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REFERENCE CHECKLIST FOR REQUEST FOR PROPOSALS (RFP)

This is an official Office of the Attorney General procurement form consisting of a list of questions designed as a reference tool of the items to be considered in the request for proposal procurement process. The list is not exhaustive of all the considerations that may be involved in procurement. It is only a tool to assist Government of Guam employees as to questions and sections of the law involved at different stages in the procurement process.

The form is used by the Office of Attorney General Civil/Solicitor Attorneys who handle procurements and is handed out to government employees who participate in an all day procurement workshop: AG Procurement Workshop 101, Acquisition of Professional Services: Developing a Request for Proposal and Conducting a Procurement.

Workshop participants are taken through procurement basics beginning with where the Guam Procurement Laws and Regulations are online at the Supreme Court of Guam, Office of Compiler website; URL <http://www.justice.gov.gu/compileroflaws/> . The words in the checklist, for example “record” and “determination”, are explained with examples so that the participants learn fundamental key concepts and practices in Government of Guam procurement.

Disclaimer: This document is a guide only. This document is not necessarily complete. It is a work-in-progress and will be updated periodically. This document does not apply to all procurements. A working knowledge of the Guam procurement law and regulations is necessary to successfully use this document. *The checklist paraphrases law and regulation – please read the specific law and regulation.*

The user is requested to advise the Guam Office of the Attorney General if corrections or improvements can be made to this document.

You may contact the procurement attorneys at paag@guamag.org with your comments, improvements, criticisms or complaints. Please visit the OAG procurement website for further information. URL: www.guamag.org/procurement. All official OAG procurement forms are available on the OAG web site.



yes no n/a

INITIAL QUESTIONS

1. Is there a record of planning for this procurement? [5GCA §5010; 2 GAR, Div. 4 §1102.03]
2. Is there a record of the requesting agency's determination of need? [5 GCA § 5249(e)]
3. Is this procurement mandated by statute? If so, cite: _____
- _____
4. Are the services to be acquired for accountants, physicians, lawyers, dentists, licensed nurses, other licensed health professionals, or other professionals? [5 GCA §5216; 2 GAR, Div. 4 §3114(c)(1)]
- 4.1. If the answer to #4 is "yes," has a written determination been made in support?
5. Has a reasonable inquiry been conducted with the appropriate personnel department regarding the availability of personnel to perform the services required? [2 GAR, Div. 4 §3114(c)(2)]
- 5.1. If the answer to # 5 is "yes," has it been confirmed that the government does not have the personnel or resources to perform the services?
- 5.2. If the answers to ##'s 5 and 5.1 are "yes," has a written determination been made in support?
6. Has a written determination been made of the nature of the relationship to be established between the government and the contractor? [2 GAR, Div. 4 §3114(c)(3)]
7. Has a written plan for utilizing the services been developed? [2 GAR, Div. 4 §3114(c)(4)]
- 7.1. Has a written determination been made that the using agency intends to implement the written plan for utilizing the services and include it in the contractual statement of work?

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yes no n/a

8. Are there laws or regulations applicable to this procurement by virtue of this agency's enabling legislation or the requirements imposed by the funding source?

If the answer to # 8 is "yes," list the applicable laws and regulations here:

REQUIREMENTS FOR ALL SOLICITATIONS

9. Does RFP advise of disclosure of major shareholders? [5GCA §5233]
- 9.1. Is affidavit form (AG Procurement Form 002) attached to RFP?
10. Does RFP advise that submission of price proposal is a certification by offeror that price was independently arrived at without collusion? [2 GAR, Div. 4 §3126(b)]
- 10.1. Is affidavit form (AG Procurement Form 003) attached to RFP?
11. Does solicitation conspicuously state prohibition against gratuities and kickbacks? [5GCA §5630(c); 2 GAR, Div. 4 §§11107(3) and 11107(4)(e)]
- 11.1. Is affidavit form (AG Procurement Form 004) attached to RFP?
- 11.2. If proposed form of contract is attached to RFP, then prohibition must be stated in proposed contract. Is the prohibition stated?
[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".
12. Does solicitation conspicuously state prohibition against contingent fees and retention of persons to secure contract? [5GCA §5631(c); 2 GAR, Div. 4 §§11108(a)(3), 11108(f), and 11108(h)]
- 12.1. Is affidavit form (AG Procurement Form 007) attached to RFP?

