



GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER  
Alcohol & Substance Abuse Branch, Clinical Services Division

## **Request for Proposals GBHWC RFP 2022-05**

Guam Non-Profit Organizations  
Providing Professional Services for  
Residential Rehabilitation Substance Treatment  
for Adolescent Males and Females

Supported by  
Local Funds 10 GCA Section 86109  
(General Fund Annual Appropriations)  
Federal Funds CFDA # 93.959  
(Substance Abuse Prevention & Treatment Block Grant)

Submission Deadline:  
**4:30 P.M.**  
**October 21, 2022**

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Issue Date: Sept 16, 2022

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GBHWC RFP 2022-05

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**PUBLIC NOTICE**  
REQUEST FOR PROPOSAL TO  
GUAM NON-PROFIT ORGANIZATIONS FOR PROFESSIONAL  
SERVICES TO PROVIDE RESIDENTIAL REHABILITATION  
SUBSTANCE TREATMENT FOR ADOLESCENT MALES AND FEMALES  
GBHWC RFP NO. 2022-05

The Guam Behavioral Health and Wellness Center (the GBHWC) is soliciting proposals for professional services from Guam non-profit organizations to provide residential rehabilitation substance treatment for adolescent males and females that are funded by annual local appropriation (10 GCA Section 86109a) and federal funds (CFDA No. 93.959, SAMHSA Substance Abuse Prevention & Treatment Block Grant). The GBHWC identified evidence-based models and best practices must be utilized to provide such services.

Request for Proposal (RFP) packages are available for public inspection at [www.gbhwc.guam.gov](http://www.gbhwc.guam.gov) or by calling telephone number 671-647-5395 or 671-647-5397 during the weekdays except holidays between 8:30 A.M. to 4:30 P.M. GBHWC requires that prospective Offerors register with GBHWC to ensure that they receive notices regarding any changes or updates to the RFP. Official communications, clarifications and/or amendments to the RFP will be sent to all registered Offerors and posted on [www.gbhwc.guam.gov](http://www.gbhwc.guam.gov).

A registration form is provided with the RFP as Form A. GBHWC will not be liable for failure to provide notice to any Offeror that does not register current contact information.

Questions regarding this RFP should be written and addressed to GBHWC Director, and delivered by U.S. Postal Service, commercial courier service, hand delivery, facsimile 671-649-6948 or email to [marilyn.aflague@gbhwc.guam.gov](mailto:marilyn.aflague@gbhwc.guam.gov) by September 30, 2022.

The DEADLINE FOR RECEIPT OF PROPOSALS is no later than 4:30 P.M. Chamorro Standard Time, FRIDAY, OCTOBER 21, 2022. Original proposals must be delivered to the Director's Office, Guam Behavioral Health and Wellness Center, 790 Governor Carlos Camacho Road, Tamuning, Guam 96913. Electronic mail (email) or electronic signatures are not acceptable.

GBHWC shall have the right to reject all proposals or offers that have been submitted in response to this RFP, and/or may cancel this RFP at any time if the Director determines such to be in the interest of GBHWC or for other reason (s) as allowed by law or regulation.

GBHWC is an equal opportunity employer.

Carissa E. Pangelinan  
Acting Director  
September 16, 2022  
(Paid by Local Funds)



## SECTION I. GENERAL INFORMATION

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### A. INTRODUCTION

This request for proposal is issued by the Clinical Services Division, Drug and Alcohol Branch New Beginnings Program at the Guam Behavioral Health and Wellness Center, 790 Governor Carlos Camacho Road, Tamuning, Guam 96913.

Overview. Formerly the Department of Mental Health and Substance Abuse (DMHSA), the Guam Behavioral Health and Wellness Center (hereinafter known as the GBHWC) is requesting professional services from non-profit organizations to provide residential rehabilitation substance treatment for adolescent males and females. The services are federally and locally funded (Substance Abuse Prevention & Treatment Block Grant, CFDA No. 93.959, and 10 GCA Section 86109).

Organizations interested in bidding for this project may submit proposals that are directed towards adolescent males and females. The service providers must be experienced with Level of Care III.5 rehabilitation services for adolescent males and females as specified by the American Society of Addiction Medicine (ASAM) Patient Placement Criteria, 3<sup>rd</sup> Revision. This project puts into action the GBHWC's Strategic Planning goals to build capacity in the community for substance abuse services, and provide consumer-centered and family-centered services that are culturally compatible with the island community. In addition, it is consistent in carrying-out the GBHWC's mandate to provide alcohol and drug programs and services for the people of Guam and to encourage the development of privately-funded community based programs to carry-out such programs and services (10 GCA §86101). Finally, it complies with planning, carrying-out, and evaluating activities to prevent and treat substance abuse (45 CFR Part 96) as funded by the Substance Abuse Prevention and Treatment (SAPT) Block Grant.

Background. The GBHWC is Guam's Single State Authority (SSA) for mental health and substance abuse services and is mandated by local law (10 GCA §86101 & §86109; added by P.L. 17-21) to provide substance abuse inpatient and outpatient services, as well as to support community or faith-based organizations through partnering to provide such services. The GBHWC is thereby specifically mandated to create a Guam Drug and Alcohol Detoxification, Rehabilitation, and Prevention Grant Program **“for the purpose of providing annual grants to local non-profit organizations providing drug and alcohol detoxification, rehabilitation, and**

**prevention services”.** (10 GCA §86109) It is the intent of GBHWC to award a contract to one of the highest qualified offerors for up to three years.

Objectives. One of the primary objectives of the Drug and Alcohol Branch of the GBHWC is to increase treatment capacity through collaboration and leveraging of resources with community providers and to address gaps in services identified by Guam and its stakeholders. The GBHWC has adopted the following national goals for substance abuse treatment capacity:

- Increase the number of treatment programs using evidence-based practices;
- Increase the percentage of people with substance abuse problems who receive treatment;
- Improve treatment outcomes for people receiving services; and
- Make cultural adaptations to evidence-based models and practices for optimal use.

Programs Guidelines. The Drug and Alcohol Branch New Beginnings Program currently provides and supports an array of comprehensive outpatient and residential drug and alcohol treatment programs and services for adolescents and adults. The Branch chose the American Society of Addiction Medicine Patient Placement Model-3R (ASAM PPC-3R) as the primary reference guide source for Guam’s substance treatment Continuum of Care. The Patient Placement Criteria (PPC) are guidelines (see: <http://www.asam.org/publications/patient-placement-criteria> and are incorporated herein as if fully rewritten) developed by the American Society of Addiction Medicine (ASAM) that can be accurately used to assess the severity of patients' problems, so that they can be admitted to the most appropriate level of care (admission criteria), remain in that level of care (continuing care criteria) and be discharged from that level of care (discharge criteria).

The Branch currently provides Level 0.5 Early Intervention Services/Drug and Alcohol Education while other community and faith-based organizations provide Level I Outpatient, and Level II.1 Intensive Outpatient (ASAM PPC-3R); Residential ASAM Level III.5 and III.2-D Treatment. The Guam Memorial Hospital and Guam Regional Medical City Hospital provides Level IV for consumers needing (acute care) medical detoxification. This allows consumers to move from one level of care to another, depending on their intensity of services needed and as determined by a bio-psychosocial assessment (based on six patient problem areas: ASAM dimension model).

