



**REQUEST FOR PROPOSAL  
RFP NO: PAG-020-001**

**LEGAL SERVICES**

**PORT AUTHORITY OF GUAM  
1026 Cabras Highway  
Piti, Guam 96925**

**RORY J. RESPICIO  
General Manager**

**February 2020**



**PORT OF GUAM**  
ATURIDAT / PUETTON GUAHAN  
**Jose D. Leon Guerrero Commercial Port**  
1026 Cabras Highway, Suite 201, Piti, Guam 96925  
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445  
Website: [www.portguam.com](http://www.portguam.com)



Lourdes A. Leon Guerrero  
Governor of Guam  
Joshua F. Tenorio  
Lieutenant Governor

**Request for Proposal No.  
RFP-PAG-020-001  
Professional Services for Legal Counsel**

The Port Authority of Guam (PAG), a public corporation and an autonomous instrumentality of the Government of Guam, is soliciting proposals from qualified firm or professional individuals, or companies (Offerors) to provide Professional Legal Services to the Port Authority of Guam, Jose D. Leon Guerrero, Commercial Port.

**Deadline for Request for Inquiries (RFI), is on or before Wednesday March 11, 2020 no later than 4:00pm(Chamorro Standard Time/Guam Time).** All Offerors are encouraged to submit any questions, concerns, or inquiries.


Request for Proposal (RFP) packages may be obtained at the PAG Procurement and Supply Division Office located on the 2<sup>nd</sup> floor of the PAG Administration Building, from Monday through Friday, excluding holidays, between 8:00 a.m. and 5:00 p.m., or may be downloaded via Port Authority of Guam website at [www.portguam.com](http://www.portguam.com).

**A Pre-Proposal Conference is scheduled to take place on Tuesday, February 25, 2020 at 10:00 am (Chamorro Standard Time).** Conference will be held in the Board of Directors Conference room located on the 1<sup>st</sup> floor in the Port's Administration Building. All offerors are encouraged to attend.

**Deadline for submission of all proposals is no later than 4:00 pm, Friday, March 20, 2020 (Chamorro Standard Time/Guam Time).** All proposals must be submitted to the attention of the PAG General Manager, Rory J. Respicio.

PAG shall have the right to reject, in whole or in part, proposals or offers which have been submitted in response to this RFP, and/or cancel this RFP if it is determined to be in the best interest of the PAG and/or for whatever reason allowed by law and/or regulation. This right to reject and/or cancel is pursuant to GSA Procurement Regulation 3115 (d)(2)(A).

For additional information, contact Mr. Steven P. Muna, Contract Management Administrator at (671) 477-5931/35 ext. 269 or email at: [spmuna@portguam.com](mailto:spmuna@portguam.com)

  
**RORY J. RESPICIO**  
General Manager

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## **PORT AUTHORITY OF GUAM (PAG)**

### **Request for Proposal RFP NO. PAG-020-001**

#### **LEGAL SERVICES**

#### **TABLE OF CONTENTS**

RFP Announcement  
Basic Information  
General Terms and Conditions  
Special General Provisions

**Attachment No. 1    Scope of Work**  
**Attachment No. 2    Sample Contract**  
**Attachment No. 3    Required Forms**

#### **REQUIRED FORMS**

- Special Reminder to Prospective Offerors
- Affidavit Disclosing Ownership and Commissions, **Form 002**
- Affidavit re Non-Collusion, **Form 003**
- Affidavit Re No Gratuities/Kickbacks, **Form 004**
- Affidavit re Ethical Standards, **Form 005**
- Declaration re Compliance with U.S. DOL Wage Determination, **Form 006**
- Affidavit re Contingent Fees, **Form 007**
- Special Provisions: Restriction against Sex Offenders Employed by service providers to Government of Guam from working on Government Property

**REQUEST FOR PROPOSAL (RFP)**  
**RFP-PAG-020-001**

**LEGAL SERVICES**

**BASIC INFORMATION/INSTRUCTIONS TO OFFEROR**

**I. BACKGROUND OVERVIEW:**

The Jose D. Leon Guerrero Commercial Port ("Port") is a public corporation and autonomous instrumentality of the Government of Guam, soliciting proposals from a qualified Firm/Individual (Offeror) to provide Legal Services to include, but not limited to, professional legal representation, advice, opinions, research and all matters requiring legal guidance and overview.

**II. INTRODUCTION**

- A. The Jose D. Leon Guerrero Commercial Port ("Port") will require Offeror who may be supported by a sub-consultant to be ultimately responsible for services provided as part of the Proposal of Offeror.
- B. The Port will use procedures prescribed by the Guam Procurement Act, 5 GCA §§5001-5805, and DEPARTMENT OF ADMINISTRATION General Services Administration Procurement Regulations to establish a contract. The website to review the Guam Procurement Act is [www.guamcourts.org/CompilerofLaws/GCA/Title5.html](http://www.guamcourts.org/CompilerofLaws/GCA/Title5.html) and Guam Procurement Regulations is [www.guamcourts.org/CompilerofLaws/GAR/02gar.html](http://www.guamcourts.org/CompilerofLaws/GAR/02gar.html).
- C. Offerors are expected to have, and shall have, sole responsibility for working knowledge of these laws and regulations.
- D. Issuing Office: This Request for Proposals (RFP) is issued by the Port. No oral explanations in regard to the meaning of the RFP will be made and no oral instructions will be given before award of a contract to the selected Offeror. All proposals and any inquiries of prospective Offerors regarding this RFP must be in writing and must be to the attention of:

Mr. Rory J. Respicio                      or  
General Manager  
Email: [rjrespicio@portguam.com](mailto:rjrespicio@portguam.com)

Mr. Steven P. Muna  
Contract Management Administrator  
Email: [spmuna@portguam.com](mailto:spmuna@portguam.com)

Address:     Jose D. Leon Guerrero Commercial Port  
                 1026 Cabras Highway, Suite 201  
                 Piti, Guam 96925  
                 Tel: (671) 477-5931/35 Ext. 269 Fax. # (671) 472-1439

*Except to the above person named, direct or indirect contact with Port Management, Staff,*

*Board Members or any person participating in the selection process is prohibited.*

**III. SUMMARY OF SCOPE OF SERVICES:**

The Port requires the services of a qualified firm/individual (Offeror) to provide professional legal services and representations, research and other legal duties related to maritime and cargo handling terminal operations. The scope of services can be found in **Attachment No. 1** of the RFP. At a minimum, the Offeror(s) shall have the following knowledge and skill levels:

1. Presently in private practice of law and five (5) years of private practice on Guam.
2. A minimum of five (5) years' experience in providing services to government public agencies with medium to large applicable law services.
3. Knowledge of all the laws which touch on the Port's jurisdiction including especially Maritime Law, Port Cargo Handling and Terminal Operations and securities law.
4. The required scope of services is divided into four (4) categories: general representation, maritime, special projects, and litigation (Attachment No. 1).
5. The Offeror must have the resources, personnel equipment and facility necessary to provide expeditious and professional legal services to PAG.
6. The Offeror must keep and provide detailed billings with time spent per matter.

**IV. DESCRIPTION OF THE SERVICES/WORK:**

A Preliminary Scope of Work describing the work to be performed, is detailed in **Attachment No. 1**. Upon final selection of the best qualified Offeror, the Scope of Services/Work may be modified and refined during fee negotiations.

**V. TERM AND TIME OF PERFORMANCE FOR THE WORK INVOLVED:**

1. The successful Offeror shall commence work upon execution of a fully executed contract.
2. The initial term of this contract is for a period of one (1) year with three (3) options to renew for additional one (1) year period, not to exceed total contract period of four (4) years. At time of renewal both parties must agree in writing to extend for the additional one-year period. The renewal is subject to the availability of appropriated and/or budgeted funds. If no funds are appropriated and/or budgeted in the next fiscal year, the contract may be terminated upon giving a minimum thirty (30) day written notice prior to the beginning of the next fiscal year.
3. In the event of third party involvement, any work provided by a third party will be approved by PAG before it is executed. PAG will have the authority to communicate with the third party as deemed necessary.

4. All materials resulting from this contract shall be the sole ownership of the Port Authority of Guam.

**VI. TYPE OF CONTRACT:**

A Professional Service Agreement will be consummated between the Offeror and the Port. A sample professional service agreement is attached herein as **Attachment No. 2**, for reference. The Port reserves the right to modify the Sample Agreement during the proposal period or negotiation period. The Offeror selected must be fully licensed to conduct business on Guam and licensed to practice law in Guam prior to execution of any contract resulting from this RFP.

**VII. SUBMISSION DEADLINE AND REQUIREMENTS:**

All proposals in response to this RFP solicitation shall be in writing, must be time-stamped and received at the Procurement and Supply Division, located at the 2<sup>nd</sup> floor of the Port Authority of Guam (PAG) Administration Building, and shall be to the attention of the General Manager, **no later than 4:00pm, Chamorro Standard Time (Guam Time) Friday, March 20, 2020** No proposals shall be received after such date and time. Additionally, proposals transmitted via facsimile or email will not be accepted.

Offeror must provide one (1) original, five (5) complete sets and one (1) CD or USB containing electronic file copy in PDF format. All items should be sealed in one package bearing on the outside name of the Offeror, address, and the name of the service for which the proposal is submitted and shall be submitted no later than the deadline.

**VIII. PRE-PROPOSAL CONFERENCE:**

A Pre-Proposal Conference is scheduled for **Tuesday, February 25, 2020 at 10:00 a.m., Chamorro Standard Time (Guam Time)** in the Port Board Room. No oral statements made at the Pre-Proposal Meeting by Port Personnel shall be relied on. The Port will respond in writing to all inquiries, questions, comments and suggestions.

All Requests for Information (RFI) inquiries, clarifications or questions must be submitted no later than **4:00 p.m. Chamorro Standard Time (Guam Time) Wednesday, March 11, 2020**. RFI shall reference the RFP Number, Project Title and must be addressed to the attention of the Port Authority of Guam:

To: General Manager	or	Contract Management Administrator
Mr. Rory J. Respicio		Mr. Steven P. Muna
Email: <a href="mailto:rjrespicio@portguam.com">rjrespicio@portguam.com</a>		Email: <a href="mailto:spmuna@portguam.com">spmuna@portguam.com</a>

**IX. RIGHT TO CANCEL SOLICITATION AND REJECT PROPOSALS:**

1. Late Proposals: Proposals submitted after the above submission deadline will **NOT** be accepted.

2. Multiple or Alternate Proposals: Multiple or Alternate Proposals are prohibited and shall be rejected.
3. Cancellation of Solicitation: All solicitations issued by PAG may be cancelled or rejected in whole or in part, as provided for under 5 GCA §5225 of the Guam Procurement Act.

**X. OPENING OF PROPOSALS:**

Proposals and modifications shall not be opened publicly nor disclosed to unauthorized persons but shall be opened in the presence of two or more procurement officials or designees of the Port. A register of Proposals shall be established which shall include all proposals, the name of each Offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of Proposals shall be opened for public inspection only after the contract has been awarded. Proposals of Offerors who are not awarded the contract shall not be opened for public inspection.

**XI. BUSINESS LICENSE, LICENSE TO PRACTICE LAW:**

Offeror(s) must be fully licensed to do business in Guam prior to the execution of any contract resulting from this RFP. Offeror(s) and Sub-Consultants must also be admitted to practice law in the Courts of Guam and the U.S. District Court of Guam and in good standing in all jurisdictions where licensed.

**XII. TRADE SECRETS AND PROPRIETARY DATA:**

Offerors may designate those portions of their proposal that contain trade secrets or proprietary data, which are to remain confidential. The Port will examine any such request to designate portions of proposals as trade secrets or proprietary data as confidential and determine the validity of such request prior to entering into negotiations with prospective Offeror.

