to purchase to complete the Project.
- i. Quality of work presently performed for Government of Guam, federal, and private projects.
- j. Bidder's diligence in carrying out responsibility.
- k. Record of good owner-contractor relationship.
- l. Previous record of bid qualifications.
- m. Qualifications of supervisory personnel proposed to work on this Project and identification of their education, skills, and past experiences.
- n. Record of past performance of contracts including record of default and nonpayment of obligations.

- o. Disclosure of financial resources sufficient to demonstrate an ability to complete this Project.

XXVII.DISCUSSIONS:

The Government to the extent that Director of DPW finds necessary may conduct oral or written discussions with the Unpriced Technical Offers as set forth in 2 GAR Division 4 §3109(t)(1) (e).

XXVIII.TRADE SECRETS OR OTHER PROPRIETARY DATA:

Bidders may designate those portions of the Unpriced Technical Offer which contain trade secrets or other proprietary data which are to remain confidential as set forth in 2 GAR Division 4 §3109 (t)(1)(f).

DPW shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such offeror to determine the validity of such requests. If the parties do not agree as to the disclosure of data, DPW shall inform the offeror in writing what portions of the Unpriced Technical Offer will be disclosed and that unless the offeror protests under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations, the offer will be so disclosed. Such Unpriced Technical Offer shall be opened to public inspection subject to any continuing prohibition on the disclosure of confidential data and Unpriced Technical Offers of Bidders who are not awarded the contract shall not be opened to public inspection unless DPW determines in writing that public inspection of such offers is essential to assure confidence in the integrity of the procurement process; provided however, that the provisions of Subsection 3109(v)(2)(c) of this § shall apply with respect to possible disclosure of trade secrets and proprietary data.

XXIX.DESIGN BUILD CONSTRUCTION SERVICES

The design and construction services including but not limited to Architectural, Civil, Structural, Electrical, Mechanical plus all other disciplines needed in accomplishing the requirements stated in this IFB (Multi-Step) shall be furnished generally in accordance with bidders Unpriced Technical Offers as set forth in 2 GAR Division 4 §3109(t)(1)(g).

XXX. AMENDMENTS AFTER RECEIPT OF UNPRICED TECHNICAL OFFERS:

After receipt of the Unpriced Technical Offers, amendments to the IFB shall be distributed only to bidders who submitted Unpriced Technical Offers, and they shall be permitted to submit new Unpriced Technical Offers or to amend those submitted. If, in the opinion of the Director of DPW, a contemplated amendment will significantly change the nature of the procurement, the IFB, shall be cancelled in accordance with 2 GAR Division 4 §3115, and a new IFB issued.

XXXI. RECEIPT AND HANDLING OF UNPRICED TECHNICAL OFFERS

Unpriced Technical Offers shall not be opened publicly, but shall be opened in front of two or more procurement officials. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing in accordance with 2 GAR Division 4 §3109(t)(3).

XXXII. EVALUATION OF UNPRICED TECHNICAL OFFERS

The unpriced technical offers submitted by offerors shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- a). Acceptable (70 to 100) total points);
- b). Potentially acceptable; that is, reasonably susceptible of being made acceptable (50 to 69) total points); or
- c). Unacceptable. (49) total points and below). The Procurement Officer shall record in writing the basis for finding an offer unacceptable and make part of the procurement file.

DPW may initiate Phase II of the procedure if, in the Procurement's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If DPW finds that such is not the case, DPW shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in Subsection 3109(t)(5).

After receipt of all unpriced technical offers, an evaluation committee will be convened to review and evaluate the technical offers based on the evaluation criteria set forth below. The unpriced technical offers shall be categorized as:

- (1). Acceptable (70 to 100 points)
- (2). Potentially acceptable, that is reasonably susceptible of being made acceptable (50 to 69 total points);
- (3). Unacceptable (49 total points and below).

XXXIII. SELECTION/ESTABLISHMENT OF IFB (Multi-Step) EVALUATION COMMITTEE BOARD.

A formally constituted Evaluation Committee Board shall evaluate all submitted offers (Unpriced Technical Offer) from the Offerors. The Director of DPW shall establish an IFB (Multi-Step) Evaluation Committee Board to act under his/her authority.

The qualifications or area of responsibility of board members will be commensurate with the scope of IFB (Multi-Step) services to be procured. The selection criteria and list of professional staff will be provided to the Director for his use in appointing the board members.

The AECB is comprised of the following personnel:

Chairman:

Vincent P. Arriola, Director/Administrator/Procurement Officer, DPW

Members:

Arce Fontbuena, Engineer Supervisor/ Highway

Jeri Calaor, Engineer III, Design Analysis Section, DPW

If any of the appointed members is/are not able to fulfill their appointment, a replacement will be appointed by the Director of DPW. The replacement shall be a manager or staff professional from the DPW Sections. The proposers shall be notified of the replacement prior to the pre-evaluation of proposals.

XXXIV. EVALUATION CRITERIA

Evaluation Criteria	Value
a) Experience in construction and/or the supply and installation of proposed buildings	30 %
b) Proposed building and systems meet or exceed the basic requirements	30 %
c) Timeline to completion	20 %
d) Price/Cost of Services	20 %
Total Score	100 %

XXXV. DISCUSSIONS OF UNPRICED TECHNICAL OFFERS

DPW may conduct discussions with any offeror who submits an acceptable or potentially acceptable Unpriced Technical Offer. During the course of such discussions, DPW shall not disclose any information derived from one unpriced technical offer to any other bidder. Once discussions are begun, any offeror who has not been notified that its offer has been finally found potentially acceptable may submit supplemental information amending its technical offer at any time until the closing date established by DPW. Such submission may be made at the request of the DPW or upon the bidder's own initiative. See 2 GAR Division 4 §3109(t) (5).

XXXVI. NOTICE OF UNACCEPTABLE UNPRICED TECHNICAL OFFER

When the DPW determines a bidder's Unpriced Technical Offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer. See 2 GAR Division 4 §3109(t) (6).

XXXVII. MODIFICATION OR WITHDRAWAL OF BIDS

Mistakes in unpriced technical Bid may be modified or withdrawn during Phase I at any time. During Phase II mistakes in price may be corrected or withdrawn in accordance with 2 GAR Division 4 §3109(m). See 2 GAR Division 4 §3109 (u).

XXXVIII. PROCEDURES FOR PHASE II

INITIATION:

Upon the completion of Phase I, in compliance with 2 GAR Division 4, §3109(v) (1) the Procurement Officer shall:

- (a). open Priced Bids submitted in Phase I from bidders whose Unpriced Technical Offers were found to be acceptable; or

CONDUCT OF PHASE II:

Phase II shall be conducted as any other competitive sealed bid procurement except:

- (a). As specifically set forth in 2 GAR Division 4, §3109(r) through (v) (2).
- (b). No public notice need be given of this IFB to submit Priced Bids because such notice was previously given;
- (c). After award the Unpriced Technical Offer of the successful bidder shall be disclosed as follows: The Procurement Officer shall examine the written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer shall inform the bidder what portions of the Unpriced Technical Offer will be disclosed and that unless the offeror protests under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations, the offer will be so disclosed. Such Unpriced Technical Offer shall be opened to public inspection subject to any continuing prohibition on the disclosure of confidential data and
- (d). Unpriced Technical Offers of Bidders who are not awarded the contract shall not be opened to public inspection unless DPW determines in writing that public inspection of such offers is essential to assure confidence in the integrity of the procurement process; provided however, that the provisions of Subsection 3109(v)(2)(c) of this § shall apply with respect to possible disclosure of trade secrets and proprietary data.

XXXIX. PRICED BID REQUIREMENTS

The Priced Bid shall include all cost associated with the development of Plans, Specifications & Estimates, Construction, Labor, Equipment, Materials Permits and Fees etc. complete and ready for use, conforms to the latest federal and local building codes.

a. Preparation of Priced Bid:

The bidder must submit his Bid on the forms furnished by DPW. All blank spaces in the bid forms must be correctly filled in where indicated and the bidder must state the prices in words and numerals for which he proposes to do each item of the work contemplated or furnish each item of the materials required. In case of conflict between words and numerals, the words, unless obviously incorrect will govern. The bidder shall sign his Bid in the blank space provided therefore. If this Bid is made by a partnership or corporation, the name and address of the partnership or corporation shall be shown, together with the names and addresses of the partners or officers. If the Bid is made by a partnership, it must be acknowledged by one of the partners, if made by a corporation by one of the authorized officers thereof.

b. Bid Security:

Each offer must be accompanied by a deposit in the amount of not less than fifteen percent (15%) of the total Bid price for which award can be made. Such deposit may be in the form of a Bid bond, cashier's check or certified check made payable to the Treasurer of Guam. Should the successful bidder fail or refuse to execute and deliver the

contract and performance and payment bonds required within fifteen (15) calendar days after acceptance of his Bid by the Government, he shall forfeit to the Government of Guam as liquidated damages for such failure or refusal the security deposited with his Bid.

XL. RIGHT TO ACCEPT AND REJECT BIDS:

The Government of Guam reserves the unqualified right, in its sole and absolute discretion, to reject any and all Bids, or to accept that Bids or combination of Bids, if any, which in its sole and absolute judgment will under all circumstances best serve the Government's interests, or to reject the Bid of a bidder that is not in a position to perform the contract.

XLI. COMPETENCY OF BIDDERS

The Government may require bidders to present satisfactory evidence that he has sufficient experience and he is fully prepared with necessary capital, material, machinery and skilled workmen and supervision staff to carry out the contract satisfactorily.

Accordingly, the Contractor must submit for review the following statements upon request:

- a). Experience on similar work.
- b). Past performance of firm in accomplishing government projects in agreed time.
- c). Availability of plant, machinery and other equipment necessary for work.
- d). Quality of work presently performed for Government of Guam or other agencies.
- e). Contractor's diligence in carrying out responsibility.
- f). Record of good owner-contractor relationship.
- g). Previous record of bidder's qualification.
- h). Quality of supervisory personnel and areas of their performance.
- i). Record of past performance of government contracts including record of default and nonpayment of obligations.
- j). Possession of Government of Guam appropriate contractor's license.
- k). Financial resources.

Financial resources report shall be dated not more than six (6) months prior to bid opening, must be prepared by a certified accountant and shall contain at least the following information:

- i. Total Assets
- ii. Total Liabilities
- iii. Total Current Assets
- iv. Total Current Liabilities
- v. Bonding Capability

Any bidder who at the time of bidding is determined liable to pay liquidated damages for delay in completion of the last two works contracted from the Government of Guam will be automatically rejected.

XLII. MODIFICATIONS PRIOR TO DATE SET FOR OPENING BIDS

The right is reserved, as the interest of the Government may require, to revise the specifications or drawings or both prior to the date set for opening bids. Such revisions, if any, will be announced by an addendum or addenda to this invitation for Bid. If the addenda are of a nature which requires material changes in quantities or prices to be Bid **or** both, the date set for opening bids may be postponed by such number of days as in the opinion of the issuing officer will enable bidders to revise their Bids. In such cases, the addendum will include an announcement of the new date for opening Bids.

XLIII. ACCESS TO RECORDS AND OTHER REVIEW

The Contractor, including its subcontractors, if any, shall maintain books, documents, papers, accounting records and other evidence pertaining to cost incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the contract, for inspection by the Government. Each subcontract by the Contractor made pursuant to this Agreement shall include a provision containing the conditions of this Section.

XLIV. AWARD

DPW intends to award a contract for the project to the lowest, responsible and responsive offeror who has submitted an offer that meets the requirements and criteria set forth in this IFB.

XLV. PROHIBITION AGAINST SEX OFFENDERS

Pursuant to 5 G.C.A. § 5253,

- (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.

XLVI. IFB LEGAL REQUIREMENTS:

Each bidder is required to submit the affidavits and assurances that are part of this IFB (Multi-Step) as **Attachments A-1 through A-7**. Failure to include said affidavits and assurances shall render a bid non-responsive and will be a ground for disqualification.

1. **Affidavit Disclosing Ownership and Commissions per 5 G.C.A. § 5233 (Attachment A-1).** As a condition of this RFP, any partnership, sole proprietorship, joint venture, association or corporation doing business with the government of Guam shall submit an affidavit executed under oath that lists the name and address of any persons, companies, partners, or joint ventures who have held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship joint venture, association or corporation at any time during the 365 days immediately preceding the submission date of a proposal. The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship joint venture, association or corporation which have been held by each such person during the 365 day period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to this RFP for the Offeror and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying. **Affidavit re Disclosing Ownership (Major Shareholders) & Commissions; AG Procurement Form 001.**
2. **Affidavit re Non-Collusion per 2 GAR Division 4 § 3126(b). (Attachment A-2).** By submitting an offer, the Offeror certifies that the price submitted was independently arrived at without collusion. **Affidavit re Non-Collusion; AG Procurement Form 002.**
3. **Affidavit Re No Gratuities or Kickbacks per 2 GAR Division 4 § 11107(e). (Attachment A-3).** The bidder, Offeror, or contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in §11206 (Gratuities and Kickbacks) of the Guam Procurement Regulations. **Gratuities.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former 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 therefor. **Kickbacks.** 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 for the award of a subcontract or order. **Affidavit Re No Gratuities or Kickbacks; AG Procurement Form 003.**
4. **Affidavit Re Contingent Fees per 2 GAR § 11108. (Attachment A-4).** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a government contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. **Affidavit Re Contingent Fees; AG Procurement Form 004.**

5. **Affidavit Re Ethical Standards per 2 GAR § 11103. (Attachment A-5).** The bidder, Offeror, or contractor represents that it has not knowingly influenced and promises that it will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations. **Re Ethical Standards; AG Procurement Form 005.**
6. **Restrictions Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government property (Attachment A-6).** If a contract for services is awarded to the bidder or offeror, then the service provider must warranty that no person in its employment who has been convicted of a sex offense under the provisions of chapter 25 of Title 9 of Guam code Annotated or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code annotated.
7. **Declaration Re Compliance with U.S. DOL Wage Determination per 5 GCA § 5801 & 5802. (Attachment A-7).**
- (a) Contractor with regard to all person its employs whose purpose in whole or in part in the direct delivery of services contracted for with the Government in this contract, shall pay such employees in accordance with the Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct deliverance of deliverables to the government of Guam. 5 GCA § 5801. The Contractor shall be responsible for flowing down this obligation to its subcontractors.
- (b) The Wage Determination most recently issued by the U.S. Department of Labor at the time this contract is awarded to Contractor shall be used to determine wages and benefits which shall be paid to employees pursuant to this clause. 5 GCA § 5801
- (c) Should any contract contain a renewal clause, then at the time of renewal adjustments there shall be stipulations contained in that contract for applying the Wage Determination, so that the Wage Determination promulgated by the U.S Department of Labor on a date most recent to the renewal date shall apply. 5 GCA § 5801
- (d) In addition to the Wage Determination detailed above, health and similar benefits for employees having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor shall apply. Contractor shall pay a minimum of ten (10) paid holidays per annum per employee. 5 GCA § 5802
- (e) Any violation of Contractor's or its subcontractors obligations of this section shall be investigated by the Guam Department of Labor and may include a monetary penalty assessment by the Guam Department of Labor of no less than One Hundred Dollars (\$100.00) per day, and no more than One Thousand Dollars (\$1,000.00) per day, until such time as a violation has been corrected, as well as the payment of all back wages and benefits due. 5 GCA § 5803
- (f) In addition to any and all other breach of contract actions DPW may have under this procurement, in the event there is a violation in the process set forth above, Contractor may be placed on probationary status by the Chief Procurement Officer of the General Service Agency, or its successor, for a period of one (1) year. During the probationary status, a Contractor shall not be awarded any contract by any instrumentality of the government. A

Contractor who has been placed on probationary status, or has been assessed a monetary penalty pursuant to 5 G.C.A. Article 13 Title 5 may appeal such penalty or probationary status to the Superior Court of Guam. 5 GCA § 5804

(g) Contractor's Declaration of Compliance with Wage Determination Laws AG Procurement Form 006 with the most recent Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor is part of this procurement. Contractor agrees to provide upon written request by written certification of its compliance with its obligations as part of each invoice, along with the names of any employees, their positions, and detailed wage and benefits paid in keeping with this section. Additionally upon request by DPW Contractor shall submit source documents as to those individuals providing direct services in part or whole under the contract, and Contractor's payments to them of such wages and benefits.