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yes no n/a

- 12.2. If proposed form of contract attached to RFP, then prohibition must be stated in proposed contract. *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*
13. Does RFP conspicuously state ethical standards? [2 GAR, Div. 4 §11103(b)]
- 13.1. Is affidavit form (AG Procurement Form 005) attached to RFP?
- 13.2. If proposed form of contract attached to RFP, then ethical standards must be stated in proposed contract. *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*
14. Does RFP advise that solicitation for proposals may be cancelled as provided for in the regulations? [5GCA §5225; 2 GAR, Div. 4 §3115(c)]
15. Does RFP advise that any bid may be rejected in whole or in part in the best interest of territory as provided in the regulations? [2 GAR, Div. 4 § 3115(e) (2)]
16. Does RFP recite prohibition against employment of sex offenders? [5GCA §5253(c)]
- 16.1. If proposed form of contract attached to RFP, then prohibition must be stated in proposed contract. *[Instructions: Answer "yes" or "no" only if a proposed form of contract is attached to RFP. If a proposed form is not attached, then your answer is "not applicable".]*
17. Does RFP recite wage and benefits determination requirement? [5GCA §5211(b); see also 5 GCA §§ 5801 and 5802]
- 17.1. Is the most recent applicable USDOL wage and benefits determination attached to RFP?
- 17.2. Is declaration form (AG Procurement Form 006) attached to RFP?
18. Does RFP specifically provide for multiple or alternate bids?

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yes no n/a

18.1. If answer is no, then does solicitation state that multiple or alternate bids will be rejected. [2 GAR, Div. 4 §§ 3102(d)]

19. If contract will be for more than one year, does RFP state:

19.1. Contract term and conditions of renewal or extension? [5GCA §5237(a); 2 GAR, Div. 4 §§ 3121(e)]

19.2. The amount of services required for the proposed contract period? [2 GAR, Div. 4 §3121(e) (1) (A)]

19.3. That contract will be cancelled only if funds not appropriated or are insufficient? [2 GAR, Div. 4 §§3121(e)(1)(C)]

19.4. That, if contract cancelled for lack of funds, government will timely inform contractor; but that neither party's rights under termination clause are affected? [2 GAR, Div. 4 §§3121(e)(1)(C) and (D)]

19.5. How award will be determined? [2 GAR, Div. 4 §3121(e) (1) (F)]

19.6. That, if contract cancelled, contractor will be reimbursed unamortized reasonably incurred non-recurring costs? [2 GAR, Div. 4 §3121(e) (1) (G)]

20. If contract will be for more than one year was a written determination made citing relevant factors? [5 GCA §5237(b); 2 Gar, Div. 4 §3121(d)]
[Note: See regulation for relevant factors in making determination.]

20.1. List relevant factors found in written determination:

21. If contract is to have an option for renewal or extension, is notice of this provision included in the RFP? [2 GAR, Div. 4 §3119(k)(1)]

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yes no n/a

SCOPE OF WORK (SPECIFICATIONS)

22. Were specifications reviewed to confirm that they include only essential functions to meet government's needs? [5GCA §5268(a); 2 GAR, Div. 4 §4102(a)]
23. Were specification reviewed to confirm that they are not unduly restrictive? [5 GCA §§5265]
24. Is it true that the specifications do not contain features peculiar to services of only one service provider, or have the effect of requiring a sole source procurement? [5GCA §5268(b); 2 GAR, Div. 4 §§4106 (a) and 4102(a)(3)]
- 24.1. If answer is "no," is there a written determination that it is not practicable to use a less restrictive specification, or that peculiar features are essential, stating reasons why similar services without these features do not meet minimum requirements? [5GCA §5268(b); 2 GAR, Div. 4 § 4106(a)]
25. Do specifications describe salient technical requirements or desired performance without restrictions which do not affect requirements or performance? [5GCA §5268(c); 2 GAR, Div. 4 §§4102(a) (2) and 4109(c)]
26. Do specifications permit maximum practicable competition? [5 GCA §5265; 2 GAR, Div. 4 §4102(a) (1)]