In an effort to address the current gaps in service for residential rehabilitation treatment, the GBHWC has adopted a proactive approach by working with the various community stakeholders. Collaborative efforts through mediums like the GBHWC Strategic Public Planning Meetings, Community Substance Abuse Planning and Development Group (CSAPD) monthly

**Commented [MA1]:** Do I replace and type in residential rehabilitation and social detoxification substance treatment?

meetings, and the Guam Homeless Coalition, have provided opportunities to bring the community partners together.

Commitment. Therefore, the GBHWC is committed and in support of providing expanded treatment capacity for residential rehabilitation and social detoxification substance treatment services on Guam. The services must address adolescent males and females. The service proposals must meet the criteria for services as defined in the scope of work to increase treatment capacity of the various treatment modalities needed for the community of Guam. When the capacities of these levels of care are increased, the number of consumers currently on the wait-list for services is expected to reduce significantly while providing more timely treatment, fulfilling a national recommendation from the Center of Substance Abuse Treatment (CSAT), Substance Abuse Mental Health Services Administration (SAMHSA), U.S. Department of Health & Human Services, a block grant funder for Guam.

**B. APPLICABILITY OF GUAM PROCUREMENT LAW**

All agencies of the government of Guam are required to follow the Guam Procurement Law when using public funds for procurement of “supplies or services” pursuant to 5 GCA Chapter 5 and 2 GAR Division 4. The statutes are available online at the <http://www.guamcourts.org/CompilerofLaws/index.html>. This Request for Proposal (RFP) is issued by the GBHWC, a line department of government of Guam, and authorized by the Guam Procurement Law to act as the purchasing agency for the purpose of procuring professional services described in Section II, Scope of Work. Any party who submits a proposal is known as “offeror”.

**C. ALL PARTIES TO ACT IN GOOD FAITH**

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

**D. LIABILITY FOR COSTS TO PREPARE PROPOSAL**

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

**E. REGISTRATION OF INTERESTED PARTIES (FORM A)**

All parties who receive an RFP, either via the website or email and who are possibly interested in submitting a proposal must register as an interested party by completing the

“Proposal Registration” (GBHWC RFP Form A) and either delivering it to GBHWC in person (by appointment by calling (671) 647-5395/5396/5397), or by U.S. Mail, facsimile or email to [marilyn.aflague@gbhwc.guam.gov](mailto:marilyn.aflague@gbhwc.guam.gov). Only potential offerors who have registered with GBHWC are assured of receiving any amendments to the RFP, responses to inquiries and other related matters. **Acknowledgement of receipt to all amendments and responses to inquiries is required as part of any proposals.** GBHWC maintains a procurement registration log as to those potential offerors. In the event the contact information for a potential offeror changes during the procurement process, it shall be the potential offeror’s responsibility to update its registration contact information with GBHWC. GBHWC will not be liable for failure to provide notice to any party who did not register accurate and current contact information.

F. DESIGNATION OF REPRESENTATIVE (Form B)

The offeror shall designate a representative to act on its behalf and who is knowledgeable of the scope of work and the quality of work to be performed or services to be rendered. The representative is authorized to receive all proposal-related communication(s).

G. LICENSES (Form C)

The offeror shall submit a Guam business license, registration or certificate; a federal employers identification number (EIN) or other valid and current attachments with the proposal.

A current Guam business license is not required in order to submit a proposal; however, it is required of the successful offeror before the agreement (contract) is executed by the GBHWC director.

An offeror who has not complied with the Guam Licensing Law is cautioned that the GBHWC will not consider for award any proposal offer submitted. Specific information on licenses may be obtained from the Director of the Department of Revenue and Taxation, by telephone at (671) 475-1815 or by mail at P.O. Box 23607, GMF, Guam 96921 or online at: <http://ns.gov.gu/government> or [www.admin.gov.gu/revtax](http://www.admin.gov.gu/revtax).

H. NON-RESIDENT TAX WITHHOLDING

A non-resident person without a valid Guam business license residing outside of Guam shall be subject to a withholding assessment, the equivalent of the Guam business privilege tax (BPT), which shall be the equal to four percent (4% or current rate) of the total value of a contract awarded by all government of Guam contracts for professional services as a cost of doing business with the government of Guam. See P.L. 33-166 effective June 20, 2017 codified at 11 G.C.A., Chapter 71, Section 7114.

I. DEBARMENT, SUSPENSION AND INELIGIBILITY

All debarment or suspensions of persons are deferred from consideration for award of contracts imposed by the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency. (5 GCA §9102). Only offerors who are not suspended by local and federal government(s) are qualified to submit proposals.

J. MANDATORY LOCAL DISCLOSURES

The Guam Procurement Law requires each offeror to make a number of disclosures. Some of the disclosures are required for an offeror to qualify to submit a proposal.

1. Affidavit Re Disclosing Ownership, Influence, Commissions and Conflicts of Interest (Required by 5 GCA § 5233 as amended by P.L. 36-13 (4/9/2021) (new) AG Procurement Form 002)

Disclosures of ownership, influence, commissions, gratuities, kickbacks, and conflicts of interest occurring during the 365 days preceding the publication of this solicitation and until award of any contract in this procurement by affidavit on the AG Procurement Form 002 is required by Offeror. The Offeror's duty to disclose ownership, influence, commissions, gratuities, kickbacks, and conflicts of interest, and to update any prior disclosures promptly is a continuing duty, and material to this solicitation, and any contract awarded under this solicitation. The affidavit shall be open and available to the public for inspection and copying. (5 GCA §5233).

2. Affidavit Re Non-Collusion (AG Procurement Form 003)

The offeror shall submit an affidavit and represent that it certifies that the price submitted was independently arrived without collusion and has not intentionally committed anti-competitive practices (2 GAR §3126.b).

3. Affidavit Re Gratuities or Kickbacks (AG Procurement Form 004)

The offeror shall submit an affidavit that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in §11206 Gratuities and Kickbacks of the Guam Procurement Regulations.

4. Affidavit Re Ethical Standards (AG Procurement Form 005)

The offeror shall submit an affidavit and represent that it has not knowingly influenced and promises that it will not knowingly influence a government

employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Regulations.

5. Declaration Re Compliance with U.S. Department of Labor (DOL) Wage Determination (AG Procurement Form 006)

The offeror shall submit an affidavit and represent that it will pay its employees and ensure its subcontractors pay its employees in full compliance with all applicable federal and local wage rules and regulations, 5 GCA §5801 & §5802 Wage Determinations. The most recently issued wage determination at the time a contract is awarded applies to the Agreement.

6. Affidavit Re Contingent Fees (AG Procurement Form 007)

The offeror shall submit an affidavit and represent that it has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract and represents that it is not in violation of Subsection (1) of Section §11108 of the Guam Procurement Regulations as failure to do so constitute a breach of ethical standards.

K. TYPE OF CONTRACT

The contract that results in this solicitation will be a professional service cost reimbursement contract. The parties will agree to an approved budget, Cost Reimbursement Object Categories and Staffing Levels (See Procurement Form F – Annual Costs Proposal). The contract shall contain a ceiling or an estimate that shall not be exceeded without the prior consent to GBHWC. GBHWC personnel will closely monitor the performance of the services. Offeror's accounting system will be reviewed and approved by GBHWC as part of this procurement. GBHWC is utilizing a cost reimbursement contract because the nature of profession services and GBHWC focus on obtaining the most efficient and lowest cost for the government of Guam.