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GENERAL CONDITIONS

I. DEFINITIONS

1. Owner

The term "Owner" as used herein means the Department of Public Works Government of Guam, and the Governor of Guam, and/or his authorized representatives.

2. Contracting Officer

The term "Contracting Officer" as used herein means the Director of Public Works of the Government of Guam and shall include his authorized representatives.

3. Contractor

The term "Contractor" as used herein means the party or parties who or which shall have duly entered into a contract with the Government of Guam to perform the work herein contemplated or his or their authorized assignee.

4. Notice

The term "Notice" as used herein shall mean and include all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with contract requirements. Any written notice by either party to the contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box. The Contractor must provide and maintain a post office address within the Territory of Guam and file the same with the Contracting Officer.

5. Forms Enclosed

The copies of the form of agreement, form of bid bond, form of performance and of payment bond enclosed herewith are incorporated in these General Conditions by reference and are made a part hereof to the same extent as though fully set forth herein.

II. CONSTRUCTION CONTRACT

1. Contract Documents

(a) The contract documents consist of the Agreement, the drawings, and specifications, including all addenda and alterations made in the documents prior to their execution.

(b) The contract documents shall be signed by the Owner and Contractor in as many original counterparts as may be mutually agreed.

(c) Anything called for by one of the contract documents and not called for by the others shall be of like effect as if required or called for by all. In case of discrepancies between the contract

documents, the specifications shall take precedence over the drawings, and the agreement shall take precedence over the drawings and specifications. Any discrepancies between the contracts documents shall be called to the attention of the Contracting Officer before proceeding with work affected thereby.

(d) It will be conclusively presumed that the Contractor has read, examined and agreed to each and every term, conditions, provisions, covenant or agreement in the drawings, specifications, proposals, contract, and bond related to the work to be carried on, said documents being on file in the Contracts Administration Section office, Department of Public Works, Tumon, Guam.

2. Drawings

(a) The general character and scope of the work are illustrated by the drawings. Any additional detail drawings and other information deemed necessary by the Contracting Officer will be furnished to the Contractor when and as required.

(b) In case of differences between small scale and large scale drawings, the large-scale drawings shall govern. Figured dimensions on the drawings shall be considered primary compared with measurements obtained through scaling of drawings. The Contractor shall verify all dimensions, and if any be lacking, he shall call the attention thereto and be governed by the decision of the Contracting Officer.

(c) Where on any of the drawings a portion of the work is drawn out and the remainder is indicated in outline, the parts drawn out shall apply also to all other like portions of the work.

(d) Where the word “similar” occurs on the drawings, it shall be interpreted in its general sense and not as meaning identical.

(e) The approval of shop and setting drawings will be general and, except as otherwise provided in paragraph, shall not be construed (1) as permitting any departure from the contract requirements, (2) as relieving the Contractor of the responsibility for any error in details, dimensions and otherwise that may exist; (3) as approving departures from additional details or instructions previously furnished by the Contracting Officer.

3. Detail Drawings and Instructions

(a) The Contractor will be furnished additional instructions and detail drawings as may be necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor shall be consistent with the contract documents and true developments thereof, and shall be so prepared that they can be reasonably interpreted as a part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

(b) The Contracting Officer, at any time, without notice to the sureties may, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished facilities, equipment, materials, services for site; or

(4) Directing acceleration in the performance of the work.

(c) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instructions, interpretations or determination from the Contracting Officer) which causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances and source of the order and that the Contractor regards the order as a change order.

(d) Except as herein provided, no order, statement, or conduct of the Contracting Officer shall be treated as a change order under this clause or entitle the Contractor to an equitable adjustment hereunder.

(e) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly, provided, however, that except for claims based on defective specifications no claim for any change under (b) above shall be allowed for any costs incurred more than 20 calendar days before the Contractor gives written notice as therein required. And provided further, that in the case of defective specifications for which the Owner is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(f) If the Contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 calendar days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Owner. The statement of claim hereunder may be included in the notice under (b) above.

(g) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

4. Shop Drawings

(a) The Contractor shall submit for the approval of the Contracting Officer, shop and setting drawings and schedules required by the specifications or that may be requested by the Contracting Officer and no work shall be fabricated by the Contractor, save at his own risk, until such approval has been given.

(b) Drawings and schedules shall be submitted in quadruplicate (unless otherwise specified) accompanied by letter of transmittal which shall give a list of the numbers and dates of the drawings submitted. Drawings shall be complete in every respect and bound insets.

(c) The Contractor shall submit all drawings and schedules sufficiently in advance of construction requirements to allow ample time for checking, correcting, resubmitting and rechecking.

(d) The drawings submitted shall be marked with the name of the project, numbered consecutively and bear the stamp of approval of the Contractor as evidence that the drawings have been checked by the Contractor. Any drawings submitted without this stamp of approval

will not be considered and will be returned to the Contractor for resubmission. If the shop drawings show variations from the requirements of the contract because of standard shop practice or other reasons, the Contractor shall make specific mention of such variation in his letter of transmittal so that if any variations are acceptable, suitable action may be taken for proper adjustment; otherwise, the Contractor will not be relieved of the responsibility for executing the work in accordance with the contract even though such shop drawings have been approved.

(e) If a drawing as submitted indicates a departure from the contract requirements which the Contracting Officer finds to be in the interest of the Owner and to be so minor as not to involve a change in the contract price or time for performance, he may approve the drawing.

5. Specifications and Drawings

(a) The Contractor shall keep on the work site a copy of the drawings and specifications including all authorized change orders, and shall at all times give the Owner, Contracting Officer and their representatives access thereto.

(b) All drawings and specifications and copies thereof furnished by the Contracting Officer are his property and shall not be used on other projects without his consent. Upon completion of this project all copies of the drawings and specifications except the signed contract sets are to be returned to the Contracting Officer upon his request.

6. Special Requirements

(a) Where special requirements, provisions or specifications or detailed specifications are attached hereto or are included in the proposal they shall be considered a part of these general conditions or specifications or detailed specifications as fully as if contained herein. Should any special provisions be in conflict with these general conditions or specifications or detailed specifications, said special requirements, provisions or detailed specifications shall govern.

(b) Person in charge of electrical wiring and installations shall be a licensed Master Electrician and/or registered electrical engineer in Guam.

7. Explanation to Bidders

No oral explanation in regard to the meaning of the drawings and specifications will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions, or doubts as to the meaning of drawings and specifications should be communicated in writing to the Contracting Officer for interpretation. Bidders should act promptly and allow sufficient time for a reply to reach them. Every interpretation made to a bidder will be in the form of an addendum to the contract documents which, if issued, will be sent as promptly as practicable to all persons to whom the drawings and specifications have been issued. All such addenda shall become part of the contract documents.

III. BIDS, BIDDER RESPONSIBILITIES

1. Conditions at Site or Building

(a) Bidders should visit the site and shall be responsible for having ascertained pertinent

conditions such as location, accessibility, and general character of the site or building, the character and extent of existing work within or adjacent to the site, and any other work being performed thereon at the time of the submission of his bid. No extra compensation will be made by reason of any misunderstanding or error as regards to the site, the conditions thereof, accessibility or the amount of kind of work to be performed.

2. Submission of Bids

(a) The bidder is required to bid on all items called for in the Bid Form.

(b) Bids shall be submitted on the forms furnished or copies thereof, and shall be signed in ink. Erasures or other changes in a bid must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions, unexplained erasures or alterations or items not called for in the proposal or irregularities of any kind may be rejected by the Owner as being incomplete.

(c) Each bid must give the full business address of the bidder and be signed by him with his usual signature. Bids by partnerships must furnish the full names of all partners and must be signed in the name of the partnership by one of the members of the partnership or by an authorized representative followed by the signature and designation of the person signing. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the State of incorporation and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. A bid by a person who affixes to his signature the word "president", (agent or other designation, without disclosing his principal), may be held to the bid of the individual signing. When requested by the Owner, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.

3. Bid Guarantee

Bids shall be accompanied by a bid guarantee of not less than fifteen percent (15%) of the total bid if the bid is greater than \$100,000.00 for which award can be made. Bid guarantee may be bid bond (form enclosed), certified check or cashier's check. Bid bond shall be signed by the bidder, two major officers of the Surety and Resident General Agent, if the Surety is a foreign or alien surety and shall be accompanied with copies of current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation, Power of Attorney issued by the Surety to the Resident General Agent and Power of Attorney issued by two major officers of the Surety to whoever is signing on their behalf. Certified check or cashier's check must be issued by a banking institution licensed to do business on Guam and shall be made payable to the Treasurer of Guam. Such bid bond or check shall be submitted with the understanding that it shall guarantee that the bidder will not withdraw his bid for a period of sixty (60) calendar days after the scheduled closing time for the receipt of bids; that if his bid is accepted, he will enter into a formal contract with the Owner in accordance with the form of agreement included as a part of the contract documents, and that the required performance and payment bond will be given; and that in the event of the withdrawal of said bid within said period, or the failure to enter into said contract and give said bond within fifteen (15) calendar days after he has received notice of the acceptance of his bid, the bidder shall be liable to the Owner for the full amount of the bid guarantee as representing the damage to the Owner on account of the default of the bidder in any particular hereof. The bid guarantee shall be returned to all except the three lowest bidders within three days after the formal opening of bids. The bid guarantee of the second and/or third low bidder shall be returned thirty (30)

calendar days after the bid opening date upon request, provided that he has not been notified by the Owner of the acceptance of his bid prior to the date of such request. The bid guarantee of the lowest qualified bidder shall be returned within forty eight (48) hours after the Owner and the qualified bidder have executed the contract.

4. Withdrawal of Bids

Bids may be withdrawn on written or telegraphic request received from bidders prior to the time fixed for opening. Negligence on the part of the bidder in preparing the bid confers no right to the withdrawal of the bid after it has been opened.

5. Publicity of Bids

At the time fixed for the opening of bids, the contents of the bids will be made public for the information of bidders and others properly interested who may be present either in person or by representation.

6. Receipt and Opening of Bids

(a) Bids will be opened publicly at the time and place stated in the invitation for bids. The officer whose duty it is to open them will decide when the specified time has arrived and bids received thereafter will not be considered. No responsibility will be attached to any officer for the premature opening of a bid not properly addressed and identified.

(b) Telegraphic bids will not be considered, but modifications by telegraph of bids already submitted will be considered if received prior to time set for opening.

7. Rejection of Bids

The Owner reserves the right to reject any and all bids when such rejection is in the interest of the Owner and to reject the bid of a bidder who is not in a position to perform the contract.

8. Award of Contract

(a) The contract will be awarded as soon as possible to the lowest responsive and responsible bidder, provided it is in the interest of the Owner to accept his bid.

(b) The Owner reserves the right to waive any informality in bids received when such waiver is in the interest of the Owner. The Owner also reserves the right to accept any item in the bid and to reject any item in the bid unless otherwise specified by the Owner.

9. Performance and Payment Bond

The successful bidder must deliver to the Owner an executed performance and payment bond (forms enclosed) in an amount at least equal to one hundred percent (100%) of the accepted bid as security for the faithful performance of the contract and security for the payment of all persons performing labor and furnishing materials in connection with this contract. The sureties of all bonds shall be such surety company or companies as are approved by the Owner and as are authorized to transact business in Guam. The bonds must be approved by the Owner prior to execution of the formal contract.

10. Cancellation of Award

The Owner reserves the right to cancel the award of any contract at any time before the execution of same.

IV. DUTIES OF CONTRACTING OFFICER AND CONTRACTOR SAFETY MEASURES

1. Authority of Contracting Officer

The Contracting Officer shall give all orders and directions contemplated under this contract and specifications relative to the execution of the work. The Contracting Officer shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid or under this contract and shall decide all questions which may arise in relation to paid work and the construction thereof. The Contracting Officer's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the Contracting Officer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this contract affected in any manner or to any extent by such question.

The Contracting Officer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute.

Any difference or conflicts in regard to their work which may arise between the Contractor under this contract and other Contractors performing work for the Owner shall be adjusted and determined by the Contracting Officer.

2. Contractor's Obligations

The Contractor shall, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract within the time herein specified in accordance with the plans and drawings of the work covered by this contract and any and all supplemental plans and drawings, and in accordance with the directions of the Contracting Officer as given from time to time during the progress of the work. He alone shall be responsible for the safety, efficiency and adequacy of his plant, appliances and methods, and for any damage which may result from their failure or their improper construction, maintenance or operations. The Contractor shall observe, comply with and be subject to all terms, conditions, requirements, and limitations of the contract and specifications and shall do carry on and complete the entire work to the satisfaction of the Contracting Officer and the Owner.

3. Superintendence by Contractor

The Contractor shall give his personal superintendence to the work or have a competent foreman or superintendent, satisfactory to the Contracting Officer, on the work at all times during progress with authority to act for him.

4. Subcontracts

(a) Nothing contained in the specifications or drawings shall be construed as creating any contractual relationship between any subcontractor and the Owner. The diffusion or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors or to limit the work performed by any trade.

(b) The Contractor shall be as fully responsible to the Owner for the acts and omissions of subcontractors and of persons employed by them, as he is for the acts and omissions of persons directly employed by him.

(c) The Contractor shall be responsible for the coordination of the trades, subcontractors, and material men engaged in his work.

(d) The Contractor shall, without additional expense to the Owner, utilize the services of specialty subcontractors on those parts of the work which are specified to be performed by specialty subcontractors.

(e) The Owner will not undertake to settle any differences between the Contractor and his subcontractors or between subcontractors.

(f) The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work including waiver of mechanics liens to bind subcontractors by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Owner any exercise over the Contractor under any provisions of the contract documents.

5. Subletting

Subletting part of the work is permitted. However, bidder must note that subletting in excess of the following is not allowed:

(a) Where the subletting is for both labor and material, total cost of sublet work shall not exceed 49% of the contract amount.

(b) Where subletting is for labor only, sublet work cost shall not exceed 20% of the total contract amount. Information concerning subcontracts must form a part of the bid documents and shall be submitted on standard "Subcontract" information form.

6. Assignments

The Contractor shall not assign the whole or any part of this contract or any monies due or to become due hereunder without the written consent of the Owner and of all the sureties executing any bonds on behalf of the Contractor in connection with said contract. In case the Contractor assigns the whole or any part of said contract or assigns all or any part of any monies due or to become due under said contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due the Contractor or otherwise shall be subject to all of the terms and conditions of said contract or supplemental thereto, the rights and remedies of the Owner thereunder or arising by operation of the law and to the liens of all persons, firms, and

corporations for services rendered or materials supplied in connection with the performance of said contract.