REQUIREMENTS AND CRITERIA

27. Does the RFP set forth, prior to publication, all of the requirements and criteria that will be used to determine the best qualified, responsive offeror? [5 GCA §5216(e)]

RFP DOCUMENT REQUIREMENTS

28. - 36.6. The following items are mandatory as required by 5GCA §5216(c) and/or 2 GAR, Div. 4 §3114 and must be stated in the RFP:

28. Description of type of services required [5 GCA §5216(c); 2 GAR, Div. 4 §3114(f)(1)(A)]



- | yes | no | n/a | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 29. Description of work involved [2 GAR, Div. 4 §3114(f)(1)(B)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 30. Estimate of when and for how long the services will be required [2 GAR, Div. 4 §3114(f)(1)(C)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 31. Description of type of contract to be used [2 GAR, Div. 4 §3114(f)(1)(D)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 32. Date by which proposals shall be submitted [2 GAR, Div. 4 §3114(f)(1)(E)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 33. Statement that proposals shall be in writing [2 GAR, Div. 4 §3114(f)(1)(F)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 34. Statement that offerors must designate those portions of their proposal which contain trade secrets or other proprietary data which offerors want to keep confidential [2 GAR, Div. 4 §3114(f)(1)(G)] |
| | | | 35. Statement that the following is minimum information that proposals must contain: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.1. Name of offeror , location of principal place of business, and place of performance. [2 GAR, Div. 4 § 3114(f)(1)(H)(i)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.2. If deemed relevant, age of offeror’s business and average number of employees over a previous period of time as specified. [2 GAR, Div. 4 § 3114(f)(1)(H)(ii)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.3. Abilities, qualifications, and experience of all persons who would be assigned to provide required services [2 GAR, Div. 4 §3114(f)(1)(H)(iii)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.4. Listing of other contracts under which services similar in scope, size or discipline were performed [2 GAR, Div. 4 §3114(f)(1)(H)(iv)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 35.5. Detailed plan for performance [2 GAR, Div. 4 §3114(f)(1)(H)(v)] |
| | | | 36. Description of factors to be used in evaluation and selection process, and their importance, as follows: [2 GAR, Div. 4 §3114(f)(1)(H)(vi)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 36.1. Quality of detailed plan for performance [2 GAR, Div. 4 §3114(f)(2)(A)] |

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yes no n/a

- 36.2. Ability to perform [2 GAR, Div. 4 §3114(f)(2)(B)]
- 36.3. Personnel, equipment, and facilities to perform [2 GAR, Div. 4 §3114(f)(2)(C)]
- 36.4. Record of past performance of similar work [2 GAR, Div. 4 §3114(f)(2)(D)]
- 36.5. Other factors, as mentioned in RFP, briefly described:

- 36.6. Is the relative importance of each factor to be considered in evaluating proposals stated in an objective numerical fashion? [5 GCA §5216(c); 2 GAR, Div. 4 §§3114(f)(2) and 3114(j)]
- 37. If your answer to # 8, above, is “yes,” have you applied all applicable laws and regulations to the development and formulation of the RFP?

PUBLIC NOTICE AND DISTRIBUTION OF RFP

- 38. Was notice of RFP mailed, published, or otherwise furnished to prospective offerors at least ten days before due date? [5GCA §5216(c); 2 GAR, Div. 4 §3114(e) and 3109(f)(2)]
- 39. If the procurement is for greater than \$25,000, was notice of RFP published at least ten days before due date in a newspaper of general circulation on Guam, in a newspaper of local circulation in area pertinent to the procurement, in industry media, or in a government publication designed for public notices? [2 GAR, Div. 4 §§ 3114(e) and 3109(f) (2)]

39.1. Describe means of publication: _____

- 40. Was the RFP or Notice of the Availability of RFP mailed or otherwise furnished to a sufficient number of potential bidders in order to secure competition? [2 GAR, Div. 4 §3109(f) (1) as applicable by §3114(e)]