L. DURATION OF CONTRACT OR TERM OF SERVICE

1. Initial Term

The initial term contract shall begin upon the date that the Governor approves the contract, as signified by her execution of the contract (the "Initial Term"). After the Governor has approved the contract, the government will issue a written notice to proceed notifying the vendor services are to begin. The initial term of the contract shall end September 30, 2023, subject to the appropriation, allocation and availability of funds.

2. Renewal Term

At the option of the government, the contract may be renewed for up to two (2) additional one (1) year periods (each being a "Renewal Term") subject to the availability of funds and satisfactory performance. Upon expiration of the Renewal Term(s), this contract shall expire, unless sooner terminated.

3. Monthly Extension Periods

At the option of the government, the contract may be extended after the Renewal Term on a month-to-month basis (each being a "Monthly Extension Period") or in special circumstances a combination of monthly periods for two or three months, to begin immediately after the expiration date of the final Renewal Term(s), provided that in no event may the parties agree to more than six (6) Monthly Extension Periods. The Monthly Extension Periods may be agreed to by the parties only if the government is unable to continue the services under a new contract after a new solicitation and procurement is undertaken by the government.

4. Multiple Term Contract Multiple Certification of Funds.

The Initial Term and any subsequent term(s) of this contract are subject to the availability of funds. The funds for the first twelve (12) months (or pro-rated fiscal year if applicable) of the Initial Term of the contract are certified as part of the execution of the contract. In the event that funds are not allocated, appropriated or otherwise made available to support continuation of performance in any period of time after the first twelve (12) months (or pro-rata fiscal year if applicable), the contract shall be cancelled; however, this does not affect either the GBHWC's rights or the contractor's rights under any termination clause of the contract. The GBHWC shall notify the contractor on a timely basis in writing that funds are, or are not, available for the continuation of the contract for each succeeding period. In the event of cancellation of this multi-term contract as provided above, the contractor will be reimbursed its unamortized, reasonably incurred, nonrecurring costs.

There may be multiple certifications of funds by the GBHWC during any term of the contract.

M. COMPENSATION FOR SERVICES

The offeror and the GBHWC will negotiate an annual not to exceed budget during each year of the contract. Object categories and staffing levels shall remain firm and place for all



years of the contract, including any special monthly extension (on a pro-rata, monthly basis) for the professional services provided in keeping with this RFP.

The contractor shall be compensated monthly upon the clearance of monthly invoices by the GBHWC.

1. Invoices

All compensation is subject to appropriation, allocation, and availability of funds, upon completion of the services and receipt of any deliverables and a monthly invoice in the form agreed by the parties. If less than a month of service is provided, the GBHWC shall pro-rate the payment based on the number of days of service provided. Payment shall be based on actual costs, as defined in 2 GAR Division 4 § 7101(1), submitted less disallowed costs and penalties, as applicable. Compensation based upon the aggregate of actual cost submitted may be less than the agreed upon compensation, but in no event shall it exceed the agreed upon compensation.

The invoice should reflect only those service fees incurred for the current billing period. Each invoice should also include the total amount billed from the inception of the current contract year. All invoices are subject to review and approval by the GBHWC. The acceptance and payment of any invoice shall not be deemed a waiver of any of the GBHWC's rights under the agreement.

In any reporting month there exists a discrepancy in the statistical, narrative or financial reports submitted by the contractor to the GBHWC, ten percent (10%) of the invoice amount after applying any penalties or disallowed costs, shall be withheld until the discrepancy has been resolved to the satisfaction of the GBHWC.

2. Final Payment and Release of Claims

The final payment shall be made upon satisfactory delivery and acceptance of all services herein specified and performed. Prior to final payment and as a condition precedent thereto, the contractor shall execute and deliver to the GBHWC a release, in the form provided by the GBHWC of claims against the GBHWC and the government of Guam arising under and by virtue of the contract.

N. INDEPENDENT CONTRACTOR STATUS

The offeror understands that its relationship with the GBHWC is as an independent contractor and not as an employee of the GBHWC. No employee benefits such as insurance

coverage, participation in the government retirement system, or accumulation of vacation or sick leave shall accrue to the offeror or its individual employees, if any. No type of tax will be withheld from payments made to the awarded offeror.

O. CONFIDENTIAL/PROPRIETARY INFORMATION

Any restrictions of the use or inspection of material within the proposal shall be clearly stated in the proposal itself. The offeror must state specifically which elements of the proposal are to be considered confidential/proprietary. The confidential/proprietary information must be readily identifiable, marked and separately packaged from the rest of the proposal. Co-mingling of confidential/proprietary and other information is NOT acceptable. Neither a proposal in its entirety, nor proposal price information will be considered confidential/proprietary. If a proposal contains confidential information, a redacted copy of the proposal must also be submitted. **Any proposal copyrighted or marked as confidential and proprietary in its entirety shall be deemed materially non-responsive to the RFP, and may be rejected by the GBHWC as being non-compliant/non-responsive with the RFP.** Any information that will be included in any resulting contract cannot be considered confidential. The GBHWC will make a written determination as to the apparent validity of any request for confidentiality. In the event the GBHWC does not concur with the offeror's request for confidentiality, the written determination will be sent to the offeror.

P. OWNERSHIP OF PROPOSAL

The GBHWC has the right to retain the original proposal and other RFP response materials for our files. As such, the GBHWC may retain or dispose of copies as is lawfully deems appropriate. The GBHWC has the right to use any or all information/material presented in reply to the RFP, subject to the limitation outlined in the clause, Proprietary/Confidential Information. The offeror expressly agrees that the GBHWC may use the materials, and any and all ideas and adaptations of ideas contained in any proposal received in response to this solicitation for all lawful Government of Guam purposes, including but not limited to the right to reproduce copies of the material submitted for purposes of evaluation, and to make the information available to the public in accordance to the provisions of Guam laws and regulations. Selection or rejection of the offer will not affect this right.

Q. EXPLANATION TO OFFERORS

No oral explanation in regard to the meaning of the specification will be made and no oral instructions will be given before the award of the proposal. Discrepancies, omissions, or doubts as to the meaning of the specification 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 the submission of their proposals. Interpretation, if required, shall be made in the form of an amendment to the specification, which will be forwarded to all prospective offerors, and its receipt by the offeror should be **acknowledged on the proposal form**.

R. EQUAL OPPORTUNITY - Nondiscrimination

Offeror who is awarded the contract, warrants that no person in its employment 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 Offeror while on government of Guam property, with the exception of public highways. If any employee of the Offeror is providing services on government property and is convicted subsequent to an award of a contract, then the Offeror warrants that it will notify the government of the conviction within twenty-four hours of the conviction and will immediately cease convicted persons from providing services on government property. If the Offeror is found to be in violation of any of the provisions of this paragraph, then the government will give notice to the Offeror to take corrective action. The Offeror shall take corrective action within twenty-four hours of notice from the government, and the Offeror shall notify the government when action has been taken. If the Offeror fails to take corrective steps within twenty-four hours of notice from the government, then the government in its sole discretion may temporarily suspend any contract for services until corrective action has been taken.

GBHWC is an equal opportunity provider and employer and strictly adheres to a policy on nondiscrimination activities in compliance with all applicable Federal and Guam laws in its labor practices and carries out all government programs in such a manner that no person shall on the grounds 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 participating, be denied the benefits of, or be subject to discrimination with respect to any program or activities. See Title VI of the Civil Rights Act of 1964 as amended, and Presidential Executive Order 11246, as amended and other relevant Federal and Territorial requirements, and Governor Guam Executive Order 2006-16.