**XIII. CONTENTS OF THE PROPOSAL:**

The Proposal, at the minimum, must contain the following:

**A. Transmittal Letter:**

1. A transmittal letter, prepared on the Offeror's business stationary, is to accompany the original and required copies of the Submission.
2. The purpose of this letter is to transmit the Proposal and should be brief.
3. The letter must be signed by an individual who is authorized to bind the Offeror to all statements contained in the submission.
4. The transmittal letter must make reference to the RFP number and Professional Services that Offeror is responding to.

**B. Statement of Qualifications and Experience of Offeror:**

The proposal should demonstrate the ability of the Offeror to perform and provide the services enumerated in the Scope of Services/Work attached herein as Attachment No. 1. The Statement of Qualifications must be current, accurate, and complete; thus, shall include the following:

1. Name of Offerors firm and year organized (includes address, telephone number, emails, websites etc.
2. Provide a list of Principals in the firm, include a biographical sketch of each. Identify their abilities, qualifications, experience, education, years of legal experience, years of local economic development legal experience and any areas of specialty within the field of maritime law.
3. Provide the name of principal in the firm who will have responsibility for the Jose D. Leon Guerrero Commercial Port's dealing with the firm.
4. Attach a list of attorneys who will provide service to the Jose D. Leon Guerrero Commercial Port. Include a description of these attorney's education, years of legal experience, years of economic development legal experience, and information on any areas of specialty within the field of maritime law.
5. Provide a list of current governmental clients, a contact person for each, and a telephone number for the contact person.
6. If your firm has represented the Government of Guam during the last five (5) years that it no longer serves as an attorney, please provide the following information:
  - Name of Government Agency or Department.
  - Name of Contact Person.
  - Reason you no longer represent that Government Agency or Department.
7. Provide information regarding the number of government or federal court cases actually tried to verdict or judgement during the past five (5) years. This data should be provided for the firm, and for each attorney in the firm that will provide a significant level of service to the Jose D. Leon Guerrero Commercial Port. Information should include the percentage of cases "won".
8. Provide the information requested in number 7 above for eminent domain cases in which the firm represented the condemning agency.
9. Please list any clients that you currently represent that could cause a conflict of interest with your responsibilities with the Jose D. Leon Guerrero Commercial Port. Describe how you are willing to resolve these or any conflict of interest.

10. If your firm has filed any litigation in the last five (5) years in which a Government of Guam agency/department was a defendant, please describe the case(s).
11. Please provide proof of a malpractice policy in an amount of \$1 million aggregate and an agreement to keep in effect while representing the Jose D. Leon Guerrero Commercial Port.
12. A statement the Offeror has established and implemented an Affirmative Action Plan.
13. A letter affirming the existence of a Drug Free Workplace Program and Policy at the firm.
14. A statement of agreement with the Port's General Terms and Conditions and the Special General Provisions, which are made part of this RFP documents.
15. Certification of Admission to the Guam BAR Association and Certificate of Good Standings as an Attorney.
16. All items submitted in response to the RFP become the property of the Port and none will be returned.

**XIV. SELECTION OF BEST QUALIFIED PROPOSER AND PROPOSAL:**

1. **Evaluation and Ranking:** After receipt of all proposals, the Evaluation Committee established by the General Manager, will conduct an independent evaluation of all proposals received under this solicitation. Each proposal shall be evaluated according to the criteria as reflected herein and shall be ranked accordingly. The ranking of the proposals will be based on the total points awarded to the proposals by each Evaluation Committee member. Each proposal shall be evaluated on the following evaluation factors using a scale of one (1) to one hundred (100).

**Offerors may be required to be interviewed or hold discussions with the Evaluation Committee to clarify certain items from the submitted proposal. These discussions, if any, will be in accordance with the Guam Procurement Laws.**

In the event of a tie between two or more evaluation scores, Offerors shall be invited to appear before the evaluation committee for further interviews for the purpose of breaking this tie.

2. **Selection:** The selection of the best qualified responsible, responsive offeror shall be the highest rank offeror. A "Short Listing" will be established based on the ranking results of the evaluation process. The PAG reserves the right to short-list to a maximum of three (3) qualified Offerors.

The highest ranked Offeror will be selected to enter into negotiations with the Port. If an agreement can be reached as reasonable fees, a contract will then be prepared

for signatures by both parties. The signature of the Port's General Manager or his designated representative is the only signature that will bind the Port.

If the Port is unable to negotiate a contract with the highest ranked Offeror, the General Manager or designee, may re-solicit for offers or enter into negotiations with the next highest ranked offeror based on the established short list.

Note: This procurement involves the development of specifications that will be used in future procurements and the awarded offeror will be disqualified from participating in future procurements relating to this service.

**3. Mandatory features:**

- a. Delivery of a Proposal with a Technical portion/volume;
- b. The Proposal and transmittal letter are signed by an individual authorized to bind the company or firm;
- c. The Proposal is valid for ninety (90) days from the deadline or close of the RFP;
- d. The minimum format and content required by the RFP is presented in the Proposal;
- e. Compliance with the Required Forms identified in Section XVII;
- f. Contract Terms and Conditions described in the RFP have been agreed to.
- g. Compliance to specific requirements:
  1. Evidence of statement the firm has established and implemented an Affirmative Action Plan.
  2. Evidence or statement of establishment and implementation of a Drug Free Workplace Program:

Failure to comply with any of the aforementioned mandatory features or requirements shall result in the disqualification or rejection of the submitted Proposal. Minor irregularities in the Proposals that are immaterial or inconsequential in nature may be waived by the Committee whenever it is deemed in the best interest of the Commercial Port.

**XV. EVALUATION CRITERIA:**

The following factors and their relative importance that will be used in the evaluation of the proposals are:

1. A detailed plan with how the scope of services/work will be accomplished to include time and personnel resources, and schedule of activities. **(Max 20 points)**
2. The ability, capacity, flexibility, financial stability and skill of the Offeror to perform the contract. **(Max 20 points)**
3. The Offeror(s) record of past performances as it relates to the scope of services detailed in Attachment No.1 of this RFP. **(Max 20 points)**
4. The professional qualifications of personnel or the individuals who would perform or provide the required services. Qualifications refers to the education

and technical/or professional training with particular reference to the specified scope of services in Attachment No. 1, attached hereto. **(Max 20 points)**

5. The ability to keep legal expenses in control. **(Max 20 points)**

**XVI. FEE PROPOSALS:**

Offerors **shall not** submit any cost or pricing data with their proposal. Fee proposal will be solicited by the Port upon selection of the highest ranked proposal and be submitted at a time and in a format as determined by the Port.

**XVII. REQUIRED FORMS:**

Offerors must submit all forms required in this solicitation. Failure to submit any of the required forms may result in disqualification and rejection of the Offeror's proposal. The following required forms to accompany the Offeror's proposals are included and made part of this RFP:

1. Special Reminder to Prospective Offerors: This form is the checklist of the required forms to be submitted accompanying the proposals. By completion and submittal of this form, the offeror acknowledges and understand its intent and implications. Offerors are held responsible for ensuring that all documents required in this RFP, which may not appear on the checklist, are submitted with their proposal.
2. Affidavit Disclosing Ownership and Commissions: Guam Law requires that any partnership, sole proprietorship, or corporation doing business with the government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship, or corporation at any time during the twelve (12) month period immediately preceding submission of the Proposal.

The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have been held by each such person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity, or other compensation for procuring or assisting in obtaining business related to the work described in this RFP for the Offeror and shall contain the amounts of such commission, gratuity, or other compensation. The affidavit shall be opened and available to the public for inspection and copying.

1. Affidavit Disclosing Ownership and Commissions, **AG-Form 2**
2. Affidavit re Non-Collusion, **AG-Form 3**
3. Affidavit re No Gratuities or Kickbacks, **AG-Form 4**
4. Affidavit re Ethical Standards, **AG-Form 5**

5. Declaration re Compliance with U.S. DOL Wage Determination, **AG-Form 6**
6. Affidavit re Contingent Fees, **AG-Form 7**
7. Special Provisions: Restriction against Sex Offenders Employed by service providers to Government of Guam from working on Government Property

**\*\*\* END OF BASIC INFORMATION \*\*\***

## **GENERAL TERMS AND CONDITIONS**

### **1. AUTHORITY:**

This Request for Proposal (RFP) solicitation is issued subject to all the provisions of the Guam Procurement Act (Public Law 16-124) and the Guam Procurement Regulations (copies are available for inspection from the following website:

- [www.guamcourts.org/CompilerofLaws/GCA/Title.html](http://www.guamcourts.org/CompilerofLaws/GCA/Title.html)
- [www.guamcourts.org/CompilerofLaws/GAR/\)/gar.html](http://www.guamcourts.org/CompilerofLaws/GAR/)/gar.html)

The RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

### **2. EXPLANATION TO OFFERORS:**

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

### **3. METHOD OF AWARD:**

The PAG reserves the right to waive any minor informality or irregularity in proposals received. The PAG shall have the prerogative to award, amend, or reject proposals in whole or in part. It is the policy of the PAG to award contracts to selected Offerors duly authorized and licensed to conduct business in Guam.

### **4. REJECTION:**

The PAG shall have the prerogative to reject proposals in whole or in part for if a determination is made that such action is in the best interest of the PAG.

### **5. TAXES:**

Offerors are cautioned that they are subject to Guam Income Taxes as well as other taxes on Guam transactions. Specific information on taxes may be obtained from the Department of Revenue and Taxation.

### **6. LICENSING:**

Offerors are cautioned that PAG will not consider for award any offer submitted by a proposer who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Department of Revenue and Taxation.

**7. COVENANT AGAINST CONTINGENT FEES:**

The Offeror warrants that he has not employed any person to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the PAG the right to terminate the contractor, or in its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contract or sales secure or made through bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

**8. JUSTIFICATION OF DELAY:**

The Offeror who is awarded the proposal guarantees that the service will be completed within the agreed upon completion date. If, however, the Offeror cannot comply with the completion requirement, it is the Offeror's responsibility to advise the PAG in writing explaining the cause and reason of the delay.

**9. EQUAL EMPLOYMENT OPPORTUNITY:**

In compliance with the 14<sup>th</sup> Amendment to the Constitution, Section 5 (Bill of Rights) and 9(a) (Merit System), and federal laws; Title VI and VII of the Civil Rights Act.; the Civil Rights Act of 1991; Title I of the American Disabilities Act; the Equal Pay Act; the Age Discrimination in Employment Act; Section 504 of the Vocational Rehabilitation Act; Title IX of the Education Amendments of 1972; other pertinent federal laws and Guam laws; Title 4 of the Guam Code Annotated; Title 17, Chapter 2 of the Guam Code Annotated; Public law 14-28, Section 5; Public Law 15-17; Public Law 28-68; Public law 28-112 and other pertinent laws, it is the intent of the Government of Guam, hereinafter the Government:

A. To provide equal employment opportunity for all applicants and employees to compete and be considered for jobs on the basis of merit and ability to perform, and to prohibit discrimination in any aspect, term, condition or privilege of employment on the basis of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status, or political affiliation and retaliation. \*Such discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration is prohibited.

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- *Except where specific factors legally constitute a bona fide occupational qualification or in the case of specifically funded programs to facilitate employment of disadvantaged persons, but only with the prior approval of the Equal Opportunity Administrator.*

B. To carry out all government programs and activities in compliance with applicable Federal and Territorial laws and in such a manner that no person shall, on a basis of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status, or political affiliation and retaliation be excluded from participation in, be denied the benefits of, or be subjected to discrimination with respect to any program or activities.