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yes no n/a

- 41. Was RFP package made publicly available for inspection at the office of the Procurement Officer? [2 GAR, Div. 4 §3109(f)(3) as applicable by §3114(e)]
- 42. Was RFP also distributed to persons interested in performing, if such persons are known to be interested? [2 GAR, Div. 4 §3114(e)]
- 43. Was register or log of distribution of RFP kept?
- 44. Given the nature of the service to be acquired, and of the market place, was adequate notice of the need for these services given by the purchasing agency? [5 GCA §5216(c)]

PRE-PROPOSAL CONFERENCE AND QUESTIONS

- 45. Was pre-proposal conference conducted? [2 GAR, Div. 4 §3114(g) and 2 GAR, Div. 4 § 3109(g)(4) [editor's note: this section apparently should have been numbered 3109(h), as it is referred to in §3114(g)]]
- 46. Was time, date and place announced to all prospective offerors?
- 47. Was summary or minutes of conference prepared?
- 48. Was summary or minutes of conference distributed to all prospective offerors?
- 49. Were questions received from any prospective offeror?
- 50. If answer to #49 was "yes," were written answers provided to each prospective offeror who picked up an RFP package?

AMENDMENTS TO RFP

- 51. Were any amendments or addenda to the RFP issued? [see 2 GAR, Div. 4 §3109(i)]
- 52. How many amendments or addenda were issued? _____
- 53. Was each amendment or addenda distributed to or served on all prospective offerors who received an RFP?

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yes no n/a

54. Was proof of distribution or service kept in the form of a register or log of distribution?

55. Was proof of service kept in the form of some other documentation? [see 2 GAR, Div. 4 §3109 (i) (2)]. If "yes," please identify form of documentation:

RECEIPT AND OPENING OF PROPOSALS

56. Was register of proposals received kept? [2 GAR, Div. 4 §3114 (h) (1)]

57. Was each proposal time-stamped and dated? [2 GAR, Div. 4 §3114 (h) (1)]

59. Were the offerors of late proposals notified that their proposal would not be considered? [see 2 GAR, Div. 4 §3109 (k) (3)]

60. Were proposals opened privately in the presence of two or more procurement officials? [2 GAR, Div. 4 §3114 (h) (1)]

61. Were proposals kept in a secure place until established due date? [2GAR, Div. 4 §3114(h) (1)]

62. Were the contents of proposals disclosed to any unauthorized persons? [2 GAR, Div. 4 §3114 (h) (1)]

DISCUSSIONS, EVALUATIONS AND SELECTION OF BEST QUALIFIED OFFEROR

63. Were discussions held with any offeror? [5GCA §5216(d), and 2 GAR, Div. 4 §3114(i) (1)]

64. If answer to #63 was "yes," was care taken that information from other proposals was not disclosed to the offeror with whom discussions were being held? [2 GAR, Div. 4 §3114(i) (2)]

65. As a result of discussions, did any offeror decide to modify or withdraw its proposal? [2 GAR, Div. 4 §3114 (i) (3)]



- | yes | no | n/a | |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 66. If any proposals were modified, was a log of modifications kept? [2 GAR, Div. 4 §3114(h) (1)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 67. Were proposals evaluated and ranked, and were the top three offerors designated? [2 GAR, Div. 4 §3114(j)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 68. Were the factors and process used in evaluating proposals consistent with RFP? [5GCA §5216(e); 2 GAR, Div. 4 §3114(j)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 69. Were any proposals rejected because the offeror was found to be non-responsible? [2 GAR, Div. 4 §3115(e) (3) (B)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 70. Were any proposals rejected because the proposal ultimately failed to meet announced requirements? [2 GAR, Div. 4 §3115(e) (3) (B)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 71. Were any proposals rejected because the price is clearly unreasonable? [2 GAR, Div. 4 §3115(e) (3) (B)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 71.1. If the answer to # 69, #70 or #71 was "yes," was a written determination prepared for each rejection? [2 GAR, Div. 4 §§3115(d)(3), 3116(a), and 3116(b)(5)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 71.2. If the answer to # 69, #70 or #71 was "yes," was each unsuccessful offeror notified in writing about the rejection and reasons? [see 2 GAR, Div. 4 §§3115(e)(4), and 3116(b)(5)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 72. After the top three offerors were designated, were all offerors given written notice of their proposal's status? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 73. Was best qualified offeror asked to submit cost or pricing data for negotiations to begin? [2 GAR, Div. 4 §3114(k)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 74. Has best qualified offeror requested in writing non-disclosure of trade secrets and proprietary data? [2 GAR, Div. 4 §3114(h)(2)] |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 74.1. If the answer to # 74 is "yes," has procurement officer examined designated material to validate request for nondisclosure? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 74.1.1. If the answer to #74.1 is "yes," has procurement officer agreed with the request of offeror claiming confidentiality? |

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yes no n/a

- 74.1.2. If the procurement officer does not agree with the request of the offeror, is there a record that the offeror was informed in writing of decision, the effect of decision, and of appeal rights?