7. Equal Opportunity

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, sex, color, age, economic status, or national origin. The Contractor will take affirmative action to insure that qualified applicants are employed and that employees are treated during employment without regard to their race, religion, sex, color, age, economic status, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoffs or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color, age, economic status, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

8. Hiring of Apprentices

The Contractor shall hire for performance of work under this contract apprentice(s) to be employed in the performance of work under this contract in accordance with Executive Order No. 2012-04 date Feb. 17, 2012 (**See Attachment "A" to General Conditions**).

9. WAGE AND BENEFITS DETERMINATION FOR SERVICES

Offerors submitting proposals must pay employees providing services procured through this IFB in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the government of Guam. 5 GCA § 5801 and § 5802, as applicable. The Wage Determination for Guam and the Northern Mariana Islands also can be found on the U.S. Department of Labor's website: <http://www.wdol.gov>.

Offerors submitting proposals must provide health and similar benefits for employees, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by U.S. Department of Labor and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee. 5 GCA § 5802.

All persons employed on this project shall be paid not less than minimum wage applicable to the corresponding skill or craft as determined by the Department of Labor, Government of

Guam. Prevailing wage rates of Department of Labor, Government of Guam are attached herewith and shall be deemed a part of the contract documents.

For the latest U.S. Department of Labor Wage Determination: Guam, Northern Marianas Islands, visit <http://www.wdol.gov/wdol/scafiles/std/05-2147.txt>

10. Laws, Permits and Regulations

(a) Building permit for the project shall be secured by the Contractor. Building permit and plan checking fees shall be paid for by the Contractor.

(b) The Contractor shall pay all fees and charges for connection to outside service and use of property other than the site of the work for storage of materials or other purposes.

(c) The Contractor shall comply with all laws, ordinances, regulations and building code requirements applicable to work hereunder unless in conflict with contract requirements. If the Contractor ascertains at any time that any requirement of this contract is a variance with applicable laws, ordinances, regulations, or building code requirements, he shall promptly notify the Contracting Officer and any necessary adjustment of the contract shall be made as specified under Changes in Work.

11. Contractor's and Subcontractor's Insurance

(a) The Contractor shall not commence work under this contract until he has obtained all the insurance required hereunder and such insurance has been approved by the Owner. The Contractor shall not allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

(b) Workman's Compensation and Employer's Liability Insurance-The Contractor shall take out and maintain during the life of this contract the statutory Workman's Compensation and Employer's Liability Insurance for all of his employees to be engaged in work on the project under this contract and in case any such work is sublet, the Contractor shall require the subcontractor similarly to provide Workman's Compensation and Employer's Liability Insurance for all of the latter's employees to be engaged in such work.

(c) Bodily Injury Liability and Property Damage Liability Insurance-The Contractor shall take out and maintain during the life of this contract such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him and any subcontractor performing work covered by this contract from claims for damages for personal injury including accidental death, as well as from operations under this contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than:

(1) Bodily Injury Liability Insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) per person for injuries including wrongful death and in an amount not less than Three Hundred Thousand Dollars (\$300,000.00) for injuries including wrongful death resulting from one accident.

(2) Property Damage Insurance in an amount not less than Fifty Thousand Dollars

(\$50,000.00) for damages resulting from any one accident and in an amount not less than One Hundred Thousand Dollars (\$100,000.00) for damages resulting from all accidents.

(d) Owner's Protective Liability Insurance - The Contractor shall take out and furnish to the Owner and maintain during the life of this contract complete Owner's protective liability insurance in amounts as specified in paragraph 11 (c), above for bodily injury liability insurance and for property damage liability insurance.

(e) Fire Insurance - The Contractor shall insure the building or other work included in this contract against loss or damage by fire and against loss or damage covered by the standard extended coverage insurance endorsement, in an insurance company or companies acceptable to the Owner, the amount of the insurance at all times to be at least equal to the amount paid on account of work and materials and plus the value of work or materials furnished or delivered but not yet paid for by the Owner. The policies shall be in the names of the Owner and the Contractor, and their interests may appear. Certificates of the insurance company as to the amount and type of coverage, terms of policies, etc., shall be delivered to the Owner before monthly partial payments are made.

12. Supplemental to Contractor's and Subcontractor's Insurance (Not Applicable)

(a) Flood Hazard Insurance - The Contractor during the life of this contract shall secure and maintain Flood Hazard Insurance in the amount equivalent to 100 percent (100%) of the contract amount for all damages. The policies shall be in the name of the Owner and the Contractor.

A certificate of the insurance company as to amount and type of coverage, terms of policies, etc., shall be delivered to the Owner before commencing work.

13. Accident Prevention

(a) Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery equipment and all hazards shall be observed. Machinery equipment and all hazards shall be guarded or eliminated in accordance with the safety provisions of the latest edition of the Manual of Accident Prevention in Construction published by the Associated General Contractors of America to the extent that such provisions are not in contravention of applicable laws.

(b) Should typhoon warnings be issued, the Contractor shall take every practicable precaution to minimize damage and/or danger to persons, to the work, and to the adjacent property. These precautions shall include closing all openings, removing all loose materials, tools and/or equipment from exposed locations, and removing or securing scaffolding and all other temporary work.

14. Protection of Work and Property

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract. He shall at all times safely guard and protect his own work and that of adjacent property (as provided by law and the contract documents) from damage. All

passageways, guard fences, lights and other facilities required for protection by laws and regulations and local conditions must be provided and maintained.

15. Responsibility of Contractor to Act in Emergency

In case of an emergency which threatens loss of injury or property and/or safety of life, the Contractor shall act, without previous instructions from the Owner or Contracting Officer, as the situation may warrant. He shall notify the Contracting Officer thereof immediately thereafter of any compensation claimed by the Contractor. Substantiating documents regarding expenses shall be submitted to the Owner through the Contracting Officer and the amount of compensation shall be determined by agreement or arbitration.

16. Mutual Responsibility of Contractors

If the Contractor or any of his subcontractors or employees causes loss or damage to any separate contractor on the work, the Contractor agrees to settle with such separate contractor by agreement, if he will so settle. If such separate contractor sues the Owner on account of any loss so sustained, the Owner shall notify the Contractor who shall indemnify and save harmless the Owner against any expenses or judgment arising therefrom.

17. Use of Premises and Debris Removal

The Contractor expressly agrees to undertake at his own expense

- (a) Smoking and use of any tobacco products inside the premises is strictly prohibited.
- (b) To take every precaution against injuries to persons or damages to property;
- (c) To comply with the regulations governing the operation of premises which are occupied and to perform his contract in such a manner as not to interrupt or interfere with the operation of other facilities;
- (d) To perform any work necessary to be performed after regular working hours or on Sundays or legal holidays without additional expense to the Owner;
- (e) To store his apparatus, materials, supplies, and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other contractors;
- (f) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;
- (g) to frequently clean up all refuse, rubbish, scrap materials and debris caused by his operation so that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- (h) to effect all cutting, fitting, or patching of his work required to make the same conform to the plans and specifications, and except with the consent of the Contracting Officer, not to cut or otherwise alter the work of any contractor;

(i) before final payment; to remove all surplus materials, false work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, to put the site in a neat, orderly condition and to thoroughly clean and leave reasonably dust free all furnished surfaces.

18. Obstructions

The Contractor shall at his own expense remove all obstructions, the removal of which shall be necessary for the proper reception, performance, construction, installation and completion of all work under this contract.

19. Site of Contractor's Operations

The Contractor shall confine all construction operations within the vicinity of the site and shall arrange his work so that all construction materials and equipment are placed in such manner and location that there may be a minimum of interference or inconvenience inflicted upon the public and employees of the Government.

20. Barricades

The Contractor shall erect, install and maintain all temporary public walks, warning signs, barricades or other protective means in and around the site as deemed necessary or as may be ordered by the Contracting Officer for the effective protection of the public from injury and shall be held strictly liable for their safety.

21. Electrical Energy

The Contractor shall make all necessary applications, pay all fees and charges, obtain necessary permits and provide and maintain his own electrical power and light as required and necessary in the progress of any branch of the work. He shall provide all temporary wiring necessary.

22. Water

The Contractor shall make all necessary applications, pay all fees and charges, and obtain necessary permits for construction of temporary water required for use on this project. The nearest available source of water tap shall be verified by the Contractor. The Contractor shall be responsible for all expenses required for conveying water to the site from the available nearest source.

23. Signs

The Contractor shall erect a sign at the project site at his own expense. The location of sign shall be as directed by the Contracting Officer. Size of signs, lettering, and other pertinent data that should appear on the sign will be furnished by the Contracting Officer to the Contractor.

V. QUALITY OF WORK

1. Engineering and Layout

(a) The Contractor shall provide competent engineering services to execute the work in

accordance with the contract requirements. He shall verify the figures shown on the survey and approach drawings before undertaking any construction work and shall be responsible for the accuracy of the finished work.

(b) The Owner has established or will establish such general reference points as will, in his judgment, enable the Contractor to proceed with the work. If the Contractor finds that any previously established reference points have been destroyed or displaced, he shall promptly notify the Owner.

(c) The Contractor shall protect and preserve the established bench marks and monuments and shall make no changes in location without the written approval of the Owner. Any of them which may be lost or destroyed or which require shifting because of necessary changes in grades or locations shall be subject to prior approval by the Owner, be replaced and accurately located by the Contractor.

2. Shop Drawings, Materials and Workmanship

Unless otherwise specified, all materials and equipment incorporated in the work under the contract shall be new. All workmanship shall be first class and by persons qualified in the respective trades.

Shop Drawings:

(a) The Contractor shall submit, for the approval of the Contracting Officer, shop and setting drawings and schedules required by the specifications or that may be requested by the Contracting Officer and no work shall be fabricated by the Contractor, save at his own risk, until such approval has been given.

(b) Drawings and schedules shall be submitted in quadruplicate (unless otherwise specified) accompanied by letter of transmittal which shall give a list of the numbers and dates of the drawings submitted. Drawings shall be complete in every respect and bound insets.

(c) The Contractor shall submit all drawings and schedules sufficiently in advance of construction requirements to allow ample time for checking, correcting, resubmitting and rechecking.

(d) The drawings submitted shall be marked with the name of the project, numbered consecutively and bear the stamp of approval of the Contractor as evidence that the drawings have been checked by the Contractor. Any drawings submitted without this stamp of approval will not be considered and will be returned to the Contractor for resubmission. If the shop drawings show variations from the requirements of the contract because of standard shop practice or other reasons, the Contractor shall make specific mention of such variation in his letter of transmittal in order that if applicable, suitable action may be taken for proper adjustment. Otherwise, the Contractor will not be relieved of the responsibility for executing the work in accordance with the contract even though such shop drawings have been approved.

(e) If a drawing as submitted indicates a departure from the contract requirements which the Contracting Officer finds to be in the interest of the Owner and to be so minor as not to involve a change in the contract price or time for performance, he may approve the drawings.

(f) The approval of shop and setting drawings will be general and, except as otherwise provided in paragraph 2 (e), shall not be construed (1) as permitting any departure from the contract requirements; (2) as relieving the Contractor of the responsibility for any error in details, dimensions or otherwise that may exist; (3) as approving departures from additional details or instructions previously furnished by the Contracting Officer.

3. Standards

(a) Any material specified by reference to the number, symbol or title of a specific standard, such as a commercial standard, a Federal specification, a trade association standard or other similar standard, shall comply with the requirements in the latest revision thereto in effect on the date of Invitation for Bids, except as limited to type, class or grade or modified in such reference.

(b) The standard referred to, except as modified in the specifications, shall have full force and effect as though printed in the specifications. These standards are not furnished to bidders for the reason that the manufacturers and trades involved are assumed to be familiar with their requirements. The Contracting Officer will furnish, upon request, information as to how copies of such standards may be obtained.

(c) Reference in the specifications to any article, device, product, material, fixture, form, or type of construction by name, make or catalog number shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition; and the Contractor, in such cases, may at his option use any article, device, product, material, fixture, form of type of construction which in the judgment of the Contracting Officer expressed in writing is equal to that specified.

4. Samples

(a) The Contractor shall furnish for the approval of the Contracting Officer any samples required by the specifications or that may be required by the Contracting Officer of any and all materials or equipment he proposes to use and shall prepay all shipping charges on the samples.

(b) No samples are to be submitted with bids.

(c) No materials or equipment of which samples are required to be submitted for approval shall be used on the work until such approval has been given by the Contracting Officer, save only at the Contractor's risk and expense.

(d) Each sample shall have a label indicating the material represented its place of origin and the names of the producer, the Contractor and the building or work for which the material is intended. Samples of finished materials shall be so marked as to indicate where the materials represented are required by the drawings or specifications.

(e) A letter in duplicate submitting each shipment of samples shall be mailed under separate cover by the Contractor and contain a list of the samples, the name of the building or work for which the materials are intended, and the brands of the materials and names of the manufacturers.

(f) The approval of any sample shall be only for characteristics or for the named in such

approval and no other. No approval of a sample shall be taken in itself to change or modify any contract requirement. When a material has been approved, no additional sample of that material will be considered and no change in brand or make will be permitted. Approval of samples of hardware in good condition may be suitably marked for identification and used in the work.

(g) Failure of any material to pass the specified tests will be sufficient cause for refusal to consider under this contract any further samples of the same brand or make of that material.

(h) Test samples as the Contracting Officer may deem necessary will be procured from the various materials or equipment delivered by the Contractor for use in the work. If any of these test samples fail to meet the specifications requirement, any previous approvals will be withdrawn and such materials or equipment shall be subject to removal and replacement by the Contractor with materials or equipment meeting the specification requirements, or at the discretion of the Owner, the defective materials and equipment may be permitted to remain in place subject to a proper adjustment of the contract price. The cost of the tests will be borne by the Owner except where laboratory tests as hereinafter specified are required by the specifications.

5. Laboratory Tests

(a) Any specified laboratory tests of materials and finished articles to be incorporated in the work shall be made by bureaus, laboratories or agencies approved by the Contracting Officer, and the reports of such tests shall be submitted to the Contracting Officer. The cost of the testing shall be paid for by the Contractor.

6. Methods

The Contractor shall use proper and efficient methods and appliances for the performance of all the operations connected with work embraced under these specifications, drawings and contract to secure a rate of progress which will secure completion of the work within the time specified. If, at any time before commencement of work, or during the progress thereof, such methods, equipment or appliances are inefficient or inappropriate for securing said quality of work or said rate of progress, the Contracting Officer may order the Contractor to increase their efficiency or to improve their character, and the Contractor must conform to such order. The failure of the Contracting Officer to demand such increases of efficiency or improvement shall not relieve the Contractor or his sureties from the obligations to secure such quality of work and said rate of progress and the completion of the work as required herein.

7. Labor and Materials

The Contractor shall furnish all labor, materials and equipment for the execution of the work according to the drawings, specifications and contract, and where no specifications are contained therein for whatever may be necessary, shall do all that may be termed ordinary, customary or essential to a job to be well and reliably completed. This includes concealment of all pipes and other rough items of installation if not clearly so shown on the drawings in a manner acceptable to the Contracting Officer. Structural safety shall not be impaired by such concealment. Work not particularly detailed, marked or specified shall be of equal quality as similar parts that are detailed, marked or specified. All material furnished for and used in the job shall be of kind and grade specified and where not specifically called for at least of

customary standard grade. All work shall be executed in accordance with their trades. Full structural safety is essential and the Contractor guarantees to accomplish same for the entire work.