**10. ASSIGNMENT:**

Assignment will not be accepted without prior approval from PAG. Request for approval of assignment must be made with submission of proposal. No assignment will be accepted if request is not made with the proposal.

**11. DETERMINATION OF RESPONSIBILITY OF PROPOSER:**

The PAG reserves the right for securing from Offerors information necessary to determine whether or not they are responsible and to determine the responsibility in accordance with Section 3116(2) of the Guam Procurement Regulations.

**SPECIAL GENERAL PROVISIONS**

**1. PROPOSALS:**

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

**2. GENERAL INTENTION:**

Unless otherwise specified, it is the declared and acknowledged intention and meaning of these Special General Provisions and General Terms and Conditions for the Offeror to provide the PAG with specified services.

**3. AUTHORIZED REPRESENTATIVE AND CONTACT FOR CONTRACT ADMINISTRATION:**

All proposals submitted in response to this RFP shall be signed by an individual authorized to bind the Offeror to all statements, information and the services contained in the proposal. The Offeror is required to include in the proposal a written authorization designating a representative for the purpose of negotiating and executing a contract pursuant to this RFP and allowing such representative to negotiate on behalf of the Offeror. The authorization shall include:

- a. Name of Authorized Person
- b. Title of the Authorized Person
- c. Contact Numbers: Office, Fax, Mobile Phone
- d. E-mail address, if any.

**4. DISCUSSIONS:**

The PAG may conduct discussions with all qualified Offerors who are prepared to discuss their proposals for the purpose of clarifying questions regarding the Proposal content and to afford Offerors an opportunity to further explain or clarify Proposal details. All qualified Offerors will be provided full and equal treatment with respect to any opportunity for discussion. During discussions, there shall be no disclosure of any information derived from proposals submitted by competing Offerors.

Offerors will be afforded an opportunity to clarify and revise their proposals prior to the conclusion of discussions and prior to final ranking by the Evaluation committee. There will be no official call for best and final proposals. The submission of revisions pursuant to discussions will be optional and at the sole discretion of individual Offerors. All discussions with the Offeror will be recorded and preserved for the procurement record.

**5. PAYMENT:**

Payment shall be made using a method mutually agreed upon by the PAG and the successful Offeror.

**6. RECEIPT AND HANDLING OF PROPOSALS:**

Envelopes containing proposals shall be sealed and marked on the outside with the name and address of the Offeror, the description of the services being solicited and the time and date of submission. Telegraphic proposals will not be considered, nor will modification by telegraph of proposals already submitted not be considered. Proposals shall be mailed or hand carried so as to be received on or before the submission deadline as indicated in the RFP document. All Proposals received, hand delivered or through the mail, after the established submission date and time will not be accepted and shall be deemed "late proposals".

Proposals and modifications shall not be opened nor disclosed to unauthorized person but shall be opened in the presence of two or more procurement officials or designees of the PAG. A Register shall be established which shall include all proposals, the name of each Offeror, the number of modification received, if any and a description sufficient to identify the services offered. The Register of Proposals shall be opened to public inspection only after award of the contract. Proposals of Offerors who are not awarded the contract shall not be opened to public inspection.

**7. WITHDRAWAL OF PROPOSALS:**

Proposals may be withdrawn by written or facsimile notice received by PAG at any time prior to the conclusion of any discussion that may take place between PAG and one or more Offeror. Proposals may be withdrawn in person by an Offeror's authorized

representative upon verification of the representative's authority and execution of a receipt for the Offeror's returned proposal.

Negligence on the part of the proposer, in preparing the proposal, grants no right for the withdrawal of the proposal, after it has been opened. All items submitted in response to the RFP become the property of the PAG and none will be returned.

**8. LATE PROPOSALS:**

Late proposals will **NOT** be accepted.

**9. LIABILITY FOR COST TO THE PROPOSAL:**

The PAG is not liable for any cost incurred by the Offeror in connection with this RFP. By submitting a proposal, the Offeror specifically waives any claim against the PAG for any expenses incurred in proposal preparation. Submitted proposals become the property of the PAG and will be a part of the official procurement record. Offeror's request for the return of specific proprietary material may be considered by the PAG.

**10. RIGHT TO AMEND, CANCEL OR REISSUE:**

The PAG reserves the right to amend, supplement or cancel the RFP, in whole or in part at any time, or reject any or all proposals submitted in response, or reissue the RFP, when this action serves the best interest of the PAG.

**11. CONTRACT PROVISIONS:**

The PAG reserves the right to include any part of the Offeror's Proposal in the final agreement or contract. The Offeror's Proposal may be subject to additional conditions and terms as may be imposed by the PAG during contract negotiations.

All Offerors warrant that they have not employed any person to solicit or secure any resolution contract based upon a promise for a commission, percentage, brokerage or contingent fee. Breach of such warranty shall be grounds for the PAG the right to terminate clarifying discussion or pre contract negotiations or immediately terminate any contract that has been executed pursuant to this RFP.

The PAG will conduct negotiations with the best qualified Offeror. If the best qualified Offeror and the PAG are unable to agree on the terms and conditions of a contract, then the PAG may, at its sole and absolute discretion, terminate negotiations. In such instance, the PAG will have the right to initiate negotiations with the next highest ranked Offeror.

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

## **12. SPECIAL PERMITS AND LICENSES:**

The Offeror shall, at his/her own expense, procure all permits, certificates and license and shall give all notices and necessary reports required by law for the execution of the work.

## **13. LAWS TO BE OBSERVED:**

- a. The offeror accepts sole responsibility for compliance with any/all applicable federal and local laws, codes, ordinances, and regulations which in any affect those engaged or employed in the work, or the material or equipment used in or upon the site, contemplated by this RFP. No place of misunderstanding or ignorance on the part of the Offeror of applicable laws, codes, ordinances, or regulations will in any way serve to modify any contract executed pursuant to this RFP.
- b. Restriction Against Contractors/Consultants Employing Convicted Sex Offenders from Working at Government of Guam Venues. (Subsection 5253 of Title 5 Guam Code Annotated)
  - i. 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 other than a public highway.
  - ii. 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 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.
  - iii. Duties of the General Services Agency or Procurement Administrators. All contracts, bids or Request for Proposals shall state all the conditions in §5253(b).
  - iv. Any contractor/consultant found in violations of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting

authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.

- c. **Port Security Guidelines:** Any Offeror performing work on PAG property shall be required to comply with any applicable law, regulation, or policy regarding Port security, including but not limited to 33 CFR 105 and the following conditions:
- i. Contractors/Consultants and/or vendors authorized to conduct business within the controlled or restricted areas must pre-arrange their visits a minimum of twenty-four (24) hours in advance. Such notice shall indicate contractor/vendor company name, list of employees with either Social Security number or Driver's License number requesting entry, the time and date of their anticipated visit, and the nature of the business/work.
  - ii. No personnel, visitors or other non-employees shall have access to restricted areas without Port Police clearance or escort (when required) consisting of a properly identified employee authorized access.
  - iii. The PAG Police division currently issues identification cards to Port Authority employees, tenants, users and other persons authorized to enter the Commercial Port compound. Temporary I. D.'s, is without a photo, however bears a control number and must be signed out to visitors requesting access in exchange for an acceptable valid photo I.D. The temporary I.D. card must be worn and visibly displayed on the exterior of the bearer's clothing. Lost or misplaced temporary I.D. cards must be reported immediately to the Port Police Division. Failure to report and/or return the issued temporary I.D. card constitutes a security breach and shall disallow holder to enter the terminal compound for the entire contractual period.
  - iv. Contractor/Consultant must comply with the commercial Port's Insurance Policy (Policy Memorandum 97-001); submit listing and attach copies of registrations and proof of insurance of each company vehicle and/or equipment to be utilized and brought into the area. Third party contractual services shall be required to adhere to the same conditions as the primary contractor. If third party cannot fulfill the minimum insurance requirements the primary contractor shall be responsible to ensure coverage under their policy and show proof of coverage to Commercial Port Police prior to initiating performance.
  - v. Upon clearance of company vehicle and/or equipment documents submission, temporary passes will be issued by the Commercial Port Police division. In instances where Contractor/Consultant/Vendors are required to conduct business or perform work in any of the areas within the terminal compound on a "near daily" seven (7) consecutive day basis, a written notice of twenty-four (24) hours advance notice is required.

**d. Transportation Workers Identification Credential (TWIC)**

- i. TWIC is a common identification credential for all personnel requiring unescorted access to secure areas as defined in the Maritime Transportation Security Act or MTSA-regulated facilities and vessels, and all mariners holding U.S. Coast Guard issued credentials. Transportation Security Administration will issue workers a tamper resistant "Smart Card" containing the worker's biometric (fingerprint template) to allow for a positive link between the card itself and the individual.
- ii. In accordance with a U.S. Coast Guard approved security plan, owners/operators define the areas of vessels or facilities that are "secure areas" and therefore require access control measures.
- iii. It will be the responsibility of the successful Offeror to comply with TWIC Program. For additional information, contact TSA's TWIC Program Help Desk at 1-866-DHS-TWIC (1-866-347-8924). You may also correspond by email at [uscg-twic-helpdesk@uscg.mil](mailto:uscg-twic-helpdesk@uscg.mil). For specific questions regarding implementation for 105 or 106 facilities owners/operators/facility security officer/CSO's are encouraged to seek directly from the local Captain of the Port.

**14. STATUS OF OFFEROR:**

Offeror and its officers, agents, servants, subcontractors and employees are independent contractors performing professional services for the PAG, and are not employees of either the Port or the government of Guam. Offeror and its officers, agents, servants and employees shall not accrue vacation or sick leave; participate in the government of Guam retirement system, insurance coverage, bonding, use of government vehicles or any other benefits accorded to government of Guam employees. Offeror agrees that Offeror and its employees, officers, directors, agents, servants, and subcontractors are not and will not become an employee, officer or Board member of the Port at any time during the duration of this Agreement, and will otherwise comply with the provisions of the Guam Procurement Law regarding ethics in public contracting (Title 5 Guam Code Annotated, Chapter 5, Article 11 and its associated rules and regulations). Nothing in any contract pursuant to this RFP or any action taken pursuant to this RFP shall be deemed or construed in any manner or for any purpose to evidence or establish as between Offeror and the PAG a relationship of partnership, agency, association, joint, venture or representative, not authorize any party to undertake or bind any obligation or responsibility on behalf of the other party. In addition, there shall be no withholding of taxes by the PAG for the Offeror.

**15. INSURANCE:**

The successful Offeror shall procure and maintain at their own expense all necessary comprehensive insurance for their employees including but not limited to Worker's Compensation and General Liability Insurance required by the PAG.

**16. OWNERS RIGHT TO REJECT PROPOSAL:**

The PAG may make such investigation as deem necessary to determine the ability of the Offeror to perform the work and the Proposer/Consultant shall furnish to the PAG all such information and data for this purpose as the PAG may request. The PAG reserves the right to reject Offeror if the evidence submitted by, or investigation of such Offeror fails to satisfy the PAG that such Offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein. Conditional proposals will not be accepted.

Minor irregularities in proposals that are immaterial or inconsequential in nature may be waived by the PAG whenever it is deemed in the best interest of the PAG.