Service Provider shall assure that no person shall on the grounds 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 benefit of, or otherwise be subjected to discrimination under any program or activity under this Agreement.

Additionally, in keeping with Section II (4) of Governor of Guam E.O. 2006-16, Service Provider shall meet the following contractual requirements:

1. In the event it is receiving ten thousand dollars (\$10,000) or have more than fifty (50) or more employees, it shall develop an equal opportunity affirmative action plan, using standard guidelines established by the Guam Department of Labor, within sixty (60) days after the Effective Date of this contract. Furthermore, within ninety (90) days of the award and annually thereafter for the duration of the contract, Service Provider under this section shall submit affirmative action reports to the Guam Department of Labor.
2. In the event it is receiving less than ten thousand dollars (\$10,000) or has less than fifty (50) employees, it shall not be required to develop an equal opportunity affirmative action plan, except, however, Service Provider shall be strictly prohibited from discrimination 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.
3. Service Provider shall flow through the requirement in this Section V Equal Opportunity Nondiscrimination to its subcontractors.
4. Service Provider shall comply with all Federal and Guam laws and regulations including the Guam Department of Labor laws and regulations and (new) P.L. 33-64 Guam Employment Nondiscrimination in Employment Act of 2015 codified as 22 GCA Chapter 5 Article 2, which additionally includes as unlawful employment practice or unlawful discrimination grounds race, sex (including gender identity or expression), age, religion, color, honorably discharged veteran and military status, sexual orientation, or ancestry. The definitions for “sexual orientation”, “gender identity or expression” and “veteran and military status” as set forth in 22 GCA §5202(h), (i) and (j). A Service Provider that is a “religious employer” in keeping with P.L. 33-64 §5(a) is exempt from the religious discrimination provisions of Title VII of the Civil Rights Act of 1964 as set forth in §5 in more detail. In the event Service Provider is part of Government of Guam (new) P.L. 33-64 is codified at 4 GCA Chapter 4, §4101(a) as amended.
5. If Service Provider is found not to be in compliance with the requirements in this Section V Equal Opportunity Nondiscrimination during the life of this Agreement,

the Service Provider agrees to make appropriate steps to correct these deficiencies.

S. MULTI OR ALTERNATE PROPOSALS

Multiple or alternate proposals are not allowed and will be considered non-responsive and proposal(s) will be returned.

T. ASSIGNMENT

Any assignment, pledge, joint venture, hypothecation of right or responsibility to any person, firm or corporation should be fully explained and detailed in the proposal. Information as to the experience and qualifications of proposed subcontractors or joint ventures should be included in the proposal. In addition, written commitments from any subcontractors or joint ventures should be included as part of the proposal.

The assignment will not be accepted without prior approval from the GBHWC. The request for approval or assignment must be made with submission of proposal. No assignment will be accepted if the request is not made with the proposal.

U. COVID-19 GUIDELINES

Recent guidelines by the local and federal governments have been published and distributed. As a community mental health center, GBHWC is going to follow the guidelines, and encourage its contracted service providers to implement preventive measures set as follows:

1. COVID-19 Mask-Wearing and Social Distance Requirement. (Form G)

On August 8, 2022, *I Mags'hågan Guahan* issued Executive Order 2022-21 which implemented mask-wearing and social distancing requirements in health care settings.

Also on August 8, 2022, the Guam Department of Public Health and Social Services issued DPHSS Guidance Memorandum 2022-12 which defines "healthcare setting" to mean "places where healthcare is delivered and includes, but is not limited to, acute care facilities, long-term acute-care facilities, inpatient rehabilitation facilities, nursing homes, home healthcare vehicles where healthcare is delivered (e.g., mobile clinics), and outpatient facilities, such as dialysis centers, physician offices, dental offices and others.

2. COVID-19 Health Care Staff Vaccinations. (Form H)

On April 5, 2022, the Centers for Medicare & Medicaid Services issued a Revised Guidance for the Interim Final Rule – Medicare and Medicaid Programs: Omnibus Covid-19 Health Care Staff Vaccination that expects all providers' and suppliers' staff to have received the appropriate number of doses by the timeframes specified in the QSO-22-07 unless exempted as required by law, or

delayed as recommended by CDC. Facility staff vaccination rates under 100% constitute non-compliance under the rule. Specific conditions are contained in the ruling.

V. AMENDMENTS TO REQUEST FOR PROPOSAL

The right is reserved as the interest of the GBHWC may require revising or amending the specifications prior to the date set for opening proposals. Such revisions and amendments, if any, will be announced by an amendment or amendments to this RFP and shall be identified as such and shall require that firms acknowledge receipt of all amendments issued. The amendment shall refer to the portions of the RFP it amends. The amendments shall be sent to all prospective offerors known to have received an RFP. The amendments shall be distributed within a reasonable time to allow prospective firms to consider in preparing their proposals. If the time and date set for receipt of proposals will not permit such preparation, such time shall be increased to the extent possible in the amendment or, if necessary, by or telephone or email to [marilyn.aflague@gbhwc.guam.gov](mailto:marilyn.aflague@gbhwc.guam.gov) and confirmed in the amendment. **The amendment(s) must be attached to the proposal.**

W. PROPOSAL SELECTION

GBHWC will be responsible for final selection of an acceptable proposal. The GBHWC will endeavor to notify all respondents on or about 30 days after the deadline for receipt of proposals, that the GBHWC has selected a consultant to negotiate a contract. The written notice of award will be public information and made a part of the contract file.

After conclusion of validation of qualifications, evaluation, and discussion as provided in the section "Amendments To Request For Proposal", the GBHWC will select in the order of their respective qualification and evaluation ranking, no fewer than three (3) acceptable proposals (or such lesser number if less than three acceptable proposals were received) deemed to be the best qualified to provide the required services, and must receive a minimum of 70% total rating.

X. ERRORS AND OMISSIONS

The GBHWC reserves the right to make corrections due to minor errors of the offeror identified in proposals by the GBHWC or the offeror. The GBHWC, at its option, has the right to request clarification or additional information from offeror.

Y. COMMUNITY-BASED NON-PROFIT ORGANIZATION PROFESSIONAL SERVICES LOCAL GRANT FUNDS

This procurement is funded in part by the Guam Drug Detoxification, Rehabilitation Program grant set forth in 10 GCA §86109, and the contractors shall comply with the terms and

conditions set forth in 10 GCA §86109 and any program guidelines and regulations. Additionally, the contractor agrees to adhere to the Guam public policy with regard to the program; “to provide comprehensive inpatient and community-based outpatient mental health, alcohol and drug programs and services for the people of Guam and to continually strive to improve, enhance, and promote the physical and mental well-being of the people of Guam who experience the life disrupting effects of mental illness, alcoholism, drug abuse or at risk to suffer those effects and who need assistance; to provide such assistance in an effective and efficient manner in order to minimize community disruption and strengthen the quality of personal family and community life”; 10 GCA §86101.