8. Guarantee of Work

(a) Except as otherwise specified all work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the final completion of the contract or from full occupancy of the building by the Owner, whichever is earlier.

(b) If within any guarantee period, repairs or changes are required in connection with guaranteed work which, in the opinion of the Contracting Officer, is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, the Contractor shall promptly upon receipt of notice from the Owner and without expense to the Owner:

(1) Place in satisfactory condition in every particular all of such guaranteed work and correct all defects therein; and

(2) Make good all damages to the building or site or equipment or contents thereof which, in the opinion of the Contracting Officer, are the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the **terms of the contract**.

(c) In any case wherein fulfilling the requirements of the contract or of any guarantee embraced in or required thereby the Contractor disturbs any work guaranteed under another contract, he shall restore such disturbed work to a condition satisfactory to the Contracting Officer and guarantee such restored work to the same extent as it was guaranteed under such other contract.

(d) If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the Owner may have the defects corrected and the Contractor and his surety shall be liable for all expense incurred.

(e) All special guarantees applicable to definite parts of the work shall be stipulated in the specifications or other papers forming a part of the contract and shall be subject to the terms of this paragraph during the first year of the life of such special guarantee.

9. Defective Work

No work or material which may be defective in construction or quality or deficient in any of the requirements of the drawings and specifications will be considered accepted as a consequence of the failure of the Contracting Officer or the inspectors to discover or to point out said defects or deficiencies during the construction; nor will the presence of inspectors on the work relieve the Contractor from the responsibility of securing the quality and progress of work as required by these specifications.

Any defective work that may be discovered before the completion of the work or within such time as required by the bond shall be replaced by work and materials that shall conform to the spirit and intent of the drawings, specifications and contract.

The fact that the Contracting Officer or his representatives may have overlooked defective work shall not constitute the acceptance of work. NO PAYMENT WHETHER PARTIAL OR FINAL SHALL BE CONSTRUED TO BE AN ACCEPTANCE OF DEFECTIVE WORK OR IMPROPER MATERIALS.

The Contracting Officer may at any time by order given in writing stop any work not being done according to drawings and specifications and any order so given shall not in any way relieve the Contractor from completing his contract and shall not in any way terminate, cancel or abrogate the contract or any part thereof, and the Government of Guam shall not in any way be responsible for the delay due to stopping the work as aforesaid.

VI. INSPECTION OF WORK

1. Access to the Work

The Contracting Officer and his representatives shall have access at all times to the work for inspection whatever it is in preparation or progress and the Contractor shall provide proper facilities for such access and inspection.

2. Inspectors

Inspectors may be placed by the Contracting Officer to supervise each and every subdivision of the work or any parts or process thereof. The Contracting Officer and the inspectors shall have free access to all parts of the work at all times and shall be given every facility, information and means of thoroughly inspecting the work done and the materials used or to be used.

The inspectors shall at all times be free to perform their duties and any intimidation of any inspector by the Contractor or the employees thereof shall be sufficient reason, if the Owner shall so decide, to annul the contract.

3. As-Built Drawings

A contract set of drawings shall be maintained at the site with all changes or deviations from the original drawings neatly marked thereon in brightly contrasting color. This shall be a separate set of drawings not used for construction purposes which shall be kept up to date as the job progresses and shall be made available for inspection by the Contracting Officer at all times. Upon completion of the contract this set of drawings shall be delivered to the Contracting Officer.

4. Inspection

(a) All materials and workmanship (if not otherwise designated by the specifications) shall be subject to inspection, examination and testing by the Contracting Officer at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. The Contracting Officer shall have the right to reject defective material and workmanship or require its correction. Rejected workmanship shall be satisfactorily corrected, and rejected materials shall be satisfactorily replaced with proper materials and the Contractor shall promptly segregate and remove the rejected materials from the premises. If the Contractor fails to proceed at once with the replacement of rejected materials and/or the correction of defective workmanship, the Owner may, by contract or

otherwise, replace such materials and/or correct such workmanship and charge the cost to the Contractor, or may terminate the right of the Contractor to proceed as provided in paragraph 5 of Section VII, Time for Performance, the Contractor and surety being liable for any damage to the same extent as provided in said paragraph 16 for termination thereunder.

(b) The Contractor shall furnish promptly, without additional charge, all reasonable facilities, labor and materials necessary for the safe and convenient inspection and tests that may be required by the Contracting Officer. All inspections and tests shall be performed in such manner as not to unnecessarily delay the work. Special, full-size and performance tests shall be as described in the specifications. The Contractor shall be charged with any cost of inspection when material and workmanship are not ready at the time inspection is requested by the Contractor.

(c) Should it be considered necessary or advisable by the Contracting Officer at any time before final acceptance of the entire work to make an examination of work already completed by removing or tearing out same, the Contractor shall on request promptly furnish all necessary facilities, labor and materials. If such work is found to be defective in any material respect due to the fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements involved in the examination and replacement, the cost of conducting the test plus 15 percent shall be allowed the Contractor and he shall in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

5. Final Inspection

When the work is substantially completed the Contractor shall notify the Owner, in writing, that the work will be ready for final inspection and test on a definite date which shall be stated in such notice. The notice shall be given at least ten (10) calendar days in advance of said date and shall be forwarded through the Contracting Officer who will attach his endorsement as to whether or not he concurs in the Contractor's statement that the work will be ready for final inspection or tests on the date given but such endorsement shall not relieve the Contractor of this responsibility in the matter.

VII. TIME FOR PERFORMANCE

1. Prosecution of the Work

The Contractor agrees that said work shall be prosecuted regularly, diligently and without interruption at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed by and between the Contractor and the Owner that the time for completion of the same takes into consideration the average climatic range and usual industrial conditions prevailing in the locality.

2. Suspension of Work

(a) Suspension for Convenience. - The Director of Public Works or the head of a Purchasing Agency may order the contractor in writing to suspend, delay or interrupt all or any part of the work for such period of the time as the Director of Public Works or the Head of a Purchasing Agency may determine to be appropriate for the convenience of the territory.

(b) Adjustment of Cost - If the performance of all or any parts of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Director of Public Works or the Head of a Purchasing Agency in the administration of this contract, or by the failure of the Director of Public Works or the Head of a Purchasing Agency to act within the time specified in the contract (or if no time specified, within reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract necessarily caused by such unreasonable suspension, delay, or interrupted and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent:

(1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor; or

(2) For which an adjustment is provided for or excluded under any other provision of this contract.

(c) Time Restriction on Claim - No claim under this clause shall be allowed:

(1) For any costs incurred more than twenty (20) days before the contractor shall have notified the Director of Public Works or the Head of a Purchasing Agency in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from suspension order); and

(2) unless the claim is asserted in writing as soon as practicable after the termination of such suspension , delay, interruption, but no later than the date of final payment under the contract.

(d) Adjustments of Price - Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

3. Termination for Convenience

(1) Termination - The Procurement Officer may, when the interest of the territory so require, terminate this contract in whole or in part, for the convenience of the territory. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated becomes effective.

(2) Contractor's Obligations - The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the territory. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as necessary to do so.

(1) Right to Construction and Supplies - The Procurement Officer may require the contractor to transfer title and deliver to the territory in the manner and to the extent directed by the Procurement Officer:

(a) any completed construction; and

(b) such partially completed construction, supplies, materials, parts, tools, dies, jigs, fixtures, plans, drawing, information, and contract rights (hereinafter called construction material) as the contractor has specifically produced or specially acquired for the performance of the terminated part of the contract.

The contractor shall protect and preserve property in the possession of the contractor in which the territory has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such construction, supplies, and construction materials in accordance with the standards of 14 GCA §2706 (UCC). (See end of Subsection 6101 (10) (d) for code quotation.) This in no way implies that the territory has breached the contract by exercise of the Termination for Convenience Clause.

(2) Compensation

(a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data, submitted to the extent required by section 3118 (Cost or Pricing Data) of the Guam Procurement Regulations, bearing of such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the contractor may agree to a settlement provided the contractor has filed a termination claim supported by cost or pricing data submitted as required by §3118 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the territory, the proceeds of any sales of construction materials under Paragraph (3) of this clause, and the contract price of the work not terminated.

(c) Absent complete agreement under Subparagraph (b) of this paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments under Subparagraph (b) shall not duplicate payments under this Paragraph:

(i) with respect to all contract work performed prior to the effective date of the notice of termination, the total (without duplication of any items) of:

(A) the cost of such work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for completed portions of such work; provided, however, that if it appears that the contractor would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(B) Cost of settling and paying claims arising out of the termination of subcontractors or orders pursuant to Paragraph (2) of this clause. This cost must not include cost paid in accordance with Subparagraph (c) (I) (A) of this Paragraph.

(C) the reasonable settlement costs of the contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting

data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this contract. The total sum to be paid the contractor under this Paragraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of any sales of construction materials under Paragraph (3) of this clause, and the contract price of work not terminated.

(D) Cost Claimed, agreed to, or established under Subparagraph (b) and (c) of this Paragraph shall be in accordance with Chapter 7 (Cost Principles) of the Guam Procurement Regulations.

4. Remedies Clause

Any dispute arising under or out of this contract is subject to the provisions of Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

5. Climatic Conditions

(a) When so ordered by the Contracting Officer, the Contractor shall suspend any work that may be subject to damage by climatic conditions.

(b) Contract Completion Time. The allowable work days for this contract were calculated after allowing for the following number of lost days in each month. Time extension on account of inclement weather will be allowed only if the daily report of the Contracting Officer's inspector indicates lost days beyond the limits shown below. Time extension on account of inclement weather on Saturday and Sunday shall be granted only if the Contractor confirms in writing at least seven (7) calendar days in advance his intention to work on weekends.

Month	Non-Working Days	Month	Non Working Days
January	07	July	10
February	05	August	11
March	05	September	12
April	04	October	10
May	05	November	07
June	06	December	07

6. Progress Report

The Contractor shall submit monthly progress report in triplicate to the Contracting Officer briefly setting forth work accomplished.

7. Owner's Right to Stop Work or Terminate Contract, Delays, Damages

(a) If:

- (1) The Contractor shall be adjudged bankrupt or make an assignment for the benefit of creditors;
- (2) A receiver or liquidator shall be appointed for the Contractor or for any of his property and shall not be dismissed within 20 calendar days after such appointment, or the proceedings in connection therewith shall not be stayed on appeal within the said 20 calendar days;
- (3) The Contractor shall refuse or fail, after Notice of Warning from the Contracting Officer, to supply enough properly skilled workmen or proper materials; or
- (4) The Contractor shall refuse to prosecute the work or any part thereof with such diligence as will insure its completion within the period herein specified (or any duly authorized extension thereof) or shall fail to complete the work within said period, or;
- (5) The Contractor shall fail to make payments as specified to persons supplying labor or materials for the work, or;

(b) Non-Performance or Delay, Damages for Delay, Time Extensions

- (1) **Default.** If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will assure its completion within the time specified in this contract, or any extension thereof fails to complete said work within such time, or commits any other substantial breach of this contract, and further fails within fourteen (14) days after receipt of written notice from the Procurement Officer to commence and continue correction of such refusal or failure with diligence and promptness, the Procurement Officer may, by written notice to the contractor, declare the contractor in breach and terminate the contractor's right to proceed with the work or such part of the work as to which there has been delay. In such event the territory may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of, and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the contractor's right to proceed with the work is terminated, the contractor and the contractor's sureties shall be liable for any damage to the territory resulting from the contractor's refusal or failure to complete the work within the specified time.
- (2) **Liquidated Damages Upon Termination.** If fixed and agreed liquidated damages are provided in the contract, and if the territory so terminates the contractor's right to proceed, the resulting damage will consist of such reasonable time as may be required for final completion of the work.
- (3) **Liquidated Damages in Absence of Termination.** If fixed and agreed liquidated damages are provided in the contract, and if the territory does not terminate the contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.
- (4) **Time Extension.** The contractor's right to proceed shall not be so terminated nor the contractor charged with resulting damage if:
 - (a) The delay in the completion of the work arises from causes such as; acts of God; acts of the public enemy; acts of the territory, and any other territorial entity in either a sovereign or contractual capacity; acts of another contractor in the performance of a contract with the

territory; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; unusually severe weather; delays of subcontractors due to cause similar to those set forth above; or shortage of materials; provided, however, that no extension of time will be granted for a delay caused by a shortage of materials, unless the contractor furnished to the Procurement Officer proof that the contractor has diligently made every effort to obtain such materials from all known sources within reasonable reach of the work, and further proof that the inability to obtain such materials when originally planned did in fact cause a delay in final completion of the entire work which could not be compensated for by revising the sequence of the contractor's operations' and

- (b) The contractor, within ten days from the beginning of any such delay (unless the Procurement Officer grants a further period of time before the date of final payment under the contract), notifies the Procurement Office in writing of the causes of delay. The Procurement Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the judgment of the Procurement Officer, the findings of fact justify such an extension.
- (5) **Erroneous Termination for Default.** If, after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the right and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the territory, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstance, this contract does not contain a clause providing for termination for convenience of the territory, the contract shall be adjusted to compensate for such termination and the contract modifies accordingly.
- (6) **Additional Rights and Remedies.** The rights and remedies of the territory provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

VIII. CLAIMS, PAYMENTS

1. Contractor's Title to Materials

No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies for which he accepts partial payments.

2. Claims

The Contractor agrees whenever required to do so by the Owner to furnish satisfactory evidence that all persons, firms or corporations who have done work or supplied materials under these specifications have been paid or have been duly notified of the completion of the work and have been secured to their satisfaction before the said Contractor shall be entitled to final payment.

In case such evidence is not furnished or in case any claim is filed with the Owner or any suit or action is instituted against the Owner as defendant or garnishes or against the Contractor in connection with the work performed or to be performed under the drawings, specifications or

contract, the Owner may retain from the money due or to become due to the Contractor such sum or sums as in the judgment of the Contracting Officer will fully protect the Owner from loss, charge or expense by reason of such claim, suit or action. The Owner without prejudice to any other and further rights, may make any and all deductions for any loss, charge or expense sustained by it to which it would be entitled under the contract specifications or bond, or otherwise before paying over the balance of the sum or sums retained as aforesaid, if any, to the Contractor, his creditor, or any successful claimant against the Contractor.

No payment made or retained under this contract shall be held to relieve the Contractor and/or his sureties from his and/or their obligations under this bond to hold harmless and indemnify the Owner or its agents from any and all loss, charge or expense by reason of any unpaid claim whatsoever.

3. Claims Based on The Director of Public Works or the Head of a Purchasing Agency's Actions or Omissions

(1) Notice of Claim. If any action or omission on the part of the Director of Public Works or the head of the Purchasing Agency or designee of such officer, the requiring performance changes within the scope of the contract constitute the basis for a claim by the contractor for additional compensation, damages, or an extension of time for completion, damages, or an extension of time for completion, the contractor shall continue with the performance of the contract in compliance with the directions or orders of such officials, but by so doing, the contractor shall not be deemed to have prejudiced any claim or additional compensation damages, or an extension of time for completion; provided;

(a) The contractor shall have given written notice to the Director of Public Works, the head of the Purchasing Agency, or designee of such officer:

(i) Prior to the commencement of the work involved, if at that time the contractor knows of the occurrence of such action or omission;

(ii) Within 30 days after the contractor knows of the occurrence of such action or omission, if the contractor did not have such knowledge prior to the commencement of the work; or

(iii) Within such further time as may be allowed by the Procurement Officer in writing.