**17. CONFIDENTIAL OR PROPRIETARY INFORMATION:**

Proposals of Offerors who are not awarded the contract shall not be opened to public inspection, but will be part of the official procurement record. After award, the proposal of the Offeror receiving a contract will become available for public inspection. If the Offeror selected for award has requested in writing the non-disclosure of trade secrets or other proprietary data so identified, the PAG shall examine the designated information to determine whether such information shall become proprietary. If the PAG and the Offeror are unable to agree as to the disclosure of certain portions of the Offeror's proposal, the PAG shall inform the Offeror in writing what portion of the proposal will be disclosed and that, unless the Offeror withdraws the proposal or protests under 5GCA Article 9 (Legal and Contractual Remedies) of the Procurement Act, the information may be so disclosed. [Refer to Title 2, Guam Administrative Regulations, Division 4, Section 3114(h)(2)]

**18. ETHICAL STANDARD:**

The Offeror 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 Guam's Procurement Code or Regulations pertaining to ethics in public contracting. Offeror represents that it will comply with ethical obligations under Guam Procurement Law. See 5GCA Sections 5601-5677.

**19. PROHIBITION AGAINST GRATUITIES AND KICKBACKS:**

The respondents represent that it has not violated, is not violating, and promises that it will not violate the prohibition against any kickbacks set forth in the Guam Procurement Law. The prohibition is as follows: It is a breach of ethical standards for any person to offer, give or agree to give any government employee or former government employee, or for any government employee or former government employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request influencing the content of any

specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation of proposal therefore. Further, it shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or order.

**20. APPLICABILITY OF GUAM PROCUREMENT LAW:**

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

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

# **ATTACHMENT NO. 1**

## **SCOPE OF SERVICES**

### **DESCRIPTION OF THE WORK/SERVICES REQUIRED:**

The Port requires the services of a qualified firm/individual to provide professional legal services and representations, research and other miscellaneous duties related to maritime and cargo handling terminal port operations.

The Attorney is required to provide legal representation in court and legal advice and counsel to the Board of Directors and Port management on a variety of matters pertaining to all aspects of maritime and Port cargo handling terminal port operations. These legal services will be performed by the Attorney on an as-needed basis, i.e., as an independent consultant. As such, the respondent contracts and agrees that the services will be compensated on a case by case hourly basis and that no minimum amount of periodic remuneration is implied or expected.

The scope of services to be performed by the Attorney is divided into four (4) categories: general representation, maritime, special projects and litigation. These categories are more fully described for clarification.

1. General Representation:
  - a. Attendance at the Board of Directors meetings, when required.
  - b. Consultation with Port Staff Attorney, Port management and Board of Directors via telephone or email during normal business hours.
  - c. Preparation and review of opinions as required.
  - d. Preparation and review of contracts and other documents prior to Port management and Board action.
2. Counsel in specialized maritime and Port cargo handling terminal operations
  - a. Preparation and review of opinions as required.
3. Special Projects
  - a. This category includes any unusually large projects defined as one that will require 20 hours or more of attorney time to handle.
  - b. This category shall include matters requiring securities law expertise.
4. Counsel and Litigation
  - a. This category includes both pre-trial and trial activities of all litigation filed by or against the Jose D. Leon Guerrero Commercial Port. (In the event insurance coverage is available for defense of litigation filed against the Port, the rates for pre-trial and trial activities will be mutually determined by the law firm and the insurance carrier.)

## **ATTACHMENT NO. 2**

### **SAMPLE AGREEMENT**

**AGREEMENT**  
**BETWEEN**  
**JOSE D. LEON GUERRERO COMMERCIAL PORT**  
**(PORT AUTHORITY OF GUAM)**  
**AND**  
**OUTSIDE LEGAL COUNSEL**

**THIS AGREEMENT** is entered into by and between the **JOSE D. LEON GUERRERO COMMERCIAL PORT**, also known as the **PORT AUTHORITY OF GUAM ("Port")**, a public corporation and autonomous instrumentality of the government of Guam, whose address is 1026 Cabras Highway, Suite 201, Piti, Guam 96925 ("**Authority**") and ("**Consultant**") authorized and licensed to do business in Guam, whose address is:

**WHEREAS**, the Port issued a Request for Proposal ("**RFP**") RFP No. PAG-020-001 for a consultant to perform **Professional Legal Services** for the Port Authority of Guam; and

**WHEREAS**, the Consultant responded to the RFP through submitting a proposal (Legal Services) to provide services in accordance with the RFP, (**consultant**) was selected as the highest most qualified Offeror; and

**WHEREAS**, in submitting the Proposal, Consultant warrants and represents that it possesses the necessary knowledge, resources and experience to perform the work and services herein described professionally, skillfully and diligently; and

**WHEREAS**, the Port desires to retain (**consultant**) as an independent consultant on the terms and conditions set forth in this Agreement and Consultant has agreed to accept such retainer;

**WITNESSETH**, in consideration of the mutual covenants hereinafter set forth, the Parties agree as follows:

**I. Statement of Work to be Performed.**

A. Scope of Work. The Consultant shall furnish Professional Legal Services consistent, pursuant to and in accordance with the Scope of Services as identified in Attachment No.1 of the RFP. A copy of the RFP, Consultant's Proposal and Negotiated Rates and Fees are attached as Attachment 1 & Exhibit 1 and Exhibit 2, and incorporated as part of this Agreement. Consultant shall provide status reports on the services performed and required under this Agreement upon request by the Port. Consultant recognizes that failure to perform all services required under this Agreement constitute a material breach of this Agreement.

B. Consultant Provisions of Resources. Consultant agrees to furnish all qualified personnel, facilities, tools, equipment, materials and transportation to perform the legal services and work provided for in this Agreement. Consultant represents that it and its employees possess the professional and technical expertise necessary to perform the services called for in this Agreement in a competent, professional manner, in line with the services of a typical consultant engaged in the same and similar field as Consultant herein. The Port may, in its sole discretion and based upon availability, provide staff assistance to Consultant in furtherance of this Agreement. The Consultant shall ensure that its employees engaged in work hereunder are informed of all relevant provisions of

this Agreement.

C. Other Work. The Port acknowledges and agrees that Consultant may provide services to other clients, persons or companies apart from the services performed in this Agreement, as long as the performance of such other services does not in any way conflict with or hinder the performance of services herein. In the event the Port discovers or determines that the Consultant is providing services to a third party which conflicts with or hinders the performance of services under this Agreement, Consultant must immediately cease performing those third party services upon being provided written notice by the Port and the Port may invoke any further available remedies under the terms of this Agreement.

D. Location of Services. Consultant may perform the services under this Agreement at any suitable location as approved by the Port.

## II. Term of Agreement.

A. The successful Offeror shall commence work upon execution of a fully executed contract.

B. The initial term of this contract is for a period of one (1) year with three (3) options to renew for one (1) year period, not to exceed total contract period of four (4) years. At time of renewal both parties must agree in writing to extend for the additional one-year period. The renewal is subject to the availability of appropriated and/or budgeted funds. If no funds are appropriated and/or budgeted in the next fiscal year, the contract may be terminated upon giving a minimum thirty (30) day written notice prior to the beginning of the next fiscal year.

C. All materials resulting from this contract shall be the sole ownership of the Port Authority of Guam.

## III. Compensation.

A. Compensation. In consideration for the Legal Consulting Services performed under this Agreement, the Port shall pay Consultant based on its hourly rate schedule attached hereto as Exhibit 2, for the actual time devoted to performing the services in accordance with Consultants approved work. Consultants monthly billing shall not exceed the sum of \$\_\_\_\_\_ per month without prior written approval or subsequent ratification by the Port Board of Directors. The Legal Services Fees will not exceed (\$\_\_\_\_\_ Dollar Amount) for the life of this contract, and that all work shall be performed and compensated in accordance with the terms herein and agreed upon and authorized by the Parties.

i. Time Records/Invoices. Time records will be maintained based upon the applicable hourly rates and description of work. The hourly rate shall be computed for all time spent on matters assigned by the Port, including but not limited to, time spent on telephone with Port officials and others on matters related to the Port, in negotiations, preparation of documents, court appearances, travel, legal research and in consultation with the port, other counsel and/or expert witness. The Consultant shall invoice in minimum time increments of one-fourth (1/4 or .15) of an hour. Invoices submitted shall reflect separate itemized and detailed activity, corresponding time and cost associated. Block billing will not be accepted.

B. Payment Terms. Payment shall be made upon the Payment Terms set forth

in the RFP and based on deliverables. Payment shall only become due upon the receipt and certification by the Port of documents and reports described in the RFP and upon satisfactory performance by Consultant of the services in compliance with the terms of this Agreement, and shall be payable within thirty (30) days. Upon written notification by the Port of unsatisfactory performance by Consultant, Consultant shall immediately remedy its performance. Failure to remedy said unsatisfactory performance may result in the Port taking action in accordance with Section IV of this Agreement.

C. Expenses. Consultant shall be responsible for all expenses incurred in the performance stipulated under this Agreement.

D. No Compensation Prior to Approval of Agreement. The Port shall not be liable to Consultant for any services performed by Consultant prior to full execution of this Agreement by all parties, and all Consultant expressly waives any and all claims for services performed in expectation of this Agreement prior to its full execution.

E. Final Payment. Final payment shall be made upon satisfactory performance of all services required to be performed by Consultant under this Agreement. Prior to the final payment due Consultant, and as a condition precedent thereto, Consultant shall execute and deliver to the Port a release in form approved by the Port of claims against the Port arising under this Agreement. Consultant expressly waives the provision of Section 82602 of Title 18, Guam Code Annotated, which states:

*A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.*

F. Payment. All rates and prices and payments to the Consultant shall be in the currency of the United States.

#### IV. Early Termination.

A. By the Port. The Port reserves the right to cancel or terminate this Agreement prior to its completion:

(i) Termination without Cause: The Port may terminate this Agreement, without cause, upon the delivery of written notice to the Consultant at least thirty (30) days prior to the intended date of termination;

(ii) Termination in the Best Interest of the Government of Guam: The Port may terminate this Agreement based upon a determination that such termination is in the best interests of the Government of Guam by delivering a written notice of such termination to the Consultant and the effective date of such termination. Circumstances for termination under this clause include but are not limited to Consultant's successful completion of services under this Agreement to the satisfaction of the Port.

(iii) Termination for Cause/Default: The Port shall notify Consultant in writing of deficiencies or default in the performance of its duties under this Agreement. The Consultant shall have ten (10) days, which period may be extended by the Port (said extension not to be unreasonably denied), to correct the deficiency or cure the default or to request, in writing, a hearing from the Port. The Port shall hear and act upon same within thirty (30) days from receipt of said request and shall notify the Consultant of said action. The action by the Port shall be either to

confirm, in whole or in part, the specified deficiencies or default, or find that there are no deficiencies or default, or such action as deemed necessary in the judgment of the Port. Failure of Consultant to remedy said specified default in notice by the Port within ten (10) days of receipt of such notice of such action, or such time reasonably necessary to correct the deficiency and/or cure the default, shall result in the termination of this Agreement, and the Port may be relieved of any and all responsibilities and liabilities under the terms and provisions of this Agreement.

(iv) **Effects and Responsibilities of Parties for Early Termination by the Port:** In the event of an Early Termination without cause or for the best interests of Guam under paragraphs (i) and (ii) of this section, the Consultant agrees to use all reasonable efforts to mitigate expenses and obligations hereunder with respect to such event. Following an Early Termination under paragraphs (i) and (ii) by the Port, the Port shall pay the Consultant for all satisfactory services rendered up to that point. In the event of an Early Termination by reason of an event described in clause (iii), above, the Port shall not reimburse Consultant for services performed. The Port reserves all rights at law and equity in the event of an early termination, including arising out of a default or for other causes.