NEGOTIATIONS AND AWARD

75. Were negotiations with the best qualified offeror successful, and were all terms and price agreed to?
76. Were contract negotiations directed toward: [2 GAR, Div. 4 §§3114 (1) (2) and (3)]
- 76.1. Assuring offeror has clear understanding of scope of work, including essential requirements to providing required services?
- 76.2. Determining offeror will make necessary personnel and facilities available?
- 76.3. Agreeing upon compensation that is fair and reasonable by taking account of value, scope, complexity and nature of required services?
- 76.4. Agreeing upon contract requirements and documents?
77. Is there a written determination that negotiated price is fair and reasonable? [5GCA §5216(e) and 2 GAR, Div. 4 §3114(1)(1)]
78. Is negotiated price sufficient to comply with the wage and benefit requirements of 5 GCA §§ 5801 and 5802? [5GCA §5211(g)]
79. If negotiations with best qualified offeror were not successful, was such offeror advised immediately that negotiations were being terminated? [2 GAR, Div. 4 §3114(l) (4) (A)]
80. Regarding #79, was written confirmation of the termination of negotiations given within three days of the verbal notice? [2 GAR, Div. 4 §3114(l) (4) (A)]
81. Was written record kept of reasons why negotiations failed? [2 GAR, Div. 4 §3114(l) (4) (A)]

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yes no n/a

82. At conclusion of successful negotiations, was memorandum of evaluations and negotiations prepared setting forth basis for award, to specifically include 1) how evaluation factors were applied to determine best qualified offers, and 2) principle elements of negotiation and significant considerations of price and terms? [2 GAR, Div. 4 §3114(m)]
83. Was written notice of award made? [2 GAR, Div. 4 §3114(l) (5)]
84. If your answer to # 8, above, is “yes,” have you applied all applicable laws and regulations to the receipt and handling of proposals, and to the evaluation and negotiation of an agreement in this acquisition ?

MANDATORY REQUIREMENTS FOR ALL CONTRACTS

85. Did the procurement officer certify in writing and under penalty of perjury that a complete procurement record exists before award was made? [5GCA §5250; 2 GAR, Div. 4 §3130] The certification should be in the following form or in substantially similar language:

"CERTIFICATION: Pursuant to 5 G.C.A. §5250, I hereby certify under penalty of perjury that I am the procurement officer responsible for administering the solicitation of the attached contract, and that I have caused to be prepared and now maintain a full and complete record of the procurement as required by law."