This notice shall state that the contractor regards the act or omission as a reason which may entitle the contractor to additional compensation, damages, or an extension of time. The Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Procurement Officer or designee of such officer.

(b) The notice required by Subparagraph (a) of this Paragraph describes as clearly as practicable at the time reasons why the contractor believes that additional compensation, damages, or an extension of time may be remedies to which the contractor is entitled; and

(c) The contractor maintains and, upon request, makes available to the Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

(2) Limitations of Clause. Nothing herein contained, however, shall excuse the contractor from compliance with any rules of law precluding any territorial officers and any contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

(3) Adjustments of Price. Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this Contract.

4. Waiver of Mechanics Liens

Contractor waives any right that he now has or in the future may have to claim a mechanic's lien against the real property or improvements thereon which are the subject of this contract, to secure payment for labor and materials furnished or to be furnished by him under this contract.

5. Schedule of Values

Within three days after receipt of notice to proceed, the Contractor shall submit for approval a schedule of the estimated values of the main branches of the work totaling the amount of the contract. The format to be used will be furnished by the Contracting Officer. These values will be used for determining partial payments and as a basis for changes in work as outlined in the General Conditions.

6. Taxes

The Contractor shall, without additional expense to the Owner, pay all applicable taxes. The successful bidder will be required to comply with the applicable sections of Titles 11 and 21 of the Guam Code Annotated, as regards to licenses and taxes. In addition to the general contractor's liability, subcontractors are also subject to these provisions. Subcontractors are also required to possess Guam Service Licenses. The Contractor will be required to submit a list of his subcontractors and the monetary amount of each subcontract.

7. Materials, Services and Facilities

It is understood that except as otherwise specifically stated in the contract documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature whatsoever necessary to execute, complete and deliver the work within the specified time.

8. Patents

The Contractor shall hold and save the Owner and his officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses, for or on account of any patented or unpatented invention, process, article or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the contract documents.

9. Payment by Contractor

The Contractor shall pay;

(a) For all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered;

(b) for all materials, tools, and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used;

(c) To each of his subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his subcontractors, to the extent of such subcontractor's interest therein.

10. Extras

Except as otherwise herein provided, no charge for any extra work or materials will be allowed unless the same has been ordered in writing by the Owner and either the price is stated in such order or a definite acknowledgment is made that a change in price is involved subject to later determination.

11. Differing Site Conditions

- (1) **Notice:** The contractor shall promptly, and before such conditions are disturbed, notify the Director of Public Works or the Head of a Purchasing Agency of:
 - (a) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract; or
 - (b) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.
- (2) **Adjustment of Price or Time for Performance:** After receipt of such notice, the Director of Public Works or the Head of a Purchasing Agency shall promptly investigate the site, and if it is found that such conditions do materially so differ and cause an increase in the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.
- (3) **Timeliness of Claim:** No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in this clause; provided, however, that the time prescribed therefor may be extended by the Director of Public Works or the Head of a Purchasing Agency in writing.
- (4) **No Claim After Final Payment -** No claim by the contractor for an adjustment thereunder shall be allowed if asserted after final payment under this contract.

- (5) Knowledge - nothing contained in this clause shall be grounds for an adjustment in compensation if the contractor had actual knowledge of the existence of such conditions prior to the submission of bids.

12. Price Adjustment

(1) Any adjustment in contract pursuant to clauses in this contract shall be made in one or more of the following ways:

- (a) By agreement on fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) By unit prices specified in the contract or subsequently agreed upon;
- (c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;
- (d) in such other manner as the parties may mutually agree; or
- (e) in the absence of an agreement between parties, by a unilateral determination by the Director of Public Works or the Head of a Purchasing Agency of any cost attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Director of Public Works or the Head of a Purchasing Agency in accordance with generally accepted accounting principles with applicable sections under Chapter 7 (Cost Principles) of the Guam Procurement Regulations and subject to the provisions of Article 5, Chapter 5 of 5 GCA (Legal and Contractual Remedies) of the Guam Procurement Act.

(2) Submission of Cost or Pricing Data - The contractor shall submit cost or pricing data for any price adjustments subject to the provisions of §3118 (Cost or Pricing Data) of the Guam Procurement Regulations.

13. Changes in Work

(a) The Owner may at any time, by a written order, and without notice to the sureties, make changes in the drawings and specifications of this contract and within the general scope thereof. However, no change will be made which increases the total contract price without notice to sureties. In making any change, the charge or credit for the change shall be determined by the following method:

(1) The actual cost of:

- I. Labor, including foreman
- II. Materials entering permanently into the work
- III. Equipment rental cost during time used on extra work
- IV. Power and consumable supplies
- V. Insurance
- VI. To the above cost there shall be added a fixed fee to be agreed upon, but not to exceed 15% of the net cost. This fee shall be compensation to cover the cost of supervision, overhead, bond, profit and other general expenses.

(b) The Contractor shall, when required by the Owner, furnish to the Owner an itemized breakdown of the quantities and prices used in computing the value of any change that might be ordered.

(c) In figuring changes, instructions for measurement of quantities set forth in the specifications shall be followed.

(d) If any part of the work as installed is at variance with the contract requirements, the Owner may, if he finds it to be in his interest, allow all or any part of such work to remain in place subject to a proper adjustment in the contract price.

14. Payment to Contractor

(a) Unless otherwise provided in the specifications, the Owner will make partial payments to the Contractor after receipt and approval of the request for partial payment covering the work performed during the proceeding calendar month. No payments for installed materials on the site will be made unless such request is accompanied by a receipt or certification showing that the Contractor has made payment in full for such work done. In preparing such estimates, preparatory work done shall not be considered for payment. Materials delivered to site shall be considered for payment subject to the following conditions:

(1) The material shall be kept in a safe and enclosed warehouse or area located on site with restricted access.

(2) The receipt and issue of material must be controlled by a stock card kept in the warehouse.

(3) Insurance coverage required under Section 11, Chapter IV of the General Conditions shall include insurance of such material and shall include theft insurance.

(4) Request for payment must be accompanied with certification and receipts indicating the cost of material and showing that Contractor has made full payment for such material.

(b) In making such partial payments there shall be retained ten percent (10%) of the estimated amount until final completion and acceptance of all work covered by the contract. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize payment in full of each progress payment for work performed beyond the 50 percent stage of completion. Also, whenever the work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Government, at his discretion, may release to the Contractor all or a portion of such excess amount.

(c) All materials and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all materials and work upon which payment have been made, or the restoration of any damaged work or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.

(d) Release of Claims - Neither the final payment or any part of the retained percentage shall become due until the Contractor shall deliver to the Owner through the Contracting Officer a complete release of all claims against the Owner arising under and by virtue of this contract, including claims of all subcontractors and suppliers of either materials or labor, other than such

claims, if any, as may be specifically excepted by the Contractor.

(e) Certificate of Completion - Upon completion and acceptance of all work whatsoever required and the release of all claims against the Owner as specified, the Contracting Officer shall file a written certificate with the Owner and with the Contractor as to the entire amount of work performed and compensation earned by the Contractor, including extra work and compensation therefore.

(f) Final Payment - Within thirty (30) calendar days after the filing of such certificate of completion, the Owner shall pay to the Contractor the amount therein stated less all prior payments and advances whatsoever to or for the amount of the contract. All prior estimates and payments including those relating to extra work shall be subject to correction by this payment which is throughout this contract called Final Payment.

(g) Acceptance of Final Payment Constitutes Release - The acceptance by the Contractor of the final payment shall be and shall operate as a release to the Owner of all claims and of all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work, excepting the Contractor's claims for interest upon the final payments if this payment be improperly delayed. No payments, however, final or otherwise shall operate to release the Contractor or his sureties from any obligations under this contract or the performance and payment bonds.

IX. MISCELLANEOUS

1. Prohibited Interests

(a) No member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

(b) No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer, or inspector of or for the Government of Guam authorized to exercise any legislative, executive supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

2. Mandatory Disputes Clause

1.1 The Government and the Consultant agree to attempt resolution of all controversies which arise under, or are virtue of, this Agreement through mutual agreement. If the controversy is not resolved by mutual agreement, then the Consultant shall request the Government in writing to issue a final decision within six days after receipt of the written request. If the Government does not issue a written decision within six days after written request for final decision, or within such longer period as may be agreed upon by the parties, then the Consultant may

proceed as though the Government had issue a decision adverse to the Consultant.

1.2 The Government shall immediately furnish a copy of the decision to the Consultant, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.

1.3 The Government's decision shall be final and conclusive, unless fraudulent or unless the Consultant appeals the decision.

1.4 This subsection applies to appeals of the Government's decision on the dispute. For money owed by or to the Government under this Agreement, the Consultant shall appeal the decision in accordance with the Government Claims Act by initially filing a claim with the Office of the Attorney General no later than eighteen months after the decision is rendered by the Government or from the date when a decision should have been rendered. For all other claims by or against the Government arising under this Agreement, the Office of the Public Auditor has jurisdiction over the appeal from the decision of the Government. Appeals to the Office of the Public Auditor must be made within sixty days of the Government's decision or from the date the decision should have been made.

1.5 The Consultant shall exhaust all administrative remedies before filing an action in the Superior Court of Guam in accordance with applicable laws.

1.6 The Consultant shall comply with the Government's decision and proceed diligently with performance of the Agreement pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Agreement, except where the Consultant claims a material breach of this Agreement by the Government. However, if the Government determines in writing that continuation of services under this Agreement is essential to the public's health or safety, then the Consultant shall proceed diligently with performance of the Agreement notwithstanding any claim of material breach by the Government.

END OF GENERAL CONDITIONS



OFFICE OF THE GOVERNOR
HAGÁTÑA, GUAM
U.S.A.

EXECUTIVE ORDER NO. 2012-04

RELATIVE TO AMENDING EXECUTIVE ORDER NO. 2000-10 TO
PROMOTE ON-THE-JOB TRAINING AND THE HIRING APPRENTICES
FOR GOVERNMENT OF GUAM CONSTRUCTION PROJECTS

WHEREAS, on April 11, 2000, Executive Order No. 2000-10 *Relative to Enhancing the Apprentice Training Program Through Hiring of Apprentices for Government of Guam Construction projects* was enacted for the purpose of requiring the employment of apprentices to assist the Guam Department of Labor in encouraging the employment and training of local labor in the construction industry; and

WHEREAS, since the enactment of Executive Order No. 2000-10, other certified apprentice training programs, including programs supported by the Department of Public Works which offer on-the-job (OJT) training, have become available to supplement the existing programs offered by the Guam Contractors Association and the Guam Community College; and

WHEREAS, apprenticeship programs provide valuable local labor opportunities for individuals desiring to learn new skills and enter the construction industry, thus lowering unemployment levels and reducing dependency on alien workers; and

WHEREAS, it is in the best interest of the Territory to require the employment of apprentices on Government of Guam construction projects; and

NOW, THEREFORE, I, EDWARD J.B. CALVO, *I Maga'lahaen Gudhan*, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do hereby ORDER that Executive Order No. 2000-10 is amended and re-enacted as follows:

1. **Government Policy.** It is the policy of the Government of Guam that all construction projects funded in whole or in part by local or federal funds shall require the contractor to employ at least One (1) apprentice for every Ten (10) workers for the duration of each project, and not less than One (1) apprentice per project. This requirement may only be waived if the contracting agency certifies that no apprentice is available.
2. **Application to All Construction of Public Works Projects over One Hundred Thousand Dollars (\$100,000).** This Executive Order applies to all public works construction projects such as the erection, maintenance, rehabilitation, repair, or demolition of any public building, roadway, or any public facility as defined in

SPECIAL PROVISIONS

1. General Intention.

It is the declared intention and meaning to provide and secure for the design and construction of **“Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-YIG”**

2. Contractor.

The Contractor and each and every subcontractor shall read the entire Bid Documents and by the act of submitting a bid, shall be deemed to have accepted all conditions contained therein.

3. Standards.

The standards referenced in this specification (including addenda, amendments and errata listed) shall govern in all cases where the references thereto are made. In case of difference between the referenced standards and its accompanying drawings, accompanying drawings shall govern to the extent of such difference, otherwise the referenced standards shall apply. Extra care shall be exercised to refer in requests for quotations in orders and in subcontracts to all modifications thereof.

4. Time for Completion.

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning, rate of progress and the time for completion of the work to be done hereunder are essential conditions of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall commence and specified during the issuance of Intent of Award for Design and Notice To Proceed for Construction. Design and Construction must be completed within One Hundred Fifty (150) calendar days complete and ready for use.

5. **LIQUIDATED DAMAGES CLAUSE.**

(a) With Termination for Default Clause. The following clause is authorized for use in supply or service contracts when it is difficult to determine with reasonable accuracy the amount of damage to the territory due to delays caused by late contractor performance or nonperformance and the contract contains the termination for default clause set forth in §6101(8) of this Chapter.

“LIQUIDATED DAMAGES”

When the Contractor is given notice of delay or nonperformance as specified in Paragraph (a) (Default) of the Termination for Default Clause of this contract and fails to cure in the time specified, the contractor shall be liable for damages for delay in the amount of one-fourth of one-percent (1%) of outstanding order per calendar day from date set for cure until either the territory reasonably obtains similar supplies or services if the contractor is terminated for default, or until the contractor provides the supplies or services if the

contractor is not terminated for default. To the extent that the contractor's delay or nonperformance is excused under Paragraph (d) (Excuse for Nonperformance or Delayed Performance) of the Termination for Default Clause of this contract, liquidated damages shall not be due the territory. The contractor remains liable for damages caused other than by delay.

The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amounts shall be retained from time to time by the Owner from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages of any excess cost when the delay in completion of the work is due

- a) to any preference, priority or allocation order duly issued by the Owner.
- b) to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God or the public enemy, acts of the Owner, acts or another Contractor in the performance of a contract with the Owner fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; and
- c) to any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

Provided further that the Contractor shall, within seven (7) calendar days from the beginning of delay, notify the Contracting Officer in writing of the causes of the delay who will ascertain the facts and extent of the delay and notify the Contractor within reasonable time of his decision in the matter.

Contractor must note that Guam by nature has frequent rainfall causing suspension of work. Said suspensions shall not qualify for time extensions unless the weather is unusually severe.

END OF SPECIAL PROVISIONS

GENERAL STATEMENT OF WORK

I. OBJECTIVE:

It is the intent of the Government to construct a Temporary school facility for Students from Simon Sanchez High school for the Guam Department of Education. Work includes; design and construction including necessary site improvements. Requires the services of a company to provide all materials, equipment and labor to construct, supply, and install new modular or pre-engineered classrooms. The design and construction shall comply with the latest ADA accessibility standards.

The required Site work of 44,640 SF to support temporary facilities includes, clearing and grubbing, grading and fill, concrete sidewalks with covered canopies, gravel topping, perimeter fencing, security lighting, and electrical, water, and sewer services.

II. PROJECT DESCRIPTION AND LOCATIONS:

The project is located in Yigo, Facilities will be placed near GPS coordinates 13.525553, 144.875816, on Lot 10119-12-2, Yigo Guam. See drawing for exact location. The work consists of the design and construction of sets of prefabricated modular structures array (20 Each) for a total of 20 temporary classrooms, building pads, and access ramps, several temporary restrooms, and metal canopies, site improvements to include fencing, paved walkways for the new 20 classrooms between the existing school and the 24 apartment units and utility connections, and temporary basin for water runs off for the Temporary school facility for Students from Simon Sanchez High School.