B. **By Consultant.** Termination for Cause: Consultant shall notify the Port in writing of deficiencies or default in the performance of the Port's duties under this Agreement. The Port shall have twenty (20) days to correct the deficiency or cure the default, which period may be extended by Consultant (said extension not to be unreasonably denied). Upon Consultant's termination of this Agreement for cause, the Consultant shall be entitled to payment, in accordance with Section III of this Agreement, for satisfactory services rendered up to the termination date and the Port shall have no obligations to Consultant. The Consultant shall be obligated to continue performance of services, in accordance with this Agreement, until the termination date and shall have no further obligation to perform services after the termination date.

C. **Termination/Modification for Lack of Funds.** The Port may terminate or modify this Agreement based upon lack of funding. In such an event, the Port shall promptly provide notice to Consultant and within twenty (20) days of the notice, the Parties shall renegotiate the terms of this Agreement in good faith. If the parties are unable to reach an agreement on the renegotiation, then either Party may terminate this Agreement pursuant to Section IV of this Agreement as applicable.

D. **Preservation of Property.** Notwithstanding any termination of this Agreement, and subject to any directions from the Port, the Consultant shall take timely, reasonable and necessary action to protect and preserve the property in the possession of Consultant in which the Port has an interest.

E. **Additional Provisions.** In the event that either party effects an Early Termination, it is expressly provided that the Port may issue a new Request for Proposal with respect to such terminated services. This provision shall not be deemed an admission or waiver of any rights and defenses with respect to rights of either Party under this Agreement, including but not limited to, either Parties' rights to assert damages for breach of Agreement.

## **V. Contact Person.**

The Consultant agrees that, during the term of this Agreement, it shall identify a primary contact person who is familiar with the services being performed hereunder and who shall be responsive to the questions and direction of the Port. The contact person must be identified in

writing within five (5) days after full execution of this Agreement by all parties. The Port reserves the right to request replacement of the contact person designated by the Consultant under this Agreement.

## **VI. Confidentiality.**

A. Information. The Consultant hereby warrants that it shall not disclose any documents, materials or information, whether verbal, written, recorded magnetic media or otherwise (collectively, the "Information"), made available or acquired for the purpose of carrying out this Agreement. Only authorized persons shall use and have access to the Information, and then only for the period such access is required to perform services under this Agreement. All necessary steps shall be taken by the Consultant to safeguard the confidentiality of the Information in conformance with any applicable United States and Guam laws, statutes and regulations.

The Consultant shall keep copies of the Information and the provisions of this Section shall remain in effect as long as determined by the Port. All of the Information shall be returned promptly after use to the Port and all copies or derivations of the Information shall be physically and/or electronically destroyed. Consultant shall include a letter attesting to the complete return of Information and documenting the destruction of copies and derivations with the returned Information.

The Consultant shall not enter into any Agreements or discussions with a third party concerning such Information without the prior written consent of the Port, and then only if the Consultant requires the third party(ies) to agree to the terms of the confidentiality set forth herein and the Information is provided to such third party(ies) only for purposes of enabling the Consultant to discharge its responsibilities under this Agreement.

It is specifically provided that the limitations contained in this paragraph A shall not apply (i) to the extent required by applicable law, (ii) to the extent that any Information is now or hereafter becomes part of the public domain, but only to the limited extent that such Information, or any portion thereof, is in the public domain not as a result of any breach or violation of this Agreement, or (iii) to the extent that a party is directed otherwise under the terms of a valid and effective order, issued by a court of competent jurisdiction.

B. Liability. Failure to comply with the provisions of Paragraph A shall subject the Consultant to liability, including all damages and injunctive relief.

## **VII. Conflicts of Interests/Ethics**

A. The Consultant warrants and covenants that it has not violated and will not violate Guam's Procurement Law or Regulations pertaining to ethics in public contracting.

B. It is expressly understood that breach of any of the covenants or warranties in this Section on the part of the Consultant is a material breach of this Agreement and shall entitle the Port to immediately terminate this Agreement. Consultant agrees that in the event of a breach or violation of this Section, the Port shall have the right to terminate this or any other Agreement with the Consultant without liability.

C. Notwithstanding the provisions contained in this Agreement with regard to the assignment or subcontracting of any work under this Agreement, Consultant agrees that with respect to any subcontractor it engages to perform any work contemplated by this Agreement, that any Agreements it enters into with such subcontractor(s) will include provisions which parallel this

Section VII and shall require any subcontractor to execute a statement of no conflict of interests to the Port.

D. Representation Regarding Ethical Standards. The Consultant 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 Guam's Procurement Act and in Guam Procurement Regulations pertaining to ethics in public contracting. Consultant represents that it will comply with ethical obligations under Guam Procurement Law.

**VIII. Prohibition Against Gratuities and Kickbacks.**

A. 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.

B. 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 of the award of a subcontractor or order.

IX. Covenant Against Contingent Fees. The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the Port shall have the right to annul this Agreement without liability, or, in its discretion to deduct from the contract price of consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**X. Waiver.**

No waiver by any party of any right on any occasion shall be construed as a bar to or waiver of any right or remedy on any future occasion.

**XI. Severability.**

If any provision of this Agreement shall be held or deemed by a court of competent jurisdiction to be invalid, inoperative or unenforceable, the remaining provisions herein contained shall nonetheless continue to be valid, operative and enforceable as though the invalid, inoperative or unenforceable provision had not been included in the Agreement.

**XII. Survival of Warranties.**

All representations, warranties, agreements, covenants and obligations in this Agreement shall be deemed to have been relied upon by the other party, and shall survive the completion of this Agreement and shall not merge in the performance of any obligation by any party hereto.

**XIII. Fees and Expenses.**

Each of the Parties shall bear its own expenses in connection with the negotiation and consummation of the transactions contemplated by this Agreement.

**XIV. Notices.**

All invoices, reports, correspondence, notices, requests, demands and other communications hereunder shall be in the English Language, in writing. All notices required to be given under this Agreement by either party to the other may be affected by personal delivery, or by mail (registered or certified, postage, prepaid with return receipt requested). Notices delivered personally shall be deemed communicated as of actual receipt. Mailed notices shall be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first. Notices shall be addressed and delivered to the parties as follows, provided that each party may change the address by giving the other party written notice in accordance with this section:

TO THE PORT:           PORT AUTHORITY OF GUAM  
                              Jose D. Leon Guerrero Commercial Port  
                              1026 Cabras Highway, Suite 201  
                              Piti, Guam 96925  
                              Attn: Mr. RORY J. RESPICIO, General Manager

TO CONSULTANT:       (CONSULTANT'S NAME)

Attn:

**XV. Assignment/Subcontractors.**

It is expressly acknowledged that Consultant is solely responsible for the fulfillment of its duties and obligations under this Agreement, regardless of whether or not Consultant utilizes one or more subcontractors for such purpose. The right and interest of Consultant under this Agreement (including, but not limited to, Consultant's right to or interest in any part or all of payments under this Agreement) may not be assigned, transferred or subcontracted to any other person, firm, corporation or other entity, whether by agreement, merger, operation of law or otherwise, without the prior, express written consent of the Port. In the event of a permissive subcontract or assignment of this Agreement by Consultant, Consultant agrees that any subcontractors retained by Consultant or assignees shall be subject to all provisions of this Agreement.

**XVI. Successors and Assigns.**

This Agreement shall be binding upon, and inure to the benefit of the Parties hereto and their respective successors, assigns and transferees, except as otherwise provided for under the terms of this Agreement.

**XVII. Scope of Agreement.**

This Agreement, RFP, Proposal, and Cost Proposal collectively: (i) supersede any and all other Agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof, and (ii) contain all of the covenants and Agreements between the Parties with respect to such subject matter in any manner whatsoever. The Consultant and the Port each acknowledge that no representations, inducements, promises or agreement, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in the Agreement shall be valid or binding.

In the event of a contradiction between the provisions of any of the documents collectively comprising this Agreement, Request for Proposal, RFP No. PAG-020-\_\_\_, Professional Legal Services, and the Offeror's Cost Proposal, the contradiction shall be resolved by giving precedence in the following order: first, to the provisions of the Agreement (as it may be amended from time to time); second, to the provisions of the RFP (as it may be amended from time to time); and, third, to the provisions of the Proposal and Cost Proposal (as they may be clarified or amended from time to time).

**XVIII. Captions.**

All Section and paragraph titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the content of the Agreement.

**XIX. Counterparts.**

This Agreement may be executed in counterparts, all of which taken together shall be deemed one original.

**XX. Governing Law and Forum Selection.**

Except to the extent U.S. federal law is applicable, the laws and regulations of Guam shall govern the interpretation, effect, and validity of this Agreement. Any court action shall be exclusively in Guam.

**XXI. Compliance with Laws.**

A. In General. The Consultant shall comply with all U.S. and Guam Laws, Statutes, Regulations and Ordinances applicable to this Agreement. The Consultant represents and warrants that it is fully licensed to do business in Guam to render the services to be provided herein.

B. Non-Discrimination in Employment. The Consultant agrees: (i) not to unlawfully discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or persons with disabilities; (ii) to include a provision similar to that contained in subsection (i) above in any subcontract or assignment agreement except a subcontract for standard commercial supplies or raw materials; and (iii) to post and to cause subcontractors and/or assignees to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

C. Designation of Attorney as Special Assistant Attorney General. Consultant acknowledges that he may be appointed by the Attorney General as the Special Assistant Attorney General for purposes of litigation under this Agreement. The Attorney General remains the Chief Legal Office of the government of Guam and nothing herein shall be construed to delegate or waive the Attorney General's legal authority and ethical relationship with the government of Guam under 48 U.S.G. § 1421 g (d) (1) or any other Federal or local law, rule or regulation.

The objectives of litigation shall be determined by PAG. Consultant shall keep the Attorney General and PAG informed of all matters in litigation under this Agreement by providing a periodic summary of the status of such matters as requested by either. On a case-by-case basis, as requested, Consultant shall serve the Attorney General with copies of pleadings or any other documents filed in litigation. Nothing herein shall prevent the Attorney General from joining as co-counsel in any litigation where Attorney is performing legal services under this Agreement. Consultant shall not commit PAG or the Attorney General to any settlement without the prior consent of PAG client and Attorney General to proceed.

The Attorney General shall maintain at all times the authority to rescind any designation of Special Assistant Attorney General given to Consultant. Furthermore, upon termination of this Agreement for any reason, any designation given as Special Assistant Attorney General shall likewise cease; provided, however, notwithstanding the termination of this Agreement for any reason, any designation, the cessation of legal representation in pending litigation shall be contingent upon the filing of a substitution of counsel, or the granting of a motion to withdraw as counsel, or both as the case may be, the Consultant shall cooperate with client and the Attorney General, and take all reasonable and necessary steps to file the substitution of counsel or motion to withdraw as counsel.

Upon termination of status as a Special Assistant Attorney General, Consultant shall promptly return to PAG or Attorney General, as directed, all files, documents, recording and other property of whatever kind pertaining to the subject litigation. Consultant shall issue to PAG and to the Attorney General a written memorandum detailing the status of litigation just prior to the Consultant's termination regardless of the party initiating termination.

PAG and Consultant understand that the Attorney General designates the Deputy of the Civil Litigation Division as its liaison and the person to who all matters regarding litigation should be directed to.

D. Procurements of Five Hundred Thousand Dollars (\$500,000) or more. (5 GCA § 5150) Consultant agrees PAG must notify the Attorney General of any PAG solicitation or procurement which is estimated to result in an award of Five Hundred Thousand Dollars (\$500,000) or more. Consultant acknowledges that the Attorney General is the legal advisor during all phases of the solicitation and procurement process pursuant to 5 G.C.A. § 5150. Consultant agrees to follow all the forms and formats required by the Attorney General and in the event Consultant is designated as a Special Assistant Attorney General with regard to said procurement Consultant agrees to follow all the applicable requirements of that appointment. Consultant agrees to keep the Attorney General cognizance of all legal matters.