**Z. SAMHSA SUBSTANCE ABUSE AND PREVENTION TREATMENT BLOCK GRANT CFDA 93.959  
FEDERAL TERMS AND CONDITIONS**

This procurement is funded in part by the SAMHSA Substance Abuse and Prevention Treatment Block Grant CFDA 93.959, federal grant terms and conditions, laws, regulations and guidelines are part of this contract, and the contractors Federal Certifications and Assurances that includes a copy of the Notice of Grant awarded is incorporated herein as if fully re-written. Mandatory federal compliance disclosure forms are attached hereto and listed as follows:

1. Compliance with Federal Financial Accountability Transparency Act (Form I)
2. Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations SMA 170 (Form J)
3. Federal Grant Fund Certification and Assurances: (Form K)
  - a. Notice of Award
  - b. Fiscal Year 2022 – Award Standard Terms
4. Civil Rights Requirements (Form L)
5. Limited English Proficiency Certification (Form M)
6. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Form N.1)
7. Procurement Standards – 2 CFR Part 200 & HHS Uniform Guidance 45 CFR Part 76 (Form O)
8. Sample of Business Associate Agreement (Form D)

**ZZ. COMPLIANCE WITH THE FEDERAL Awardee PERFORMANCE AND INTEGRITY  
INFORMATION SYSTEM**

§ 200.113 Mandatory disclosures. (Uniform Grant)- Federal Awardee Performance and Integrity Information System (FAPIS)

Service Provider shall comply with the non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in appendix XII to this part are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

[85 FR 49539, Aug. 13, 2020] Appendix XII to Part 200 - Award Term and Condition for Recipient Integrity and Performance Matters

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:



- 1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
- 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- 3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- 4) Any other criminal, civil, or administrative proceeding if:
  - i. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - ii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
  - iii. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes:
  - 1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - 2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

B. [Reserved] [80 FR 43310, July 22, 2015, as amended at 85 FR 49582, Aug. 13, 2020"]



## II. SCOPE OF WORK

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The offerors are required to submit a written plan that describes how they will lead in efforts to develop and implement the following ASAM levels of care (see <http://www.sam.org/publications/patient-placement-criteria>; incorporated herein as if fully rewritten) and their minimum care requirements.

### A. COLLABORATION & CONTINUUM OF CARE:

1. The service provider must work with the GBHWC and its partners to establish a system of care for adolescent substance abuse treatment that is culturally competent.
2. The service provider will meet regularly with the Community Substance Use Planning and Development committee to establish standardized assessment and referral protocols.
3. The service provider will share resources (i.e. policies and forms), and provide training opportunities for staff development.
4. The service provider must identify evidenced-based models (i.e., Matrix For Teens Model, Motivational Interviewing, Driving with Care, Trauma Informed Care, etc.) and practices to implement that focuses on core treatment.
5. The service provider must provide peer recovery support services and implement fulltime, part time, and/or volunteer Peer Support Specialists and /or Peer Mentors into their program.
6. The service provider must identify and justify any adaptations or modifications to the proposed models and/or practices.
7. The service provider must describe in detail how the project will address issues of age, race, ethnicity, culture and other similar issues.
8. The service provider must be able to evaluate the psychological, social, and physiological signs and symptoms of alcohol and other drug abuse.
9. The service provider must be able to determine the client's appropriateness and eligibility for admission or referral.
10. The service provider must be experienced with the American Society of Addiction Medicine (ASAM) patient placement criteria for Level III.5 Residential Services for Adolescent Males and Females.

11. The service provider must be able to determine any coexisting conditions (medical, psychiatric, physical, etc.) that indicate the need for additional professional assessment and/or services.
12. The service provider will need to adhere to applicable Territory and Federal laws, regulations, and agency policies governing alcohol and other drug abuse services.
13. The service provider will need to demonstrate the proper skills to prepare reports and relevant records, integrating available information to facilitate the continuum of care.
14. The service provider must chart pertinent ongoing information pertaining to the client.
15. The service provider will need to utilize relevant information from written documents for client care.
16. The service provider will need to adhere to Federal Laws including 42 C.F.R. Part II and HIPAA Privacy and Security Standards pertaining to confidentiality. A business associate contract with the GBHWC must be established to ensure protection of health records. In addition, should service provider engage a third party, then a Business Associate Agreement must also be established.
17. The service provider must provide peer recovery support services and implement fulltime, part time, and/or volunteer Peer Support Specialists and /or Peer Mentors (graduates of their programs and/or consumers who have been in the program longer and are able to provide peer mentoring and support to current consumers) into their program.
18. The service provider to must have a certified clinical staff supervise Peer Recovery Specialists and/or Peer Mentors.

**B. ASAM LEVEL OF CARE III.5 REHABILITATION SERVICES:**

1. The service provider must provide detailed provisions for a 24-hour Residential program that will include a planned regiment of observation, monitoring and treatment, for up to ten (10) beds for adolescent males and females.
2. The service provider must retain physical plant that is quiet, comfortable and therapeutic to accommodate the population served.
3. The service provider must include detailed provisions for collaborating with a medical institution that will provide TB testing, AIDS/HIV/STD early intervention services and necessary treatment.

4. The service provider must demonstrate experience with the necessary techniques for a High Intensive Clinically-Managed Residential level of care for adolescent males and females.
5. The service provider must provide detailed provisions for providing a safe and stable living environment in order to develop recovery skills.
6. The service provider must provide provisions that will focus on two categories of residential treatment:
7. Residential treatment that will be 30 days. This category entails a minimum of five (5) days out of a week of comprehensive services and interventions. It addresses the need for early recovery skills and stabilization and clients participate in continuous interventions for at least eight (8) hours a day. After the 30 days, depending on need, clients may transfer to a lower level of care, or remain in the residential setting but with reduced intervention hours.
8. Residential treatment that will be up to 180 days. Some clients continue to have a high level of severity and require more residential care after re-assessing with the ASAM Patient Placement Criteria, 3rd Revision. For clients needing more than 180 day a written approval from the GBHWC is required for reimbursement.
9. The service provider must utilize the Matrix Model for Teens (see: [www.nrepp.samhsa.gov](http://www.nrepp.samhsa.gov); incorporated herein as if fully rewritten) as the primary psychosocial curriculum for this level of care, however other evidence based models may be utilized to supplement, particularly an evidenced-based Trauma Informed Care curriculum focused on adolescent males and females.
10. The service provider must provide client centered or individualized substance abuse treatment services for adolescents needing ASAM Level III.5 Rehabilitation Services.
11. The service provider must give pregnant adolescent females and females with dependent children preference in admission and/or ensure receipt of the most appropriate services available within forty-eight (48) hours (See 42 U.S.C. 300x22(b)(1)(C) and 45 C.F.R. 96.124(c)(e)).
12. The service provider must administer drug testing as a treatment function with all clients on a weekly basis.
13. The service provider must ensure pregnant adolescent females are referred for prenatal care and other needed services to ensure delivery of healthy off springs.
14. The service provider must maintain orderly files of all clients served under its treatment program. Administer and maintain adequate report and record keeping functions from the counselor by documenting the client's progress in

achieving her goals, communication between co-workers and the counselor's supervisor feedback. Continue providing access to information that supports other programs that may provide services to the client at a later date and enhances the client's treatment experience.

15. The service provider must ensure proper documentation on charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data.
16. The service provider must utilize the Contingency Management (CM) model to support client retention and negative urinary drug screens. (See: [www.nrepp.samhsa.gov](http://www.nrepp.samhsa.gov) incorporated herein as if fully rewritten) Note: Please note that ASAM Patient Placement criteria is now currently referred to as ASAM
17. The service provider must implement and utilize Certified Peer Recovery Specialists and/or Peer Mentors in the program.