All design and construction work must comply in accordance to all approving agency having jurisdiction and building code compliance of 2009.

III. SCOPE OF SERVICES AND RESPONSIBILITIES:

1. The Contractor must be responsible for the complete design and construction of the project. The Contractor must visit the site and must be responsible for having ascertained pertinent conditions such as location, accessibility, general character of the site and the extent of existing condition within or adjacent to the site. No extra compensation will be made by reason of any misunderstanding or error as regards to the site, the condition thereof, accessibility or the amount of kind of work to be performed. All given figures/drawings are for general guidelines and for reference only and shall be verified by the contractor before the preparation of bid.
2. All drawing, illustrations and pictures attached to the bid documents are for general guidelines and reference only for bidding and design. The Contractor shall submit drawing, product specifications and pictures for the approval of DPW Engineer and the using agency representative whenever applicable.

IV. SPECIFIC SCOPE OF WORK REQUIREMENTS

A. Architectural

Architectural design and features to include site development, interior and exterior finishes to be proposed must be suitable for our island environment/climate and Building Codes. For this section, proposers may provide various options with no effect to costs.

B. Structural

A total of 20 classrooms is required for this project. Each class room must be a minimum of 900 square-feet (+/- 5%) in area and/or 30 feet by 30 feet (+/- 5%) in dimension. Restrooms to be aligned it's size with the required number of fixtures per DPHSS requirement for number of students and covered metal canopies with concrete walkways leading to the adjacent school and the 24-apartment unit parking area. All structures must meet the latest International Building Code and all Government of Guam codes. The proposed structure system must be corrosion proof to with stand of life span of over 25 years, the proposed structure can be easily reconfigured with the possibility of being relocated.

C. Utilities

The facility will connect to both GPA and GWA, cost for this connection is the contractor's responsibility.

D. Electrical

Secondary Power System

- one electrical distribution rack with point of connection to GPA's Utilities
- power source and to each individual structure
- contractor will apply for power for this project.

Classroom

- power supply to each classroom with 100amp capacity per room
- sufficient Lighting for each room based on the intended use
- minimum 8 power receptacles per classroom
- one extra conduit: spare to each room for power.
- conduits for internet service to each class room,
- fire alarm system announcement panel
- each room must also have conduit for fire alarm system
- curfew exterior lights for each classroom
- 30 amp disconnects for AC Units per room
- all proposals must ensure equipment is compliant to all applicable Codes.
- all classrooms must comply with DPHSSS requirements

E. Mechanical

Classroom

- air conditioner split-type unit (sufficient for proposed room size and intended use for the number of students within the space)
- two units per classroom with cooling output to match the total required room temperature
- all proposals must ensure equipment is compliant to all applicable Codes
- all classrooms must comply with Guam Fire Department Code and requests
- Restrooms must be properly vented

F. Communication and security

Include data communications link to main FBLG campus servers/switch for all classrooms and the GHC existing buildings for data, telephone, clock and bell, and alarm system. Include high resolution video surveillance capacity monitoring.

G. Walkways

SSHS will need additional support staff in monitoring the access road between the main campus and the 24 housing units. Students will be walking to and from to access classrooms every period.

A paved walkways with open gates for the new 20 classrooms between the existing school and the 24 apartment units, these walkways must provide a direct line of sight from point A to Point B and point C -which allows supervision of students walking across without any obstructions.

H. Off Site Work

- **Student crosswalk to adjacent School-** provide pedestrian road marking, signs verify with Department of Public Works Highway Division on the specific requirements. The addition of a swing gate on the FBGL fence line

I. Site:

- The site is described on the site location plan. Bidders shall verify existing site conditions and all pertinent information needed for the satisfactory performance of the scope of work prior to submitting the bid.

J. OTHER RELATED DOCUMENTS AND REQUIREMENTS

- Schematic Plans - Layout Site Plan and Elevation Plans
- Latest International Building Code
- Standard Terms & General Conditions
- Required Permits (cost for permits shall be included in the Proposal)
- Contractor to conduct work with minimal interference to surrounding neighbors.
- Contractor to dispose of all construction debris at a designated location on a daily basis.
- All debris shall be disposed of at an approved GEPA site.

- Store materials in accordance with manufacturer & #39; s recommendations.
- The contractor shall take appropriate measures to ensure the safety of the adjacent building occupants and must ensure traffic safety during the school operation hours while entering or exiting the site.
- Contractor shall warrant all workmanship for a minimum period of one (I) year from date of final acceptance.
- Contractor shall extend warranty to the user on all manufactured materials.
- The start of the warranty period will be the date that GDOE have accepted the work and the Certificate of Completion is issued.
- The entire site is to be fenced in with Three swing gates

During the warranty period, the contractor shall be responsible for the materials, parts and labor.

VI. TASK AND SUBMITTAL PHASE:

TASK I. PRELIMINARY-Site Assessments and 60% Plans, Specifications & Estimates Submittal

The Project involves those investigative and study requirements, which must be undertaken to adequately assess the existing condition of the site and form the basis of subsequent design activities to be in compliance with the International Building Code 2009 and all other agencies having jurisdictions. A 60% PS&E submittal is required.

TASK II. PRE-FINAL-90% Plans, Specifications and Estimates Submittal

The Pre-Final Plans & Specifications shall be 100% complete incorporating all approved comments from preliminary Plans & Specifications. Two (2) copies of the following shall be submitted

- 1) Plans- complete plans, including title sheet, summary of quantities and schedules, details, cross sections, etc;
- 2) Technical Specifications- complete technical specifications to properly construct each item, of work including test procedures required, and any special conditions to be required.
- 3) Design analysis and computation sheets;
- 4) CPM schedule to establish project construction activities within the specified construction time.

Firm's key personnel shall participate in the resolution meeting to resolve all comments on the submittal. Prepare a "Minutes of Meetings" for approval and distribution by DPW.

TASK III. FINAL DESIGN SUBMITTAL

After approval of the Pre-Final Plans & Specifications, submit five (5) copies for final review.

An electronic non-PDF workable file in AUTO CADD format, latest version, shall also be submitted in a separate disk for plans and specifications for each phase.

VII. COMMENCEMENT AND COMPLETION OF WORK:

Design and Construction completion time is **One Hundred Fifty (150) calendar days**.

A. Design Phase:

- 1) The design period of this project is **Sixty (60) calendar days**. DPW will issue Notice to Proceed (NTP) for the design of the project
- 2) The Plans & Specifications be prepared in conformance with the standard format furnished by the Government.
- 3) Plan size shall be 24" x 36".
- 4) All plans and details shall be legible when reduced to one-half size plans (50% reduction). The minimum size of alphanumeric text on the reduced plans shall be 1/8".

5). Design Submittal Schedule:

Task I (Preliminary)	60% Submittal (PS&E)	20 days after Notice to Proceed
Task II (Pre-final)	90 % Submittal (PS&E) Task I	20 days after review & approval of Task I
Task III (Final)	100% Submittal (PS&E) Task II	20 days after review & approval of Task II

B. Construction Phase:

The construction period of this project is **Ninety (90) calendar days**. The Owner will issue a Notice to Proceed for construction.

VIII. WARRANTY OF DESIGN AND CONSTRUCTION

The Contractor warrants that the design and construction shall be performed in accordance with contract requirements for a period of one year. Design and construction works related not conforming to the contract requirements shall be corrected at no additional cost to the Government.

IX. DESIGN CODES/GUIDES AND REFERENCES

All services shall be performed in accordance with the general criteria contained in the following references.

- a) Building Law, Title XXXII, Government Code of Guam
- b) International Building Code (2009 Edition)
- c) International Mechanical Code (Latest Edition)
- d) International Plumbing Code (Latest Edition)

- e) National Electrical Code (NEC-Latest Edition)
- f) National Electrical Safety Code (NESC-Latest Edition)
- g) Life Safety Code (Latest Edition)
- h) International Fire Code (IFC-latest Edition)
- i) National Fire Protection Association Handbook (NFPA 70)
- j) Illuminating Engineering Society (IES)
- k) American Disability Act (ADA)
- l) GEPA, USEPA, CFR29
- m) Guam Energy Code
- n) U.S. Army Corps of Engineer
- o) All other codes, regulations, technical publications and design manuals applicable in the performance of this project.

X. GOVERNMENT REVIEWING AND APPROVING AGENCIES:

- 1. Department of Public Works
- 2. Guam Environmental Protection Agency
- 3. Department of Land Management
- 4. Guam Power Authority
- 5. Guam Fire Department
- 6. Guam Waterworks Authority
- 7. Guam Historic Preservation
- 8. U.S. Army Corps of Engineer

XI. DISPOSAL:

- 1. Must coordinate with DPW Engineer prior to any disposal activity.
- 2. Removal and disposal fee shall be paid by the contractor.

END OF GENERAL STATEMENT OF WORK

BID PRICE FORM

Date: _____

To: Director of Public Works
Government of Guam
542 North Marine Drive
Tamuning, GU 96913

Gentlemen:

The undersigned (hereafter called the Bidder), a

(Corporation, Partnership or Individual)

organized and/or licensed to do business under the laws of Guam, hereby proposes and agrees to furnish all the necessary labor, materials, equipment, tools and services necessary for the “**Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-YIG**” all in accordance with the drawings, specifications and other contract documents prepared by the Department of Public Works for the sum of:

(\$ _____) plus any and all sums to be added and/or deducted resulting from all extra and/or omitted work in accordance with the unit and/or lump sum prices stated in the itemized bid form attached hereto.

The undersigned has examined the location of the proposed work, the drawings, specifications and other contract documents and is familiar with the local conditions at the place where the work is to be performed.

The bid security attached, without endorsement, in the sum of not less than fifteen percent (15%) of the total amount of the bid, is furnished to the Government as a guarantee that the contract will be executed and a performance and payment bond furnished within fifteen (15) calendar days after the acceptance of the bid of the undersigned. In the event that the undersigned bidder shall fail to execute the contract and furnish a **satisfactory performance and payment bond** under the conditions and within the time specified in this bid, the bid security shall be forfeited as liquidated damages for the delay and additional work and costs caused thereby in obtaining another bidder, said being beforehand determined as being reasonable and containing no penalties.

If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within sixty (60) days after the opening thereof, the undersigned agrees to execute the form of agreement included as one of the contract documents, and to furnish a performance and payment bond in an amount equal to one hundred percent (100%) of the contract amount within fifteen (15) calendar days after receipt of such notice.

BASE BID:

Description	Quantity	Unit Cost	Total Cost
Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School as Stated in this IFB (Multi-Step) complete and ready for use.			
1) Design Cost	LS		\$
2) Construction Cost	LS		\$
Total Cost			\$

Total lump sum cost, as per Invitation for Bid Requirements, complete and ready for use:

(\$_____).

Method of award will be based within the amount of funds available to finance the design, construction and maintenance contract. Contract award will be made to that lowest, responsive and responsible Offeror.

The undersigned hereby acknowledges receipt of the following addenda:

	ADDENDUM NO.	DATED
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

If awarded the contract, the undersigned shall be the authorized representative to bind into an agreement with the government and agrees to complete the work within the contract time stipulated in this project.

The undersigned understands that the Government reserves the right to reject any or all bid or to waive any informality or technicality in any bids in the interest of the Government.

RESPECTFULLY SUBMITTED BY:

(CONTRACTOR)

(BY) (*Name and Signature*)

(TITLE)

(BUSINESS ADDRESS)

BID BOND FORM

BOND NO. _____

KNOW ALL MEN BY THESE PRESENTS, that

(Name of Contractor)

as Principal, hereinafter called the Principal and _____

(Name of Surety)

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

WHEREAS, the Principal has submitted a bid for **“Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-YIG”**.

NOW THEREFORE, if the Territory of Guam shall accept the bid of the Principal and the Principal shall not withdraw said bid within sixty (60) calendar days after the opening of bids, and shall within fifteen (15) calendar days after the prescribed forms are presented to him for signature, enter into a Contract with the Territory of Guam in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter into such Contract and give such bond or bonds, if the Principal shall pay to the Territory of Guam the difference not to exceed the penalty hereof between the amounts specified in said bid and such larger amount for which the Territory of Guam may in good faith contract with another party to perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this _____ day of _____, 202_

(PRINCIPAL)

(SEAL)

(WITNESS)

(TITLE)

(MAJOR OFFICER OF SURETY)

(MAJOR OFFICER OF SURETY)

(TITLE)

(TITLE)

(RESIDENT GENERAL AGENT)

AFFIDAVIT OF DISCLOSING OWNERSHIP AND COMMISSIONS

CITY OF _____)
ISLAND OF GUAM) ss.

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 _____, 202__.

 NOTARY PUBLIC

My commission expires: _____

AFFIDAVIT OF NON-COLLUSION

CITY OF _____)
) ss.
ISLAND OF GUAM)

I, _____ [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 in 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 _____, 202__.

NOTARY PUBLIC

My commission expires: _____

AG Procurement **Form 003** (March 9, 2011)

AFFIDAVIT Re NO GRATUITIES or KICKBACKS

CITY OF _____)
) ss.
ISLAND OF GUAM)

I, _____ [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, and 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 offices, 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 _____, 202__.

NOTARY PUBLIC

My commission expires: _____, _____.

AG Procurement **Form 004** (March 9, 2011)

AFFIDAVIT RE CONTINGENT FEES

CITY OF _____)
) ss.
ISLAND OF GUAM)

I, _____ [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 in 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 _____, 202__.

NOTARY PUBLIC

My commission expires: _____.

AG Procurement **Form 007** (Nov. 9, 2010)

AFFIDAVIT re ETHICAL STANDARDS

CITY OF _____)
) ss.
ISLAND OF GUAM)

I, _____ [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 _____, 202__.

NOTARY PUBLIC

My commission expires: _____.

SPECIAL PROVISIONS

**RESTRICTIONS AGAINST SEX OFFENDERS EMPLOYED BY SERVICE
PROVIDERS TO GOVERNMENT OF GUAM FROM WORKING ON
GOVERNMENT PROPERTY**

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

_____ Signature of Bidder Proposer, if an individual; Partner, if a partnership; Officer, if a corporation.	_____ Date
---	---------------

Subscribe and sworn before me this _____ day of _____, 202__

NOTARY PUBLIC

My commission expires _____, _____

FORM E

DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION

Procurement No. FY2023 RFP 260-5-1016-L-YLG

Name of Offeror Company: _____

I, _____ hereby certifies under penalty of perjury:

1. That I am _____ (the offeror, a partner of the offeror, an officer of the offeror) making the bid or proposal in the foregoing identified procurement;
2. That I have read and understand the provision of 5 GCA § 5801 and § 5802 which read:

§ 5801. Wage Determination Established.

In such cases where the government of Guam enters into contractual arrangement with a sole proprietorship, a partnership or a corporation ("contractor") for the provision of a services 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 contracts 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 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 many be applicable to be procurement herein;
4. That I have attached the most recent wage determination applicable to Guam issued by the U.S. Department of Labor. (INSTRUCTION – Please attach!)

Signature

THIS MUST BE COMPLETED AND RETURNED IN THE ENVELOPE CONTAINING THE PROPOSAL

CONTRACT NO._____

CONTRACT

(Contractor)

Public Works
(Department)

2025

Contract for: **Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School**

Project No.: **730-5-1060-F-YIG**

Amount: \$

Place: Yigo, Guam

FORMAL CONTRACT

THIS CONTRACT, made and entered by and between the Department of Public Works, Government of Guam, hereinafter called the "Government", and _____, a sole proprietor / partnership / corporation of Guam, hereinafter called the "Contractor".