## **XXII. Disputes.**

A. All controversies between the territory and the consultant which arise under, or are by virtue of, this contract and which are not resolved by mutual agreement, shall be decided

by the Port in writing, within sixty (60) days after written request by the consultant for a final decision concerning the controversy; provided, however, that if the Port does not issue a written decision, within sixty (60) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the consultant may proceed as if an adverse decision had been received.

B. The Port shall immediately furnish a copy of the decision to the consultant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

C. Any such decision shall be final and conclusive, unless fraudulent, or the consultant brings an action appealing the decision to the Office of Public Accountancy.

D. This subsection applies to appeals of the Port's decision to Consultant. For money owed by or to the Port under this agreement, Consultant shall appeal the decision in accordance with the Government of Guam Claims Act by initially filing a claim with the Office of the Attorney General no later than eighteen (18) months after the decision is rendered by the Port or from the date when a decision should have been rendered. For all other claims by or against the Port arising under this agreement, the Office of the Public Accountability has jurisdiction over the appeal from the decision of the Port. Appeals to the Office of the Public Accountability must be made within sixty (60) days of Port's decision or from the date the decision should have been made.

### **XXIII. Retention and Access to Records and Other Review.**

The Consultant, including subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence pertaining to the services performed and costs incurred, and to make such materials available at its respective offices at all reasonable times during the Agreement period and for six (6) years from the date of the final payment under the Agreement, for inspection by the Port. The Port agrees to comply with reasonable requests of Consultant to provide access to all documents and Port property reasonably necessary to the performance of Consultant's services under this Agreement. The conditions of this section shall be placed in any subcontract or assignment arising under this Agreement.

### **XXIV. Liability.**

A. **Indemnification.** Consultant shall indemnify and hold harmless the Port and its officers, agents, Board members and employees from or on account of any claims, losses, expenses, injuries, damages, actions, lawsuits, judgments, or liability resulting or arising from (but only to the extent caused or contributed to by) the negligent or wrongful act or omission of the Consultant or its employees, officers, directors, contractors, agents, representatives, successors, or assigns, in the performance or nonperformance under this Agreement.

B. **The Port is not Liable.** The Port assumes no liability for any accident, loss, claim, judgment, action or injury that may occur to the Consultant and/or the Consultant's officers, directors, agents, servants, subcontractors and/or employees, and/or to the personal property of any such person or entity, arising out of the performance of services under this Agreement except to the extent caused or contributed to by the negligent act or omission of the Port. In addition, no Board member, officer, agent, or employee of the Port shall be liable personally under or by reason of this Agreement or any of its provisions. In addition, the Port assumes no liability for any accident or injury that may occur to Consultant's officers, directors, employees, agents, or dependents while traveling to and from Guam in furtherance of this Agreement.

**XXV. Delays, Extensions and Suspensions.**

The Port unilaterally may order the Consultant in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the Port. The Consultant agrees to prosecute the work continuously and diligently apart from those periods of suspension, delay or suspension. Except as otherwise agreed to by the Parties, reasonable time extensions for the performance of Consultant's services will be granted only for excusable delays that arise from causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God, acts of the public enemy, acts of the Government of Guam or the Government of the United States in either its sovereign or contractual capacity, acts of another contractor in the performance of an agreement with the Government of Guam, fires, floods, typhoons, earthquakes, epidemics, quarantine restrictions, strikes, freight, or embargoes.

**XXVI. Modifications including those Due to Public Welfare, Change in Law or Change in Marketing Conditions.**

The Port shall have the unilateral power to modify the Agreement at any time subject to the written agreement of Consultant. The Port shall have the power to make changes in the Agreement as a result of changes in law and to impose new rules and regulations on the Consultant under the Agreement relative to the scope and methods of providing services as shall from time-to-time be necessary and desirable for the public welfare. The Port shall give the Consultant notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing services as referenced herein shall be liberally construed to include, but is not limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Consultant. In the event of any future change in federal or Guam laws, the Port materially alters the obligations of the Consultant, or the benefits to the Port, then the Agreement shall be amended consistent therewith. Should these amendments materially alter the obligations for the Consultant, then the Consultant or the Port shall be entitled to an adjustment in the rates and charges established under the Agreement. Consultant shall be entitled to terminate this Agreement rather than accept modified terms. Nothing contained in the Agreement shall require any party to perform any act or function contrary to law. The Port and the Consultant agree to enter into good faith negotiations regarding modifications to the Agreement, which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to the Agreement, the Port and the Consultant shall negotiate in good faith, a reasonable and appropriate adjustment for any changes in services or other obligations required of the Consultant directly and demonstrably due to any modification in the Agreement under this clause.

**XXVII. Independent Consultant and its Employees.**

A. Status of Consultant. The Consultant and its officers, agents, servants, subcontractors and employees are independent contractors performing professional services for the Port, and are not employees of either the Port or the Government of Guam. The Consultant and its officers, agents, servants and employees shall not accrue vacation or sick leave, participate in the Government of Guam retirement system, insurance coverage, bonding, use of government vehicles or any other benefits accorded to Government of Guam employees as a result of this Agreement. Consultant agrees that Consultant and its aforementioned employees, officers, directors, agents,

servants, and subcontractors are not and will not become an employee, officer or Board member of the Port at any time during the duration of this Agreement, and will otherwise comply with the provisions of the Guam Procurement Law regarding ethics in public contracting (Title 5 Guam Code Annotated, Chapter 5, Article 11, and its associated rules and regulations). Nothing in this Agreement or any action taken under this Agreement shall be deemed or construed in any manner or for any purpose to evidence or establish as between Consultant and the Port a relationship of partnership, agency, association, joint, venture or representative, nor does this Agreement authorize any party to undertake or bind any obligation or responsibility on behalf of the other party. In addition, there shall be no withholding of taxes by the Port for the Consultant.

B. Liability. The Consultant assumes responsibility for its personnel and subcontractors providing services hereunder and will make all deductions and payments for social security and withholding taxes and for contributions to employment compensation funds, or any other payments required by the governments of the U.S. and Guam, if required. Consultant is responsible for paying when due any and all income taxes, gross receipts taxes, or any other taxes or assessments incurred as a result of the services performed by the Consultant and Consultant's employees or agents under this Agreement or the compensation paid to Consultant for services performed under this Agreement. Furthermore, Consultant shall maintain at the Consultant's expense all necessary insurance for its employees including but not limited to Worker's Compensation, Errors and Omissions, and liability insurance for each employee as required under U.S. and Guam Law and the mandates of the underlying RFP to this Agreement. Consultant agrees to hold harmless and indemnify the Port, its officers, directors, employees, agents, representatives, successors and assigns, for any and all claims, demands, costs, losses, fees, penalties, interest, or damages, including attorney's fees, which may be brought or asserted due to (i) any injury, death, or property damage arising from the negligence or other wrongful or tortuous acts of Consultant or Consultant's employees, officers, contractors, directors, agents, representatives, successors, or assigns, or (ii) Consultant's failure to comply with terms of this subparagraph B.

#### **XXVIII. Disclosure.**

The Consultant hereby represents that it has disclosed to the Port all matters regarding Consultant which if not disclosed to the Port would materially affect the Port's decision to enter into this Agreement with Consultant.

#### **XXIX. Employment of Persons Convicted of a Sex Offense.**

Consultant warrants that no person in its employment who has been convicted of a 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 Port while on the Port or Government of Guam property, with the exception of public highways. If any employee of Consultant is providing services on government or Port property and is convicted subsequent to an award of a contract, then Consultant warrants that it will notify the Port of the conviction within twenty-four (24) hours of the conviction, and will remove immediately such convicted person from providing services on government or Port property. If Consultant is found to be in violation of any of the provisions of this paragraph, then Consultant shall take corrective action within twenty-four (24) hours of the notice from the Port, then the Port in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

**XXX. Minimum Wages as Determined by U.S. Department of Labor.**

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

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

**XXXI. Disposition of Property and Materials: Intellectual Property Rights.**

A. All plans, outlines, briefs, memoranda, studies, reports, analyses and all other work product and materials incidental or otherwise ("Work Product") which are produced by reason of this Agreement shall be and remain the property of the Port, regardless of whether Consultant is in possession of such Work Product, and may be used by the Port without permission from Consultant and without any additional costs to the Port.

B. All Work Products, including any and all intellectual property rights in said Work Product, arising out of the Agreement shall be the sole and exclusive property of the Port. Consultant explicitly acknowledges that the Port possesses exclusive rights to the Work Product arising out of this Agreement. Consultant shall not use or permit others to use in any way or form the Work Product without the express written consent of the Port.

**XXXII. Disqualification.**

Consultant agrees and acknowledges that it will be disqualified from participating in procurement opportunities relating to this service as it has developed or participated in the development of specifications that will be used in the construction and/or implementation of these specifications.

**XXXIII. Attachments, Exhibits, Schedules, and Entire Agreement.**

The Agreement, including its Attachments, Exhibits and Schedules, constitute the entire Agreement and supersedes all prior written or oral understandings. No Agreement, oral or written, expressed or implied, has been made by any party hereto, except as expressly provided herein. All prior Agreements and negotiations are superseded hereby. This Agreement and any duly executed amendments hereto constitute the entire Agreement between the Parties hereto.

**XXXIV. Computation of Time.**

Whenever this Agreement provides for a time period of ten (10) days or less days,

weekends and Government of Guam holidays are not included in the computation. When this Agreement provides for a time period of over ten (10) days, weekends and Government of Guam holidays are to be included in the computation.

**XXXV. Partial Invalidity.**

If any provision of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue to be in full force and effect.

**XXXVI. Amendments/Modifications.**

Any amendment or modification to this Agreement will be effective only if it is in writing and signed by both parties.

**\*\*\* SIGNATURES APPEAR ON NEXT PAGE \*\*\***

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the day and year appearing opposite their respective signatures.

**Consultant**

Port Authority of Guam  
**JOSE D. LEON GUERRERO**  
**COMMERCIAL PORT**

\_\_\_\_\_  
**LEGAL COUNSEL**  
**Principal**

\_\_\_\_\_  
**RORY J. RESPICIO**  
General Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**PORT STAFF ATTORNEY:**

**CERTIFICATION OF AVAILABILITY  
OF FUNDS:**

\_\_\_\_\_  
**JOSEPH B. McDONALD**  
Attorney for Port Authority of Guam

\_\_\_\_\_  
**JOSE B. GUEVARA III**  
Financial Affairs Officer, Controller

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **REQUIRED FORMS**

**(MUST BE SUBMITTED CONTAINING THE  
SUBMITTED PROPOSAL)**

**REQUEST FOR PROPOSALS (RFP) NO. RFP-PAG-020-001**

**PROJECT DESCRIPTION: LEGAL SERVICES**

**SPECIAL REMINDER TO PROSPECTIVE OFFERORS**

Proposers are reminded to read the Request for Proposal, and General Terms and Conditions attached to the RFP to ascertain that all of the following requirements checked below are submitted in the proposal envelope, **one (1) original, five (5) copies, one (1) CD or electronic file copy in PDF format**, at the date and time for it is due.