The scope of work is written by Athena Duenas, Supervisor of the Drug and Alcohol Treatment Branch of the Clinical Services Division and approved by Carissa E. Pangelinan, GBHWC Acting Director.

### III. PROPOSED CONTENTS, REQUIREMENTS, AND INSTRUCTIONS



#### A. GENERAL INSTRUCTIONS

The offeror's response to the items mentioned in Section II for scope of services shall be considered the offeror's proposal. Proposals should be prepared simply and economically, providing a straightforward, concise description of the offeror's ability to fulfill the requirements of the proposal. In order to ensure a uniform review process and to obtain the maximum degree of comparability, at a minimum, each proposal shall be prepared as follows:

1. **Written Proposals**  
All proposals must be type-written using a 12-point font preferably but no smaller than 10-point font with all pages numbered consecutively. The GBHWC will not accept handwritten proposals.
2. **Title Page**  
The title page must have the name of the offeror, the location of the offeror's principal place of business, telephone and facsimile numbers, and email address.
3. **Table of Contents.**  
The proposal must be organized with headings/titles, references or subjects and page numbers listed in the table of contents.
4. **Designations of Contact Person.**  
A responsible official must be identified by name, title and contact information if different from the offeror's. The designated official must be able to answer any questions regarding the offeror's proposal and must be able to negotiate the fee and other contract terms. (Form B)
5. **Licenses, certifications, financial statements.**  
A business license, the offeror's federal employer identification number (EIN), or tax identification number (TIN), if any. Current financial statement or audit of the past five years of operation. (Form C)
6. **Statement of understanding.**  
A statement of understanding and willingness expressing the offeror's understanding of the work to be accomplished as specified in Section II scope of services, and a statement of positive commitment and willingness to perform the services.

7. Background Summary.
  - a. Description of organization.
  - b. History of the organization (the number of years the offeror has been in business and the average number of its employees (if any) over the past year).
  - c. Organizational philosophy.
  - d. Unique characteristics.
  - e. Organizational chart.
8. Skills and Experience.
  - a. Proposed services (what the offeror will undertake to accomplish the objectives of this project and the work described in the scope of work).
  - b. Target population.
9. Project Personnel and Community Partners.
  - a. Project leader's academic background (education and specialized training), skills (abilities and qualifications) and community development work experience with similar projects. RESUMES, LICENSES, CERTIFICATIONS MUST BE CURRENT.
  - b. Staff position titles/description of work responsibilities.
  - c. Community partners – organization/volunteers.
10. Service Delivery.
  - a. Proposed services (a discussion of the program that the service providers will undertake to accomplish the objectives of this project and the work described in the scope of work), expected outcomes and products.
  - b. Timeline for delivery of services to program; meeting of project timelines while managing current workload of the offeror.
11. A list of other contracts or work performed for services similar in scope, size, and discipline for the required services, which the offeror, consultants and/or project members substantially performed or accomplished over the previous two to five years. The contracts or work performed described should only pertain to those services contained in Section II.
12. Letters, awards, or other forms of recognition that demonstrate confidence in the work performed by the offeror.
13. Reporting System
  - a. Regular progress reporting mechanism.
  - b. Tracking of financial activity.



- c. Tracking system to report project progress.
  - d. Performance measures on completion of services contained in Section IV.
14. **Mandatory Forms (must be filled out and signed with an original (“live”, no electronic signature))**
- a. Proposal Registration (Form A).
  - b. Proposal Signature (Form B).
  - c. Submitting Licenses (Form C).
  - d. Affidavit re Disclosing Ownership and Commission – AG Form 002.
  - e. Affidavit re Non-Collusion – AG Form 003.
  - f. No Gratuities or Kickbacks Affidavit – AG Form 004.
  - g. Ethical Standards Affidavit – AG Form 005.
  - h. Wage Determination and Benefit – AG Form 006.
  - i. Contingent Fees – AG Form 007.
  - j. Acknowledgment of Sample Business Associate Agreement Form D.
  - k. Cost Proposal (Annual Budget) – Form F.
  - l. Governor’s Executive Order 2022-21 - Form G
  - m. CMS Revised Guideline for the Interim Final Rule – Medicare and Medicaid Programs, Omnibus COVID-19 Health Care Staff Vaccinations (Form H)
  - n. Compliance with Federal Financial Accountability Transparency Act (Form I)
  - o. Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations SMA 170 (Form J)
  - p. Federal Grant Fund Certification and Assurances (Form K)
  - q. Civil Rights Requirements (Form L)
  - r. Limited English Proficiency Certification (Form M)
  - s. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Form N.1)
  - t. Procurement Standards – 2 CFR Part 200 & HHS Uniform Guidance 45 CFR Part 76 (Form O)

**B. REQUIREMENTS AND INSTRUCTIONS**

1. All proposals shall be submitted in writing. It should include a listing of current and former business clients and a description of the type of work performed or being performed. If the offeror is a firm, the proposal should include a resume of the firm's principal(s).
2. The offeror is required to read each page of the proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein except as noted elsewhere. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening. The proposals shall be filled out in ink or typewritten and signed in ink. The erasures or other changes in a proposal must be explained or noted over the signature of the offeror. The erasures, strikeouts, or other types of changes that are evident on their face made to a proposal must be explained or noted over the signature of the offeror. The 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 GBHWC as being incomplete.
3. The GBHWC also requires respondents to present satisfactory evidence that the consultancy and personnel have sufficient experience and are qualified to provide these services. Entities submitting proposal must be able to demonstrate in detail their stability in the community to provide Substance Abuse treatment within a Continuum of Care. The proposal must include resumes of treatment staff with experience and expertise in treatment, certification as substance treatment counselors, and must identify a lead treatment specialist or clinical supervisor that would be responsible for treatment outcomes and contractual performance. The following lists the minimum qualifications for treatment staff with at least one member as the Lead Treatment Specialist.
  - a. Lead Treatment Specialist or Clinical Supervisor must have:
    - Five years program managing experience in providing substance abuse rehabilitation services to a multi-ethnic community.
    - Five years of rehabilitation treatment experience and understands substance treatment system of care.
    - Master's degree or higher in psychology, social work, or closely related field (Behavioral) from an accredited U.S. educational institution.

- Licensed Individual, Marriage, and Family Therapist (IMFT) or Certified Substance Abuse Treatment Counselor in Guam to be available on a full-time basis.
- b. Treatment Staff must have:
- Three years of responsible experience in substance abuse treatment or human services.
  - At least two certified substance abuse counselors credentialed by the Pacific Substance Abuse Mental Health Certification Board or National Association of Alcoholism and Drug Abuse Counselors (NADAAC). There must be one full-time counselor and the other counselor may be on part-time basis.
  - At least one Guam Licensed Physician, or preferably an Addiction Psychiatrist with treatment of addiction training experience to be available at least four hours minimum per week to perform consultation services.
  - At least four staff trained and with abilities in withdrawal monitoring skills, including signs and symptoms of alcohol and other drug intoxication and withdrawal as well as appropriate treatment of those conditions, supportive care, basic cardiopulmonary resuscitation technique, and assessment and referral procedures.

## IV. GENERAL PROCEDURES

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### A. QUESTIONS

On or before 4:30 P.M. on **September 30, 2022**, questions concerning this request for proposal may be asked in writing and written answers will be given as soon as possible or before the deadline. Hard or electronic copies of the question(s) and answer(s) will be sent only to interested parties who have registered.