WITNESSETH, that whereas the Government intends to perform the "**Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-YIG**" hereinafter called the "Project", in accordance with the drawings, specifications and other contract documents prepared by the Department of Public Works.

NOW THEREFORE, the Government and Contractor for the considerations hereinafter set forth, agree as follows:

- I. THE CONTRACTOR AGREES to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in a workmanlike manner all the work required for the design, construction and maintenance of the Project, in strict compliance with the contract documents herein mentioned, which are hereby made a part of the contract, including the following addenda:

Addendum No.	Dated
_____	_____
_____	_____

- (a) Contract Time: The Contractor agrees to commence work under this contract upon written notice to proceed, and to provide complete design, construction services as required by this IFB. Period of performance for the Contractor will be for a period of **Sixty (60) calendar days for Design and Ninety (90) calendar days for construction.**

- II. THE GOVERNMENT AGREES to pay, and the Contractor agrees to accept, in full payment for the performance of this contract, *the contract amount of* _____, (\$ _____) *plus* any and all sums to be added and/or deducted resulting from all extra and/or omitted work in connection therewith, as authorized under the terms as stated in the General

Conditions of the contract, all in accordance with the terms as stated in the contract documents.

(a) *Progress payments will be made on a monthly basis.*

III. **LIQUIDATED DAMAGES CLAUSE. (2GAR Div. 4 §6101(9))**

(a) With Termination for Default Clause. With Termination for Default Clause. The following clause is authorized for use in supply or service contracts when it is difficult to determine with reasonable accuracy the amount of damage to the territory due to delays caused by late contractor performance or nonperformance and the contract contains the termination for default clause set forth in §6101(8) of this Chapter.

LIQUIDATED DAMAGES

When the Contractor is given notice of delay or nonperformance as specified in Paragraph **(a) (Default) of the Termination for Default Clause (2GAR Div.4 §6101(8))** of this contract and fails to cure in the time specified, the contractor shall be liable for damages for delay in the amount of one-fourth of one-percent (1%) of outstanding order per calendar day from date set for cure until either the territory reasonably obtains similar supplies or services if the contractor is terminated for default, or until the contractor provides the supplies or services if the contractor is not terminated for default. To the extent that the contractor's delay or nonperformance is excused under **Paragraph (d) (Excuse for Nonperformance or Delayed Performance)** of the Termination for Default Clause of this contract, liquidated damages shall not be due the territory. The contractor remains liable for damages caused other than by delay.

IV. **COVENANT AGAINST CONTINGENT FEES.** The Contractor warrants that he has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to terminate the contract, or in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage or contingent fee. The warranty shall not apply to commission's payable by contractors upon contracts or sales secured or made through bonafide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

- V. **OTHER CONTRACTS.** The Government may award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and carefully fit his own work to that provided under other contracts as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor.
- VI. **DISPUTES.** Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the Contracting Officer whose decision shall be final and conclusive upon the parties thereto. In the meantime the Contractor shall diligently proceed with the work as directed.
- VII. **CONTRACT BINDING.** It is agreed that this contract and all of the Covenants hereof shall inure to the benefit of and be binding upon the Government and the Awardee respectively. Neither the Government nor the Awardee shall have the right to assign, transfer or sublet his interests or obligations hereunder without written consent of the other party.
- VIII. **NO MECHANIC LIEN.** It is hereby mutually agreed by and between the parties hereto that no mechanic, contractor, material man or other person or will contract for or in any other manner have or acquire any lien upon the building or works covered by this contract, or the land upon which the same is situated.
- IX. **RESTRICTION.** The service provider warrants that no person in its employment who has been convicted of sex offense under the provisions of chapter 25 of Title 9 of the Guam Code Annotated, or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated , or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry shall provide services on behalf of the service provider while on government of Guam property, with exception of public highways. If any employee of the service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four hours of the conviction,

and will remove immediately such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

- XI. **INDEMNITY.** Service provider agrees to save and hold harmless the Government, its officers, agents, representatives, successors and assigns and other governmental agencies from any and all suits or actions of every nature and kind, which may be brought for or on account of any injury, death, or damage arising or growing out of the acts or omissions of the Awardee, Awardee's officers, agents, servants or employees under this contract.
- XII. **CLAIMS AGAINST GOVERNMENT.** The service provider expressly recognizes that the Government Claims Act (Title 5 of the Guam Annotated, Chapter 6) applies with respect only to claims of money owed by or to the service provider against the Government if the claim arises out of or in connection with this agreement. The service provider also expressly recognizes that all other claims by the service provider against the Government are subject to the Guam Procurement Law (Title 5 of the Guam Annotated, Chapter 5).
- XIII. **CONSENT TO JURISDICTION.** The service provider hereby expressly consents to the jurisdiction of and the forum of the courts of Guam with respect to any and all claims which may arise by reason of this Agreement, except as otherwise may be provided by the Guam Procurement Law. The service provider waives any and all rights it may otherwise have to contest the same or to proceed in a different jurisdiction or forum.
- XIV. **MANDATORY REPRESENTATION BY CONTRACTOR REGARDING GENERAL ETHICAL STANDARDS (2 GAR Div. 4 11103 (b)).** With respect to this Agreement and any other contract that the service provider may have, or wish to enter into, with any Government of Guam agency, the Contractor represents that it has not knowingly influenced, and promises that it will not knowingly influence, any government employee

to breach any of the ethical standards set forth in the Guam Procurement Law and in any of the Guam Procurement Regulations.

XV. MANDATORY REPRESENTATION BY THE CONTRACTOR REGARDING PROHIBITION AGAINST GRATUITIES AND KICKBACKS (2 GAR Div. 4 11107(e))

With respect to this Agreement and any other contract that the Contractor may have or wish to enter into with any Government of Guam agency, the service provider represents that he 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 Regulations.

XVI. (Please Maintain) COMPLIANCE TO PUBLIC LAW 24-100, PRODUCTS MANUFACTURED FROM RECYCLED GLASS.

Pursuant to 5 G.C.A. Section 5218, any individual or company submitting a response to this solicitation shall include the purchase of available recycled glass pulverized on Guam or appropriate products manufactured therefrom. The contract awarded under this solicitation shall determine the suitable percentage of recycled glass to be used in the project and, as a condition of the award of the contract, shall require the Contractor to identify and certify in writing the percentage of recycled glass contained in the material offered. The acceptable percentage of recycled glass has been determined to be 0% for this project.

XVII. APPENDIX II TO PART 200- CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR](#)

[Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with [Executive Order 11246](#), “Equal Employment Opportunity” ([30 FR 12319](#), [12935](#), [3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by [Executive Order 11375](#), “Amending [Executive Order 11246](#) Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

D) Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act ([42 U.S.C. 7401-7671q](#).) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended—Contracts and subgrants of amounts in excess of

\$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#))-Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See [§ 200.323](#).

(K) See [§ 200.216](#).

(L) See [§ 200.322](#).

IN WITNESS WHEREOF the parties hereto have executed this contract as of the day and year first indicated by their respected names, which shall only become effective on the date it is signed by the Governor of Guam.

CONTRACTOR

Manager
Design/Project Management

Date: _____

DOE Superintendent
Department of Education

Date: _____

CLEARED AS PER BBMR'S REVIEW:

LESTER L. CARLSON, Jr.
Director
Bureau of Budget Management and Research

Date: _____

GOVERNMENT

VINCENT P. ARRIOLA
Director
Department of Public Works

Date: _____

CERTIFIED FUNDS AVAILABLE:

DOE
Certifying Officer
Department of Education

Date: _____

Allotment No.:

Amount:

APPROVED AS TO LEGALITY AND
FORM:

DOUGLAS B. MOYLAN

Attorney General

Date: _____

APPROVED:

LOURDES A. LEON GUERRERO

Governor of Guam

Date: _____

ATTACHMENT: "A-9"

ACKNOWLEDGEMENT OF RECEIPT FORM

Please acknowledge receipt of:

Project Name: Design-Build of 20 Temporary Classroom School Facilities for Students from Simon Sanchez High School

Project No.: _____

Name of Prospective Offeror _____

Name of person receiving IFB _____

Signature _____

Date _____

Time _____

Contact Person regarding IFB _____

Company/Firm _____

Title _____

E-mail Address _____

Contact Number _____

Fax Number _____

Address _____

PERFORMANCE AND PAYMENT BONDS

KNOW ALL MEN BY THESE PRESENTS that _____

(Name of Contractor)

hereinafter called the Contractor and _____

(Name of Surety)

a corporation duly organized under the laws of the State of _____
and authorized to transact business in Guam, as Surety, are held and firmly bound unto the
Government of Guam, as obligee, hereinafter called the Government for use and benefit of
claimants as herein below defined, in the amount of
_____ Dollars (\$_____) for the
payment whereof the Contractor and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has by written Agreement dated _____, 2025
entered into a Contract with the Government for the **"Design-Build of 20 Temporary Classroom
School Facilities for Students from Simon Sanchez High School, Project No.: 730-5-1060-F-
YIG"** in accordance with Drawings and Specifications prepared by the Department of Public
Works, which Contract is by reference made a part hereof, and is hereinafter referred to as the
Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor
shall promptly and faithfully perform said Contract, and shall promptly make payment to all
claimants as hereinafter defined for all labor and material used or reasonably required for use in
the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full
force and effect, subject, however, to the following conditions:

- A. The Surety hereby waives notice of any alteration or extension of the time made by the
Government provided the same is within the scope of the Contract.
- B. Whenever Contractor shall be and is declared in default by the Government to be in default
under the Contract, the Government having performed territorial obligations thereunder,
the Surety may promptly remedy the default or shall promptly:

1. Complete the Contract in accordance with its terms and conditions; or
 2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Government and the Surety of the lowest responsive, responsible bidder, arrange for a Contract between such bidder and the Government, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less than balance of the Contract price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price", as used in this paragraph shall mean the total amount payable by the Government to Contractor under the Contract and any amendments thereto, less the amount properly paid by the Government to Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Government or successors of the Government.
- C. A claimant is defined as one having a direct contract with the Contractor or with a subcontractor of the Contractor for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
- D. The above-named Contractor and Surety hereby jointly and severally agree with the Government that every claimant as herein defined, who has not been paid in full before the expiration of a period of forty five (45) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Government shall not be liable for the payment of any costs or expenses of any such suit.
- E. No suit or action shall be commenced hereunder by any claimant:
1. Unless claimant, other than one having a direct contract with the Contractor, shall

have given written notice to any two of the following:

The Contractor, the Government, or the Surety above named, within forty five (45) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Contractor at any place the principal maintains an office or conducts its business.

2. After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.
3. Other than in a court of competent jurisdiction in and for the Territory of Guam.

- F. The amount of the payment bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED THIS _____ day of _____, 2025, A.D.

IN THE PRESENCE OF:

**(Note: If the Principals are Partners, each
must execute the Bond)**

(WITNESS)

(CONTRACTOR) (SEAL)

(TITLE)

(MAJOR OFFICER OF SURETY)

(MAJOR OFFICER OF SURETY)

(TITLE)

(TITLE)

(RESIDENT GENERAL AGENT)

TEMPORARY ALIEN PREVAILING WAGE RATES

N40192-16-R-2800
Attachment 2

EDDIE BAZA CALVO
Governor



RAY TENOMBE
Commissioner, Department of Labor

Office of the Governor of Guam

COMMON CONSTRUCTION PREVAILING WAGE RATES FOR GUAM

Pursuant to 8 CFR 214.2(h)(6)(v)(F)(2), U.S. Citizenship and Immigration Services (USCIS) must approve specific wage data and prevailing wage rates used for construction occupations on Guam. The following prevailing wage rates apply only to H-2B workers and similarly employed U.S. workers on Guam. USCIS has reviewed the Government of Guam's proposed rates and has approved the adjusted rates. These rates shall be effective for Temporary Labor Certification applications filed on or after Tuesday February 16, 2016.

<u>OCCUPATION</u>	<u>HOURLY WAGE RATES</u>
CAMP COOK	\$10.54
CARPENTER	\$14.20
CEMENT MASON	\$14.33
ELECTRICIAN	\$18.63
HVAC and REFRIGERATION MECHANICS	\$16.76
CONSTRUCTION EQUIPMENT MECHANIC	\$17.63
HEAVY EQUIPMENT OPERATOR	\$15.40
REINFORCING METAL WORKER	\$13.62
PAINTER	\$14.33
PIPEFITTER	\$17.41
PLASTERER	\$15.24
PLUMBER	\$17.41
SHEET METAL WORKER	\$15.92
STRUCTURAL STEEL WORKER	\$13.34
WELDER	\$17.92

These prevailing wage rates are effective for both new and extension temporary labor certifications. The prevailing wage rate on applications approved prior to the implementation of these new rates shall remain in effect for the duration of the existing labor certifications.

For further information, please contact Maria Connelley, Director of Labor, at (671) 475-7075, or Greg Massey, Administrator for the Alien Labor Processing & Certification Division (ALPCD) at (671) 475-8005.

/s/ EDDIE BAZA CALVO
Governor of Guam

FEB 16 2016

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USDOL WAGE AND BENEFITS RATE DETERMINATION

"General Decision Number: GU20220001 01/03/2025

Superseded General Decision Number: GU20240001

State: Guam

Construction Types: Building, Heavy, Highway and Residential

Excludes any projects funded under the National Defense Authorization Act 2010 - Guam Realignment Fund - Defense Policy Review

County: Guam Statewide.

BUILDING, HEAVY, HIGHWAY AND RESIDENTIAL

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026. Please note that this Executive Order applies to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1)

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022.	Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$17.75 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 2025.
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The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/govcontracts>.

Modification Number
0

Publication Date
01/05/2025

* SUGU2020-001 03/05/2020

	Rates	Fringes
CARPENTER	\$ 15.48 **	
CEMENT MASON	\$ 14.92 **	

ELECTRICIAN	\$ 18.52
HEAVY EQUIPMENT MECHANIC	\$ 18.32
HEAVY EQUIPMENT OPERATOR	\$ 16.58 **
IRONWORKER, REINFORCING	\$ 15.61 **
IRONWORKER, STRUCTURAL	\$ 14.90 **
PAINTER	\$ 12.86 **
PIPEFITTER	\$ 16.52 **
PLASTERER	\$ 22.89
PLUMBER	\$ 16.52 **
REFRIGERATION MECHANIC (including (HVAC) Mechanic work)	\$ 18.43
SHEET METAL WORKER	\$ 16.73

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an

internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing this classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R. 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination

- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
 Wage and Hour Division
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
 Wage and Hour Division
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
 U.S. Department of Labor
 200 Constitution Avenue, N.W.
 Washington, DC 20210.

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“END OF GENERAL DECISION”

January 10, 2025

DEPARTMENT OF THE INTERIOR
and
Department of Agriculture
Department of Education
Department of Energy

Department of Housing and Urban Development
Environmental Protection Agency
Federal Emergency Management Agency
Department of Commerce

General Applicability Public Interest Waiver
Build America, Buy America Act Waiver: Pacific Island Territories

1. Summary

Agency: Department of the Interior; Department of Agriculture; Department of Education; Department of Energy; Department of Housing and Urban Development; Environmental Protection Agency; Department of Commerce; and Federal Emergency Management Agency (hereafter “the Agencies”).