- ☒ TRANSMITTAL LETTER & STATEMENT OF QUALIFICATION (Section XI)
- ☒ AFFIDAVIT DISCLOSING OWNERSHIP AND COMMISSIONS (AG Form 002)
- ☒ AFFIDAVIT RE NON-COLLUSION (AG Form 003)
- ☒ AFFIDAVIT RE NO GRATUITIES OR KICKBACKS (AG Form 004)
- ☒ AFFIDAVIT RE ETHICAL STANDARDS (AG Form 005)
- ☒ DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION (AG Form 006)
- ☒ AFFIDAVIT RE CONTINGENT FEES (AG Form 007)
- ☒ Special Provisions: Restriction against Sex Offenders Employed by service providers to Government of Guam from working on Government Property
- ☒ OTHER REQUIREMENTS: **CERTIFICATE OF ADMISSION TO THE BAR AND CERTIFICATE OF GOOD STANDING. Past two (2) years of quarterly business privilege tax filings.**

This reminder must be signed and returned in the PROPOSAL envelope together with the proposal. **FAILURE TO COMPLY WITH THE ABOVE WILL MEAN A DISQUALIFICATION AND REJECTION OF THE PROPOSAL.**

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, I, \_\_\_\_\_, authorized representative of \_\_\_\_\_ acknowledge receipt of this special reminder to prospective offerors for the above referenced RFP and hereby attest that I have read and understand its intent and implications.

\_\_\_\_\_  
Signature of Authorized Representative

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

**CITY OF \_\_\_\_\_ )**  
**ISLAND OF GUAM ) ss.**

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

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

<u>Name</u>	<u>Address</u>	<u>% of Interest</u>

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

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

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

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

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

NOTARY PUBLIC  
My commission expires:

## **AFFIDAVIT re NON-COLLUSION**

**CITY OF \_\_\_\_\_ )**  
**ISLAND OF GUAM ) ss.**

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

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

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

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

**Signature of one of the following:**

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

Subscribed and sworn to before me

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

**NOTARY PUBLIC**

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

## **AFFIDAVIT re NO GRATUITIES or KICKBACKS**

**CITY OF \_\_\_\_\_ )**  
**ISLAND OF GUAM ) ss.**

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

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

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

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

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

Signature of one of the following:

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

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 200 .

**NOTARY PUBLIC**

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

## **AFFIDAVIT RE ETHICAL STANDARDS**

**CITY OF \_\_\_\_\_** )  
 ) ss.  
**ISLAND OF GUAM** )

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

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

Signature of one of the following:

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

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

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

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

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

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

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

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

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

**§ 5801. Wage Determination Established.**

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

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

**§ 5802. Benefits.**

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

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

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

\_\_\_\_\_  
Signature

"REGISTER OF WAGE DETERMINATIONS UNDER | U.S. DEPARTMENT OF LABOR THE SERVICE CONTRACT ACT | EMPLOYMENT STANDARDS ADMINISTRATION  
By direction of the Secretary of Labor | WAGE AND HOUR DIVISION  
WASHINGTON D.C. 20210

Wage Determination No.: 2015-5694  
Daniel W. Simms Division of | Revision No.: 11  
Director Wage Determinations | Date Of Last Revision: 12/23/2019

Note: Under Executive Order (EO) 13658 an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the

Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2015. If this contract is covered by the EO the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination if it is higher) for all hours spent performing on the contract in calendar year 2020. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

States: Guam Northern Marianas Wake Island  
Area: Guam Statewide  
Northern Marianas Statewide  
Wake Island Statewide

**\*\*Fringe Benefits Required Follow the Occupational Listing\*\***

OCCUPATION CODE - TITLE FOOTNOTE RATE  
01000 - Administrative Support And Clerical Occupations

01011 - Accounting Clerk I	13.57
01012 - Accounting Clerk II	15.23
01013 - Accounting Clerk III	17.04
01020 - Administrative Assistant	19.48
01035 - Court Reporter	17.40
01041 - Customer Service Representative I	10.89
01042 - Customer Service Representative II	12.25
01043 - Customer Service Representative III	13.37
01051 - Data Entry Operator I	12.15
01052 - Data Entry Operator II	13.25
01060 - Dispatcher Motor Vehicle	14.37
01070 - Document Preparation Clerk	13.85
01090 - Duplicating Machine Operator	13.85
01111 - General Clerk I	10.35
01112 - General Clerk II	11.29
01113 - General Clerk III	12.68
01120 - Housing Referral Assistant	19.39
01141 - Messenger Courier	11.37
01191 - Order Clerk I	12.57
01192 - Order Clerk II	13.71
01261 - Personnel Assistant (Employment) I	15.95
01262 - Personnel Assistant (Employment) II	17.85
01263 - Personnel Assistant (Employment) III	19.89
01270 - Production Control Clerk	21.78
01290 - Rental Clerk	11.10
01300 - Scheduler Maintenance	15.55
01311 - Secretary I	15.55
01312 - Secretary II	17.40
01313 - Secretary III	19.39
01320 - Service Order Dispatcher	12.73
01410 - Supply Technician	19.48
01420 - Survey Worker	15.26
01460 - Switchboard Operator/Receptionist	9.67
01531 - Travel Clerk I	12.77
01532 - Travel Clerk II	13.83
01533 - Travel Clerk III	14.78
01611 - Word Processor I	14.53
01612 - Word Processor II	16.31
01613 - Word Processor III	18.26
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer Fiberglass	13.58
05010 - Automotive Electrician	13.06
05040 - Automotive Glass Installer	12.10
05070 - Automotive Worker	12.10
05110 - Mobile Equipment Servicer	10.27
05130 - Motor Equipment Metal Mechanic	13.71
05160 - Motor Equipment Metal Worker	12.10
05190 - Motor Vehicle Mechanic	13.71
05220 - Motor Vehicle Mechanic Helper	10.12
05250 - Motor Vehicle Upholstery Worker	12.10

05280 - Motor Vehicle Wrecker	12.10
05310 - Painter Automotive	12.87
05340 - Radiator Repair Specialist	12.10
05370 - Tire Repairer	11.44
05400 - Transmission Repair Specialist	13.61
07000 - Food Preparation And Service Occupations	
07010 - Baker	10.47
07041 - Cook I	11.45
07042 - Cook II	13.33
07070 - Dishwasher	9.12
07130 - Food Service Worker	9.34
07210 - Meat Cutter	11.86
07260 - Waiter/Waitress	9.19
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	16.40
09040 - Furniture Handler	9.95
09080 - Furniture Refinisher	16.40
09090 - Furniture Refinisher Helper	12.06
09110 - Furniture Repairer Minor	14.27
09130 - Upholsterer	16.40
11000 - General Services And Support Occupations	
11030 - Cleaner Vehicles	9.35
11060 - Elevator Operator	9.29
11090 - Gardener	12.90
11122 - Housekeeping Aide	9.29
11150 - Janitor	9.29
11210 - Laborer Grounds Maintenance	9.74
11240 - Maid or Houseman	9.22
11260 - Pruner	8.72
11270 - Tractor Operator	11.80
11330 - Trail Maintenance Worker	9.74
11360 - Window Cleaner	10.37
12000 - Health Occupations	
12010 - Ambulance Driver	17.77
12011 - Breath Alcohol Technician	17.77
12012 - Certified Occupational Therapist Assistant	24.38
12015 - Certified Physical Therapist Assistant	24.38
12020 - Dental Assistant	14.21
12025 - Dental Hygienist	32.84
12030 - EKG Technician	25.10
12035 - Electroneurodiagnostic Technologist	25.10
12040 - Emergency Medical Technician	17.77
12071 - Licensed Practical Nurse I	15.88
12072 - Licensed Practical Nurse II	17.77
12073 - Licensed Practical Nurse III	19.81
12100 - Medical Assistant	12.26
12130 - Medical Laboratory Technician	18.82
12160 - Medical Record Clerk	13.61
12190 - Medical Record Technician	17.77
12195 - Medical Transcriptionist	15.88
12210 - Nuclear Medicine Technologist	39.04
12221 - Nursing Assistant I	11.03
12222 - Nursing Assistant II	12.43
12223 - Nursing Assistant III	13.54
12224 - Nursing Assistant IV	15.22
12235 - Optical Dispenser	17.77
12236 - Optical Technician	15.88
12250 - Pharmacy Technician	15.49
12280 - Phlebotomist	15.22
12305 - Radiologic Technologist	22.69
12311 - Registered Nurse I	22.53
12312 - Registered Nurse II	27.56
12313 - Registered Nurse II Specialist	27.56
12314 - Registered Nurse III	33.34
12315 - Registered Nurse III Anesthetist	33.34
12316 - Registered Nurse IV	39.96
12317 - Scheduler (Drug and Alcohol Testing)	22.01
12320 - Substance Abuse Treatment Counselor	22.01
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	19.45
13012 - Exhibits Specialist II	24.09
13013 - Exhibits Specialist III	29.47
13041 - Illustrator I	19.45
13042 - Illustrator II	24.09
13043 - Illustrator III	29.47
13047 - Librarian	26.68

13050 - Library Aide/Clerk	15.48
13054 - Library Information Technology Systems Administrator	24.09
13058 - Library Technician	16.64
13061 - Media Specialist I	17.38
13062 - Media Specialist II	19.45
13063 - Media Specialist III	21.67
13071 - Photographer I	17.38
13072 - Photographer II	19.45
13073 - Photographer III	24.09
13074 - Photographer IV	29.47
13075 - Photographer V	35.65
13090 - Technical Order Library Clerk	18.74
13110 - Video Teleconference Technician	17.38
14000 - Information Technology Occupations	
14041 - Computer Operator I	15.71
14042 - Computer Operator II	17.22
14043 - Computer Operator III	19.19
14044 - Computer Operator IV	21.33
14045 - Computer Operator V	23.62
14071 - Computer Programmer I (see 1)	15.73
14072 - Computer Programmer II (see 1)	19.50
14073 - Computer Programmer III (see 1)	23.84
14074 - Computer Programmer IV (see 1)	
14101 - Computer Systems Analyst I (see 1)	24.23
14102 - Computer Systems Analyst II (see 1)	
14103 - Computer Systems Analyst III (see 1)	
14150 - Peripheral Equipment Operator	15.71
14160 - Personal Computer Support Technician	21.33
14170 - System Support Specialist	21.24
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	24.23
15020 - Aircrew Training Devices Instructor (Rated)	29.32
15030 - Air Crew Training Devices Instructor (Pilot)	34.91
15050 - Computer Based Training Specialist / Instructor	24.23
15060 - Educational Technologist	27.61
15070 - Flight Instructor (Pilot)	34.91
15080 - Graphic Artist	20.47
15085 - Maintenance Test Pilot Fixed Jet/Prop	34.91
15086 - Maintenance Test Pilot Rotary Wing	34.91
15088 - Non-Maintenance Test/Co-Pilot	34.91
15090 - Technical Instructor	17.65
15095 - Technical Instructor/Course Developer	21.58
15110 - Test Proctor	13.87
15120 - Tutor	13.87
16000 - Laundry Dry-Cleaning Pressing And Related Occupations	
16010 - Assembler	9.78
16030 - Counter Attendant	9.78
16040 - Dry Cleaner	11.30
16070 - Finisher Flatwork Machine	9.78
16090 - Presser Hand	9.78
16110 - Presser Machine Dry Cleaning	9.78
16130 - Presser Machine Shirts	9.78
16160 - Presser Machine Wearing Apparel Laundry	9.78
16190 - Sewing Machine Operator	11.94
16220 - Tailor	12.44
16250 - Washer Machine	10.24
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	16.40
19040 - Tool And Die Maker	20.61
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	13.96
21030 - Material Coordinator	21.78
21040 - Material Expediter	21.78
21050 - Material Handling Laborer	11.37
21071 - Order Filler	9.66
21080 - Production Line Worker (Food Processing)	13.96
21110 - Shipping Packer	14.47
21130 - Shipping/Receiving Clerk	14.47
21140 - Store Worker I	14.48
21150 - Stock Clerk	20.34
21210 - Tools And Parts Attendant	13.96
21410 - Warehouse Specialist	13.96
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	20.69
23019 - Aircraft Logs and Records Technician	16.09