Questions regarding this RFP should be written and addressed to GBHWC Director through U.S. Mail, hand delivery, facsimile telephone (671) 649-6948 or email to [marilyn.aflague@gbhwc.guam.gov](mailto:marilyn.aflague@gbhwc.guam.gov).

**If the question(s) requires an interpretation of the request for proposal or is relevant to all the offerors, then an amendment will be issued and notice posted on GBHWC website and a fax or email sent to interested parties who have registered.**

### B. PROPOSAL SUBMISSIONS

1. All proposals and modifications will be time-stamped upon receipt and held in a secure place until the established due date below. Proposals and modifications received after the due date and time will not be considered. It is the sole responsibility of each offeror to assure that its proposal is delivered at the specified location prior to the deadline. Proposals which, for any reason, are not so delivered will not be considered. The deadline for **receipt** of proposals by the GBHWC is **no later than 4:30 P.M. Chamorro Standard Time, October 21, 2022.**
2. All proposals must be submitted via U.S. mail, courier, or hand delivery to the attention of the Director, GBHWC. Proposals will not be accepted via facsimile (fax) or electronic mail (e-mail) as these two mediums do not allow proposals to be sealed or submitted in an original form with multiple copies.

**Mailing & Delivery Address:**

Theresa C. Arriola, Director  
Guam Behavioral Health and Wellness Center  
790 Governor Carlos G. Camacho Road  
Tamuning, Guam 96913

Offeror shall submit together in **sealed, separate envelopes:**

- a. One (1) original, one (1) electronic copy (flash drive) and four (4) hard copies of the **technical part** of the proposal and
  - b. One (1) original and four (4) hard copies of the **cost/budget** proposal.
3. Envelopes **must be sealed** and marked on the face with the name and address of the offeror, the proposal number and the time and date of submission.
4. No facsimile (fax) or electronic mail (e-mail) proposals will be accepted as these two mediums do not allow proposals to be sealed or submitted in an original form with multiple copies.
5. Proposals may be hand-carried and received at the GBHWC on or before the deadline date and time listed above.
6. Proposals received through the mail will not be accepted if such mail is received at the address showing a postmark after the submission date and time.
7. Under no circumstances will the GBHWC accept a late proposal, except for emergency shutout/lockdown of GBHWC facility, or man-made or natural disasters or declarations.
8. Proposals will be considered only from such offerors who, in the opinion of the GBHWC, can show evidence of their ability, experience, equipment and facilities to render satisfactory service, and are not currently debarred by federal or local government.

#### C. OPENING OF PROPOSALS

Proposals shall not be opened publicly nor disclosed to unauthorized persons but shall be opened in the presence of two or more procurement officials (Director, deputy director, administrative services officer, administrative officer or procurement designee).

A Register of Proposals shall be established which shall include for 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 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. (2 GAR 3114(h)(2))

#### D. PROPOSAL EVALUATION AND ASSIGNED WEIGHTS

In determining the most qualified offeror, the following criteria will be used to evaluate proposals: the GBHWC shall be guided by the following.

1. The plan for performing the required services.

2. Ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services.
3. The financial resources, personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting.
4. A record of past performance of similar work.
5. Evaluations will be conducted by an Evaluation Review Panel.
6. Scoring will be based on a possible total of 100 points and the proposal with the highest total score will be recommended for an award.
7. Evaluation Criteria and Assigned Weights:

EVALUATION CRITERIA	ASSIGNED WEIGHTS
<b>Introduction/Understanding of RFP:</b> – The organization’s familiarity with the needs of the consumers and knowledge of overall services and support required.	10
<b>Work Plan/Project Execution:</b> The organization’s description of how they will provide services detailed in Section II & Section III Scope of Work.	35
<b>Corporate Experience:</b> Experience in successfully managing projects, inclusive of similar projects accomplished or underway. Demonstrated ability to meet schedules, deadlines or reporting requirements or a history of work with the GBHWC to include cooperativeness, openness, and collegial relationship.	15
<b>Qualification of Personnel:</b> The qualifications and abilities of key personnel proposed to be assigned to perform the services as reflected by technical training and education, developmental disabilities experience, and other specific experience. (Section III, B.3)	20
<b>Financial Information:</b> Current Financial Statement(s) or audit within the last five years that demonstrates offeror’s financial ability to sustain first year’s operations without the revenue from this proposal’s contract.	10

<b>Equipment, Facilities and Software:</b> The equipment, computer systems; accounting software, and facilities to perform the required services that are available or will be made readily available at the time of contracting.	10
<b>Total</b>	<b>100</b>

**E. NEGOTIATION AND AWARD OF CONTRACT**

The GBHWC will negotiate a contract with the highest best-qualified responsive offeror for the required services at compensation determined in writing to be fair and reasonable. The contract negotiations will be directed toward:

1. Making certain that the offeror has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services.
2. Determining that the offeror will make available the necessary personnel to perform the services within the required time.
3. Agreeing upon compensation which is fair and reasonable within the local market, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

**F. RIGHT TO REJECT OFFERS AND CANCEL THE PROCUREMENT**

The GBHWC shall have the right to reject all offers, and or individual offerors in whole or in part, and/or cancel this RFP, if it is determined to be in the best interest of the GBHWC.

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

If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified, responsive offeror, a written record stating the reasons therefore shall be placed in the file; and, the GBHWC will advise such offeror of the termination of negotiations which shall be confirmed by written notice within three days. Upon failure to negotiate a contract with the best qualified responsive offeror, the GBHWC will enter into negotiations with the next most qualified responsive offeror. If negotiations again fail, negotiations will be terminated as provided in this section and commence with the next qualified responsive offeror.

Should the GBHWC be unable to negotiate a contract with any of the offerors initially selected as the best qualified responsive offerors, offers may be resolicited or additional offerors may be selected based on original, acceptable submissions in the order of their respective qualification ranking, and negotiations may continue in accordance with the procedures and process herein specified.





## V. CONTRACTUAL TERMS

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### A. GENERAL REQUIREMENTS

This procurement is subject to all applicable federal and Guam laws and regulations. Guam laws and regulations are available at the Guam Supreme Court, Office of Complier's website <http://www.guamcourts.org/CompilerofLaws/index.html>. The Guam Procurement Laws are available at the Office of Complier's website as part of the 5 GCA Ch. 5. The Guam Procurement Regulations are available at the Office of Complier's website as part of 2 GAR Division 4. Additionally, the Guam Office of Public Accountability <http://www.opaguam.org/>, the Guam Office of Attorney General <http://www.guamag.org/> and the Department of Administration General Service Agency [www.gsa.doa.guam.gov](http://www.gsa.doa.guam.gov) all have useful procurement information and forms.

### B. SAMPLE CONTRACT

A proposed contract is attached to this RFP as Sample Contract (Form E). Offerors are advised that the Sample Contract is the general form of contract that the GBHWC would enter with the awarded Consultant. In the event that offerors have any issues or question as to the Sample Contract Clause in Form E, they must raise them in the RFP process similar to any issues or inquiries they may have as to clauses in the RFP. The GBHWC reserves the right to amend or revise the Sample Contract form as may be deemed necessary to serve the government of Guam's best interest. If changes are made to the Sample Contract in Form E prior to the conclusion of all evaluations, the GBHWC will issue an amendment to this RFP. However, if changes are made to the Sample Contract during negotiations, then such changes are considered negotiated and no amendment to this RFP will be issued.