86. Identify contract type by checking one [2 GAR, Div. 4 §3119]:

_____ fixed price contract - firm fixed price

_____ fixed price contract - with price adjustment

_____ cost-reimbursement - cost contract

_____ cost reimbursement - cost-plus-fixed fee contract

_____ cost incentive contract - fixed-price cost incentive

_____ cost incentive contract - cost-reimbursement contract with cost incentive fee

_____ performance incentive contract

_____ time and materials contract - time and materials contract

_____ time and materials contract - labor hour contract



yes no n/a

_____ lease

_____ other: _____

87. For contracts which are not firm fixed price, has a written determination been made that the contractor's accounting system is adequate to allocate costs and will permit timely development of all cost data? [5GCA §5236; 2 GAR, Div. 4 §3119(e) (2)]
88. Can an assurance be made that contract is not a "cost-plus-a-percentage-of-cost" contract? [5GCA §5235; 2 GAR, Div. 4 §3119(b)]
89. If this is a cost-reimbursement contract, then has a written determination been made that the contract is likely to be less costly than other types of contracts, and meets further conditions set out at 2 GAR, Div. 4 § 3119(e) (2)? [5GCA §5235]
90. Does the contract conspicuously state the prohibition against gratuities and kickbacks? [5GCA §5630(c); 2 GAR, Div. 4 §11107(3)]
91. Does the contract conspicuously state contractor's representation that contractor has not retained a person to solicit or secure contract, or paid a contingent fees, commissions, or brokerage fees? [5GCA §5631(a); 2 GAR, Div. 4 §11108(a) (3)]
92. Does contract conspicuously state ethical standard? [2 GAR, Div. 4 §11103(b)]
93. Does contract recite prohibition against employment of sex offenders? [5GCA §5253]
94. If contract is for multiple years, does contract state exactly the same term provision and renewal provision that were stated in the RFP? [5GCA §5237(a)]
95. For multi-year contracts, are funds available for the first year at time of contracting? [5GCA §5237(a)]
96. For multi-year service contract, and/or service contract with renewal clause, is there a stipulation to apply the Wage and Benefits Determination for Guam promulgated by the U.S. Department of Labor on a date most recent to the renewal date? [5 GCA §§5801, 5802]



yes no n/a

97. If the contract is not a firm fixed price contract, does the contract state that the contractor shall maintain its books and records for three years from the date of final payment, and that this provision must be included in subcontracts? [5GCA §5241; 2 GAR, Div. 4 §3124]
98. If cost or pricing data was required, then does contract include provision that government may, at reasonable times and places, audit books and records relative to cost or pricing data, and that contractor shall maintain such records and books for three years from date of final payment? [5GCA §5241; 2 GAR, Div. 4 §3124]
99. A Disputes Clause is mandated in each contract by 2 GAR, Div. 4 §9103(g). The language proposed by §9103(g) is not adequate in light of the amendment to the procurement law by P.L.28-068:IV:68 [codified at 5 GCA §5427(e)] providing for an administrative appeal to the Public Auditor, and in light of *Pacific Rock v. Department of Education*, 2001 Guam 21, confirming that disputes for money owed to or from the government of Guam are to be resolved pursuant to the Government Claims Act. Representatives of government agencies should contact the Office of the Attorney General at paag@guamag.org for assistance and guidance.

CONTRACT CLAUSES

100. Does the contractual statement of work implement the written plan for utilizing the services prepared at the initiation of this acquisition? [2 GAR, Div. 4 §3114(c) (4)]

101 - 109. The following are contract clauses that should be used only if the subject matter is applicable. If applicable, the clause in the regulation is to be used verbatim unless the provisions of the regulations at 2 GAR, Div. 4 §6101(2) are followed. [5GCA § 5350 (a) and (c); 2 GAR, Div. 4 § 6101(2)]:

101. "Changes" clause [2 GAR, Div. 4 §6101(3)(a)]
102. "Stop work order" clause [R 6101(4)(c)]
103. "Variation in quantity" clause for definite quantity contracts [2 GAR, Div. 4 §6101(5)(a)]
104. "Price adjustment" clause [2 GAR, Div. 4 §6101(6)]

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yes no n/a

- 105. "Claims based on government's actions or omissions" clause [2 GAR, Div. 4 §6101(7); referring one to 2 GAR, Div. 4 § 5106(8)]
- 106. "Termination for default" clause [2 GAR, Div. 4 §6101(8)]
- 107. "Liquidated damages" clause [2 GAR, Div. 4 §6101(9)(a); see also 2 GAR, Div. 4 §6101(9)(b)]
- 108. "Termination for convenience" clause [2 GAR, Div. 4 §6101(10)]
- 109. "Remedies" clause [2 GAR, Div. 4 §6101(12); referring one to 2 GAR, Div. 4 §5106(12)]
- 110. With respect to items 101 through 109, if the clauses were applicable, but not quoted in the contract verbatim from the rule, then was a written determination made to justify each deviation? [5GCA §5350(d); 2 GAR, Div. 4 §6101(2)]

MISCELLANEOUS

- 111. If for legal services, has the AG's approval been obtained? [5GCA §5121(b) and 2 GAR, Div. 4 §3114 (n)]
- 112. If your answer to # 8, above, is "yes," have you applied all applicable laws and regulations to the development and award of the contract?