Final Waiver: The Agencies are issuing a multi-agency general applicability public interest waiver of the requirements of section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for infrastructure projects funded through federal financial assistance from the Agencies to the recipients in the United States-Affiliated Pacific Island Territories (hereafter “Pacific Island territories”). For the purposes of this general applicability waiver, the Pacific Island territories are Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (CNMI). The Agencies propose to waive BABA requirements for recipients in the Pacific Island territories due to the longstanding supply chain challenges that their unique geographical barriers create for the territories, including high shipping costs, infrequent shipping to and from the mainland, and limited market purchasing power so that they can manage their federally funded activities effectively. The duration of this waiver is from the effective date to five (5) years following the effective date. The waiver is applicable to federal awards obligated during the five-year effective period and apply throughout the period of performance for such awards. In the case of awards obligated prior to the effective date of the final waiver, the waiver will be applicable to expenditures made on or after the effective date and for the remainder of the period of performance of the award.

The waiver waives BABA requirements for all iron and steel, manufactured products, and construction materials for public infrastructure projects funded by the Agencies in the Pacific Island territories except for the following items that have been identified as having critical supply chains that are essential to U.S. strategic interests:

■. Telecommunications infrastructure:

- Telecommunications equipment used to transmit and receive digital signals across constructed networks (e.g., vaults, cabinets, routers, switches, optical line terminals)

(OLTs), optical network terminals (ONTs), wi-fi capable customer equipment, and other electronic hardware used to connect the network). This includes:

- . Video surveillance equipment, including any equipment that is used in fixed and mobile networks that provides advanced communications service in the form of a video surveillance service, provided the equipment includes or uses electronic components. This encompasses any equipment that can be used in a fixed or mobile broadband network to enable users to originate and receive high quality voice, data, graphics, and video telecommunications using technology with connection speeds of at least 200 kbps in either direction.
 - . Broadcasting equipment, including radio frequency devices contained in electronic-electrical products that are capable of emitting radio frequency energy by radiation, conduction, or other means. These products have the potential to cause interference to radio services operating in the radio frequency range of 9 kHz to 3000 GHz.²
 - Broadband equipment (e.g., fiber/coax cable, conduit, pedestals, handholes, tower structures, and other physical components used to connect to telecommunication equipment)
- . Grid-connected utility-scale energy generation and stationary storage (> 5MW)
- . Cargo handling equipment, including cranes, that are manufactured by or contain any networks, operating systems, or software identified in U.S. Maritime Advisory 2024-0026 or successor advisories.

Exclusion from this waiver does not mean that purchases of these items from non-domestic sources may not be warranted for individual projects through project-specific waivers; instead, the Agencies propose to find that items included on the list above represent items that need to be handled on a case-by-case basis. The Agencies will consider individual project waivers for the listed items should they be requested by project sponsors. For public infrastructure projects in the Pacific Island territories involving these products, recipients have the option to request a project-level nonavailability waiver, if necessary.

Waiver Type: Public Interest

Waiver Level: General Applicability, Regional

1. <https://www.fcc.gov/laboratory-division/equipment-authorization-approval-guide/equipment-authorization-system#step2>
2. <https://www.fcc.gov/oet/ea/rfdevice>
3. 2024-002-Worldwide-Foreign Adversarial Technological, Physical, and Cyber Influence
<https://www.maritime.dot.gov/msci/2024-002-worldwide-foreign-adversarial-technological-physical-and-cyber-influence>

Waiver Justification Summary: This waiver is consistent with the public interest because it reduces the administrative burden to potential Federal financial assistance recipients, including extremely

remote communities in the Pacific Island territories, where complying with domestic sourcing requirements presents geographical obstacles and challenges that could significantly negate the benefits of their projects and could perpetuate systemic barriers to opportunities and benefits equitably to all within these territories. Additional information is provided below.

Length of the Waiver: This waiver will remain in effect for five (5) years from the effective date of this waiver. The waiver applies to all federal financial assistance awards obligated after the effective date and, in the case of awards obligated prior to the effective date, all expenditures for non-domestic iron, steel, manufactured products, and construction materials incurred after the effective date. This waiver, if finalized, would be reviewed as often as necessary to determine if the conditions necessitating the waiver have changed.

2. Background

The Buy America Preference set forth in section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), requires all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), a Federal agency may waive the application of the Buy America Preference, in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. All waivers must have a written explanation for the determination; provide a period of not less than 15 calendar days for public comment on the waiver; and was submitted to the Office of Management and Budget, Made in America Office for review to determine if the waiver is consistent with policy.

The Office of Management and Budget’s Memorandum M-24-02, “Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure,” dated October 25, 2023, provides that agencies may consider whether it is in the public interest to waive application of a Buy America preference based on a variety of policy considerations, including for equity purposes. The Agencies have identified a need for such a waiver in the Pacific Island territories.

The Agencies previously published separate agency-specific temporary waivers for BABA requirements for the Pacific Island territories:

- Department of Commerce (effective September 1, 2023, expires March 1, 2025);
- Department of Education (effective January 2, 2024, expires January 2, 2025);
- Department of Energy (effective August 18, 2023, expires February 18, 2025);
- Department of Housing and Urban Development (effective November 15, 2023, expires February 15, 2025);
- Department of the Interior (effective August 15, 2023, expires February 15, 2025);
- Environmental Protection Agency (effective July 5, 2023, expires January 5, 2025); and
- Federal Emergency Management Agency (effective August 1, 2023, expires February 1, 2025).

Summary of Funding Programs: The Agencies provide grants to the three Pacific Island territories of Guam, American Samoa, and CNMI via multiple funding programs, though total federal financial assistance to the Pacific Island territories is much less than 1% for each of the Agencies.

The majority of Department of the Interior (DOI) financial assistance awards to Pacific Island territories provide funding to state government agencies such as the Department of Homeland Security, Department of Public Works, Department of Power Authority, Department of Marine and Wildlife Resources, and Department of Port Administration. Examples of current DOI funded programs include, but are not limited to capital improvement projects, energy programs, maintenance and repair of roads, water and waste treatment facilities, and ports. The DOI provided \$97.2 million for infrastructure assistance to the Pacific Island territories in FY 2024.

For the Environmental Protection Agency (EPA), most of the funding provided as grants to the Pacific Island territories has been for drinking water and clean water infrastructure projects that are conducted by the Pacific Islands' drinking water and wastewater utilities, as well as other EPA-funded infrastructure projects. In FY 2024, EPA awarded the Pacific Island territories over \$327 million (which may include revisions to earlier grants) through EPA's various grant programs where infrastructure is an eligible activity and may be subject to BABA.

In FY 2024, the Department of Education awarded over \$32 million dollars in educational grant programs that could potentially be used for infrastructure spending that could be subject to domestic content requirements. The majority of this funding was provided as special education grants to states, with much smaller amounts having been awarded to rehabilitation services grants to states, special education grants for infants and families, and higher education aid programs.

The Federal Emergency Management Agency (FEMA) awarded the Pacific Island territories just over \$8 million dollars in FY 2024 through different subagency grants. Note that disaster funding is not subject to BABA and is therefore not included.

In FY 2024, the Department of Energy (DOE) awarded the Pacific Island territories \$15.7 million dollars to support energy efficiency and conservation and grid resilience projects.

The Department of Agriculture (USDA) awarded more than \$39 million to the Pacific Island territories over the course of FY 2022 and FY 2023. This was largely driven by grants for the Rural Utilities Service and the Forest Service.

The Department of Housing and Urban Development (HUD) spent approximately \$15.4 million in FY 2024 for public housing maintenance and repair and community planning and development.

3. Waiver Justification

The Agencies propose a public interest waiver to waive BABA requirements for infrastructure projects located within the Pacific Island territories. The duration of the waiver is five (5) years from the effective date of the final waiver.

Economies in the Pacific Island territories do not have available land nor sufficient local demand to sustain local manufacturing. In addition, the Pacific Island territories are over 5,000 miles from the mainland United States and must therefore largely rely on established regional supply chains from east Asia, Australia, and New Zealand. Accordingly, in the Pacific Island territories most goods, equipment, materials, and supplies rely on shipping with associated timelines (which could

have long lead times) and have unpredictable shipping fuel cost fluctuations. Moreover, sourcing materials from the United States leads to additional shipping fees and longer lead times, thus significantly extending construction activity schedules and delaying project completion dates.

The Agencies have reviewed the U.S. International Trade Commission's 2023 report U.S.-Pacific Islands Trade and Investment: Impediments and Opportunities, which noted the geographic isolation, high costs of shipping, dependence on imports, regulatory barriers, limited economies of scale, and environmental challenges as persistent barriers that the Pacific Island territories face. Additionally, the lack of available land on the Pacific Island territories creates barriers for developing new manufacturing and assembly facilities. Those infrastructure products readily available and produced locally on the Pacific Islands, such as aggregates and cement products, are mostly statutorily exempt from BABA requirements. For these reasons, the Agencies are concerned that complying with the domestic sourcing requirements in BABA may increase already elevated project timelines and costs.

The Agencies propose to find that it is in the public interest to waive the BABA requirements for Federal financial assistance awarded for infrastructure projects in the Pacific Island territories. The Agencies are concerned that failure to provide these remote recipients such flexibilities could perpetuate systemic barriers to opportunities and benefits and limit the Agencies' abilities to deliver resources and benefits equitably to all in these Pacific Island territories. Additionally, the Agencies would need to dedicate significant staff and contractor time to assist extremely remote communities with implementing domestic sourcing requirements for the first time and to support with increased workload to process project-specific waivers.

In considering this waiver, the Agencies engaged in many outreach efforts to Pacific Island territories through meetings, webinars, workshops, and other technical assistance to help them better understand the BABA requirements and to gauge the impacts of BABA implementation.

On August 1, 2024, DOI, along with the Department of Transportation, hosted a listening session regarding BABA implementation in the Pacific Island territories during the Territorial Climate and Infrastructure Workshop. The workshop included many representatives from various Territorial agencies/departments who commented that BABA requirements would result in significant cost increases and delays in project timelines. This feedback was also shared from these Territory stakeholders during prior year workshops. In addition, in February 2023, DOI hosted the Interagency Group on Insular Areas, when the Governors of the Territories expressed concerns related to BABA implementation and potential project delays and requested that federal agencies be flexible in these requirements, including consideration of waivers. DOI also conducted five (5) webinars on BABA requirements, where participants identified significant challenges of applying BABA requirements in a small, geographically remote territory.

The other Agencies have also conducted outreach efforts to the Pacific Island territories and received similar feedback. For example, the Pacific Island territories have cited their isolated location in the Western Pacific and reliance on ocean freight as the only mode of transporting commodities to the island as creating significant challenges in obtaining materials from domestic sources, with impacts on both project costs and delivery schedules. The territories have also indicated that shipping construction materials from the continental United States raises shipping costs by approximately 30 percent above the cost to ship directly to the islands from Asia. In addition, representatives from American Samoa have indicated to FEMA, that "As a containerized community, our territories depend on goods, equipment, materials, and supplies to be imported." They further stated that "we can purchase equipment from foreign countries closer to American

Samoa and with reasonable prices and shorter shipping time.” American Samoa representatives also noted that availability of materials from nearby foreign countries such as New Zealand and Australia would result in a significant cost savings to the grantors.

Anticipated Program Impacts Absent a Waiver: Without the waiver, infrastructure projects located within the Pacific Island territories will experience challenges with product delivery, availability, reliability, and project scheduling. Infrastructure project schedules rely on readily available products delivered within reasonable timeframes. Due to the extreme distances that manufacturers for products produced in the mainland United States would have to ship products to the Pacific Island territories and due to the lack of existing local product supply networks for these products, manufacturers may not be able to assure on-time delivery of compliant products and associated projects in the Pacific Island territories could potentially face unreasonable scheduling uncertainty.

4. Assessment of Cost Advantage of a Foreign-Sourced Product

Under OMB Memorandum M-24-02, agencies are expected to assess “whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products” as appropriate before granting a public interest waiver. The Agencies have concluded that this assessment is not applicable to this waiver. As the Agencies periodically review this waiver, they will perform additional market research as BABA implementation progresses to better understand the market in the Pacific Island territories and to limit the use of waivers caused by dumping of foreign-sourced products.

5. Summary of Comments

This notice posted for fifteen (15) days on December 11, 2024, and closed on December 26, 2024, satisfies the requirement to publish any proposed BABA waiver and provide the public with a reasonable period of time for notice and comment.

Agencies received 19 comments related to the proposed waiver with input from Territories, non-governmental organizations, private enterprise, and citizens. All but two of the commenters supported the proposed waiver. A summary of the comments is provided below:

Several comments raised concerns with the list of excluded manufactured products from this waiver for national security purposes. Some cited that excluding certain broadband products impacts the flexibility in sourcing materials that are crucial for timely project execution. Another comment noted similar concerns related to video surveillance equipment. Agencies found that the exclusion list includes those manufactured products that need to be handled on a case-by-case basis due to national security and other important public interests. Exclusion of certain manufactured products from this waiver does not mean that purchases from non-domestic sources may not be waived for individual projects. For public infrastructure projects in the Pacific Island Territories involving excluded manufactured products, recipients have the option to request a project-level nonavailability waiver for Agency consideration. Further awards which have already been obligated under the Department of Commerce’s National Telecommunications and Information Administration’s (NTIA) Broadband Equity, Access, and Deployment (BEAD) Program or Tribal Broadband Connectivity Programs (TBCP or TBCP 2) are, in general, covered by existing BABA waivers, including the BEAD, TBCP, and TBCP 2, that can be found on the Department of Commerce website: <https://www.commerce.gov/oam/build-america-buy-america>.

One comment noted that while the waiver of Buy America provisions for steel in U.S. territories is a practical measure to address procurement challenges, it is essential to enforce ASTM compliance for all materials. Nothing in this waiver would exempt the need for products to meet required standards, including ASTM standards.

Two of the commentors objected to the waiver of the BABA requirements outright, noting that granting a waiver undermines the Buy America Preference, and will likely lead to reliance on foreign sourced goods. The Agencies determined that this waiver is consistent with the public interest because it reduces the administrative burden to potential Federal financial assistance recipients, including extremely remote communities in the Pacific Island territories, where complying with domestic sourcing requirements presents geographical obstacles and challenges that could significantly negate the benefits of their projects and could perpetuate systemic barriers to opportunities and benefits equitably to all federal financial assistance recipients within the territories.

Another opposing comment objected to the waiver's 15 day comment period, noting that additional time is needed to evaluate the impact of this waiver. OMB Memorandum M-24-02 provides that before issuing a final waiver, the Federal awarding agency must make the proposed waiver and the detailed written explanation publicly available in an easily accessible location on a website designated by the Federal awarding agency and OMB. The Federal agency must also provide a period of not less than 15 calendar days for public comment on the proposed waiver; and that general applicability waivers are subject to a minimum 30-day public comment period when reviewed for modification or renewal. This notice was posted for fifteen (15) days from December 11 through December 26, 2024 and satisfies the requirement to publish any proposed BABA waiver and provide the public with a reasonable period of time for notice and comment.

After considering these comments, the Agencies are finalizing the waiver as proposed.

For more information on the Buy America Preference, please reference www.doi.gov/grants/buyamerica, www.fema.gov/grants/policy-guidance/buy-america or www.MadeinAmerica.gov.



Robert A. Farmer
Acting Deputy Assistant Administrator
Grant Programs Directorate