23021 - Aircraft Mechanic I	19.70
23022 - Aircraft Mechanic II	20.69
23023 - Aircraft Mechanic III	21.74
23040 - Aircraft Mechanic Helper	13.70
23050 - Aircraft Painter	18.50
23060 - Aircraft Servicer	16.09
23070 - Aircraft Survival Flight Equipment Technician	18.50
23080 - Aircraft Worker	17.38
23091 - Aircrew Life Support Equipment (ALSE) Mechanic I	17.38
23092 - Aircrew Life Support Equipment (ALSE) Mechanic II	19.70
23110 - Appliance Mechanic	16.40
23120 - Bicycle Repairer	13.17
23125 - Cable Splicer	19.59
23130 - Carpenter Maintenance	15.10
23140 - Carpet Layer	15.33
23160 - Electrician Maintenance	18.05
23181 - Electronics Technician Maintenance I	15.33
23182 - Electronics Technician Maintenance II	16.40
23183 - Electronics Technician Maintenance III	18.31
23260 - Fabric Worker	14.27
23290 - Fire Alarm System Mechanic	15.43
23310 - Fire Extinguisher Repairer	13.17
23311 - Fuel Distribution System Mechanic	17.46
23312 - Fuel Distribution System Operator	13.17
23370 - General Maintenance Worker	11.96
23380 - Ground Support Equipment Mechanic	19.70
23381 - Ground Support Equipment Servicer	16.09
23382 - Ground Support Equipment Worker	17.38
23391 - Gunsmith I	13.17
23392 - Gunsmith II	15.33
23393 - Gunsmith III	17.46
23410 - Heating Ventilation And Air-Conditioning Mechanic	17.16
23411 - Heating Ventilation And Air Conditioning Mechanic (Research Facility)	18.25
23430 - Heavy Equipment Mechanic	17.64
23440 - Heavy Equipment Operator	16.26
23460 - Instrument Mechanic	17.46
23465 - Laboratory/Shelter Mechanic	16.40
23470 - Laborer	11.37
23510 - Locksmith	16.40
23530 - Machinery Maintenance Mechanic	23.13
23550 - Machinist Maintenance	17.46
23580 - Maintenance Trades Helper	10.67
23591 - Metrology Technician I	17.46
23592 - Metrology Technician II	18.56
23593 - Metrology Technician III	19.66
23640 - Millwright	17.46
23710 - Office Appliance Repairer	16.40
23760 - Painter Maintenance	13.95
23790 - Pipefitter Maintenance	17.64
23810 - Plumber Maintenance	16.57
23820 - Pseudraulic Systems Mechanic	17.46
23850 - Rigger	17.46
23870 - Scale Mechanic	15.33
23890 - Sheet-Metal Worker Maintenance	16.09
23910 - Small Engine Mechanic	15.33
23931 - Telecommunications Mechanic I	19.01
23932 - Telecommunications Mechanic II	19.76
23950 - Telephone Lineman	18.24
23960 - Welder Combination Maintenance	17.92
23965 - Well Driller	17.46
23970 - Woodcraft Worker	17.46
23980 - Woodworker	13.17
24000 - Personal Needs Occupations	
24550 - Case Manager	14.54
24570 - Child Care Attendant	10.09
24580 - Child Care Center Clerk	12.58
24610 - Chore Aide	10.56
24620 - Family Readiness And Support Services Coordinator	14.54
24630 - Homemaker	16.12
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	17.46

25040 - Sewage Plant Operator	19.63
25070 - Stationary Engineer	17.46
25190 - Ventilation Equipment Tender	12.06
25210 - Water Treatment Plant Operator	19.63
27000 - Protective Service Occupations	
27004 - Alarm Monitor	10.90
27007 - Baggage Inspector	9.40
27008 - Corrections Officer	12.05
27010 - Court Security Officer	12.05
27030 - Detection Dog Handler	10.90
27040 - Detention Officer	12.05
27070 - Firefighter	12.05
27101 - Guard I	9.40
27102 - Guard II	10.90
27131 - Police Officer I	12.05
27132 - Police Officer II	13.40
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	12.79
28042 - Carnival Equipment Repairer	13.97
28043 - Carnival Worker	9.45
28210 - Gate Attendant/Gate Tender	13.18
28310 - Lifeguard	11.01
28350 - Park Attendant (Aide)	14.74
28510 - Recreation Aide/Health Facility Attendant	11.84
28515 - Recreation Specialist	18.26
28630 - Sports Official	11.74
28690 - Swimming Pool Operator	17.71
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	21.47
29020 - Hatch Tender	21.47
29030 - Line Handler	21.47
29041 - Stevedore I	19.98
29042 - Stevedore II	22.96
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist Center (HFO) (see 2)	38.78
30011 - Air Traffic Control Specialist Station (HFO) (see 2)	26.74
30012 - Air Traffic Control Specialist Terminal (HFO) (see 2)	29.45
30021 - Archeological Technician I	17.49
30022 - Archeological Technician II	19.56
30023 - Archeological Technician III	24.21
30030 - Cartographic Technician	23.18
30040 - Civil Engineering Technician	23.08
30051 - Cryogenic Technician I	25.57
30052 - Cryogenic Technician II	28.24
30061 - Drafter/CAD Operator I	17.49
30062 - Drafter/CAD Operator II	19.56
30063 - Drafter/CAD Operator III	20.77
30064 - Drafter/CAD Operator IV	25.57
30081 - Engineering Technician I	14.84
30082 - Engineering Technician II	16.66
30083 - Engineering Technician III	18.64
30084 - Engineering Technician IV	23.08
30085 - Engineering Technician V	28.24
30086 - Engineering Technician VI	34.16
30090 - Environmental Technician	23.08
30095 - Evidence Control Specialist	23.08
30210 - Laboratory Technician	20.77
30221 - Latent Fingerprint Technician I	25.57
30222 - Latent Fingerprint Technician II	28.24
30240 - Mathematical Technician	23.34
30361 - Paralegal/Legal Assistant I	19.44
30362 - Paralegal/Legal Assistant II	23.68
30363 - Paralegal/Legal Assistant III	28.99
30364 - Paralegal/Legal Assistant IV	33.88
30375 - Petroleum Supply Specialist	28.24
30390 - Photo-Optics Technician	21.93
30395 - Radiation Control Technician	28.24
30461 - Technical Writer I	23.08
30462 - Technical Writer II	28.24
30463 - Technical Writer III	34.16
30491 - Unexploded Ordnance (UXO) Technician I	24.65
30492 - Unexploded Ordnance (UXO) Technician II	29.82
30493 - Unexploded Ordnance (UXO) Technician III	35.74
30494 - Unexploded (UXO) Safety Escort	24.65
30495 - Unexploded (UXO) Sweep Personnel	24.65
30501 - Weather Forecaster I	25.57

30502 - Weather Forecaster II	31.09
30620 - Weather Observer Combined Upper Air Or (see 2)	20.77
Surface Programs	
30621 - Weather Observer Senior (see 2)	23.08
31000 - Transportation/Mobile Equipment Operation Occupations	
31010 - Airplane Pilot	29.82
31020 - Bus Aide	8.15
31030 - Bus Driver	9.69
31043 - Driver Courier	9.69
31260 - Parking and Lot Attendant	9.55
31290 - Shuttle Bus Driver	10.59
31310 - Taxi Driver	9.43
31361 - Truckdriver Light	10.59
31362 - Truckdriver Medium	11.61
31363 - Truckdriver Heavy	13.92
31364 - Truckdriver Tractor-Trailer	13.92
99000 - Miscellaneous Occupations	
99020 - Cabin Safety Specialist	14.54
99030 - Cashier	9.33
99050 - Desk Clerk	9.70
99095 - Embalmer	24.65
99130 - Flight Follower	24.65
99251 - Laboratory Animal Caretaker I	2.25
99252 - Laboratory Animal Caretaker II	24.31
99260 - Marketing Analyst	21.54
99310 - Mortician	24.65
99410 - Pest Controller	14.61
99510 - Photofinishing Worker	12.95
99710 - Recycling Laborer	14.32
99711 - Recycling Specialist	21.66
99730 - Refuse Collector	13.63
99810 - Sales Clerk	9.66
99820 - School Crossing Guard	16.44
99830 - Survey Party Chief	22.02
99831 - Surveying Aide	12.52
99832 - Surveying Technician	16.27
99840 - Vending Machine Attendant	22.25
99841 - Vending Machine Repairer	28.30
99842 - Vending Machine Repairer Helper	22.25

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

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

**HEALTH & WELFARE:** Life accident and health insurance plans sick leave pension plans civic and personal leave severance pay and savings and thrift plans. Minimum employer contributions costing an average of \$4.54 per hour computed on the basis of all hours worked by service employees employed on the contract.

**HEALTH & WELFARE EO 13706:** Minimum employer contributions costing an average of \$4.22 per hour computed on the basis of all hours worked by service employees employed on the covered contracts. \*

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

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

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

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

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

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

(1) The application of systems analysis techniques and procedures including consulting with users to determine hardware software or system functional specifications;

(2) The design development documentation analysis creation testing or modification of computer systems or programs including prototypes based on and related to user or system design specifications;

(3) The design documentation testing creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) **AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY:** If you work at night as part of a regular tour of duty you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employee (40 hours a week) and Sunday is part of your regularly scheduled workweek you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

**\*\* HAZARDOUS PAY DIFFERENTIAL \*\***

An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance explosives and incendiary materials. This includes work such as screening blending dying mixing and pressing of sensitive ordnance explosives and pyrotechnic compositions such as lead azide black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization modification renovation demolition and maintenance operations on sensitive ordnance explosives and incendiary materials. All operations involving re-grading and cleaning of artillery ranges.

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

**\*\* UNIFORM ALLOWANCE \*\***

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

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount or the furnishing of contrary affirmative proof as to the actual cost) reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials may be routinely washed and dried with other personal garments and do not require any special treatment such as dry cleaning daily washing or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract by the contractor by law or by the nature of the work there is no requirement that employees be reimbursed for uniform maintenance costs.

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

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

**\*\* REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE Standard Form 1444 (SF-1444) \*\***

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e. the work to be performed is not performed by any classification listed in the wage determination) be classified by the contractor so as to provide a reasonable relationship (i.e. appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees (See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification wage rate and/or fringe benefits which shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). When multiple wage determinations are included in a contract a separate SF-1444 should be prepared for each wage determination to which a class(es) is to be confirmed.

The process for preparing a conformance request is as follows:

1) When preparing the Bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award the contractor prepares a written report listing in order the proposed classification title(s) a Federal grade equivalency (FGE) for each proposed classification(s) job description(s) and rationale for proposed wage rate(s) including information regarding the agreement or disagreement of the authorized representative of the employees involved or where there is no authorized representative the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action together with the agency's recommendations and pertinent information including the position of the contractor and the employees to the U.S. Department of Labor Wage and Hour Division for review (See 29 CFR 4.6(b)(2)(iii)).

4) Within 30 days of receipt the Wage and Hour Division approves modifies or disapproves the action via transmittal to the agency contracting officer or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.

6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

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

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

## **AFFIDAVIT re CONTINGENT FEES**

**CITY OF \_\_\_\_\_ )**  
**ISLAND OF GUAM ) ss.**

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

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

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

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

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

**Signature of one of the following:**

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

Subscribed and sworn to before me

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

**NOTARY PUBLIC**

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

## Special Provisions

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

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

<u>Signature of Bidder</u>	<u>Date</u>
Proposer, if an individual; Partner, if a partnership; Officer, if a corporation.	

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public