**PROPOSAL FORMS CHECKLIST**

A	Proposal Registration	
B	Proposal Signature Form	
C	Form for Submitting All Licenses	
002	Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest	
003	Affidavit Re Non-Collusion	
004	Affidavit Re Gratuities or Kickbacks	
005	Affidavit Re Ethical Standards	
006	Declaration Re Compliance with U.S. DOL Wage Determination	
007	Affidavit RE Contingent Fees	
D	Sample of Business Associate Agreement Provisions (must acknowledge last page)	
E	Sample Contract (Sample only)	
F	Cost/Budget Proposal (Must be in separate, sealed envelope)	
G	COVID Guidelines – Governor’s Executive Order 2022-21	
H	COVID Guidelines – CMS QSO 22-07-ALL	
I	Compliance with Federal Financial Accountability Transparency Act	
J	Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations SMA 170	
K	Federal Grant Fund Certification and Assurances	
K.1	Notice of Award	
K.2	SAMHSA: Fiscal Year 2022 – Award Standard Terms	
L	Civil Rights Requirements	
M	Limited English Proficiency Certification	
N.1	Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion	
O	Procurement Standards – 2 CFR Part 200 & HHS Uniform Guidance 45 CFR Part 76	

Note: Forms 002 to 007 can be found at: [http://www.guamag.org/procurement\\_forms.html](http://www.guamag.org/procurement_forms.html)



**GUAM BEHAVIORAL HEALTH AND  
WELLNESS CENTER  
GBHWC RFP 2022-05**

Residential Rehabilitation Substance Treatment  
For Adolescent Males and Females

**PROPOSAL REGISTRATION (Form A)**

The individual, firm, entity or organization identified below is an interested party and/or "Offeror" to GBHWC RFP 2022-05 and will receive changes, amendments, inquiries and/or related correspondence in accordance with the Guam Procurement Regulations. However, GBHWC will not be liable for failure to provide notice to any party who did not register accurate and current contact information.

<b>Name of Organization or Individual</b>	
<b>Office or Home Address</b>	
<b>Mailing Address</b>	
<b>Contact Number(s)</b>	
<b>Facsimile Number(s)</b>	
<b>Point of Contact (POC) or Official representative</b>	
<b>POC Contact Number(s)</b>	
<b>POC Facsimile Number(s)</b>	
<b>Email address(es)</b>	
<b>Special Comment or Request(s)</b>	

For those reviewing this proposal from the website, this registration form can be delivered to GBHWC, 790 Governor Carlos Camacho Road, Tamuning, Guam during weekdays, except holidays; faxed to (671) 649-6948 or emailed to [marilyn.aflague@gbhwc.guam.gov](mailto:marilyn.aflague@gbhwc.guam.gov)

**This form must be included with the proposal.**

**PROPOSAL SIGNATURE FORM**

**Form B**

**For GBHWC RFP 2022-05**

By submitting this proposal, the Offeror certifies that its authorized representative has fully read and understands the proposal method and has full knowledge of the scope, nature, and quality of work to be performed or the services to be rendered.

**OFFICIAL CONTACT.** GBHWC requests that the Offeror designate one person below to receive all documents and the method in which the documents are best delivered. GBHWC is thereby granted permission to contact the official contact named below for all communications. By its submission of this proposal and authorized signature below, proposer certifies that:

1. The information in the proposal is accurate.
2. Offeror accepts the procedures, evaluation criteria, mandatory contract terms and conditions, and all other administrative requirements set forth in this RFP.
3. Offeror certifies, by signing and submitting a proposal for \$25,000 or more, that their company, any subcontractors, or principals are not suspended or debarred by the Chief Procurement Officer or the Director of Public Works pursuant to Guam Procurement Law.

In compliance with this RFP and with all the conditions imposed herein, the undersigned offers and agrees to provide services in accordance with the attached signed proposal, or as mutually agreed upon by subsequent negotiation. This completed Proposal Signature Form shall be submitted with the Offeror's written proposal and will become a part of any agreement that may be awarded. This Proposal Signature Form must be signed by an authorized representative.

**NOTE: The Offeror shall inform GBHWC immediately in writing of a change in the designated authorized representative.**

**NAME AND ADDRESS OF OFFEROR:** By my signature, I acknowledge that I have read the instructions and accept all the terms and conditions in the Request for Proposals, and that I am authorized to sign on behalf of the Offeror:

\_\_\_\_\_  
Type or Print Name and Title

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

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

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Type of Organization: ☐ Individual ☐ Non-Profit ☐ Partnership

☐ Corporation ☐ Joint Venture

☐ Other(Specify) \_\_\_\_\_

**FORM FOR SUBMITTING ALL LICENSES  
For GBHWC RFP 2022-05**

*Please attach copies of all business licenses, permits, fictitious name certificates, certificates of good standing, or any other license, permit or certificate issued to the individual or company, which is applicable to this Request for Proposals. Please indicate the attached documents by checking the applicable boxes:*

☐ **Business License**

- ☐ from the Department of Revenue and Taxation, Government of Guam  
☐ from a jurisdiction other than Guam: \_\_\_\_\_

☐ **Fictitious Name Registration**

- ☐ from the Department of Revenue and Taxation, Government of Guam  
☐ from a jurisdiction other than Guam: \_\_\_\_\_

☐ **Certificate of Incorporation**

- ☐ from the Department of Revenue and Taxation, Government of Guam  
☐ from a jurisdiction other than Guam: \_\_\_\_\_

☐ **Federal I.D.#** \_\_\_\_\_

☐ **Other Attachments. Please indicate:** \_\_\_\_\_

☐ **Please check here if there are no attachments to this form.**

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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AG Procurement Form 002

**AFFIDAVIT DISCLOSING OWNERSHIP, INFLUENCE, COMMISSIONS AND  
CONFLICTS OF INTEREST**

(Required by 5 GCA § 5233 as amended by P.L. 36-13 (4/9/2021))

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

Preface. As a condition of submitting a Bid/Offer/Proposal or responding to any method of source selection under Guam's Procurement Law for the purpose of entering into a contract with the government of Guam, this Affidavit requires all Bidders/Offerors/Prospective Contractors to make disclosures of ownership, influence, commissions, gratuities, kickbacks, and conflicts of interest occurring **during the 365 calendar days preceding the publication of this solicitation and until award of a contract**. This includes the duty to disclose **any changes** to the facts disclosed herein throughout the solicitation process; and if the entity submitting this Affidavit is awarded a contract, the duty to disclose **any changes** to the facts disclosed herein **continues throughout the life of the contract, including any extensions or renewals**.

A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the Bidder/Offeror/Prospective Contractor and that (please check and fill out all that apply):

[ ] The Bidder/Offeror/Prospective Contractor is an individual with a business license, and all decisions are by, and all profit is for, that same individual, with principal place of business street address being: \_\_\_\_\_

[ ] The Bidder/Offeror/Prospective Contractor is a business or artificial person (as defined in 1 GCA § 715 or 5 GCA §§ 5030(n) or 5233(b)), and is a sole proprietorship owned entirely (100%) by \_\_\_\_\_, with principal place of business street address being: \_\_\_\_\_

[ ] The Bidder/Offeror/Prospective Contractor is a business or artificial person (as defined in 1 GCA § 715 or 5 GCA §§ 5030(n) or 5233(b)), and is owned by the following multiple individuals. Note: owners of more than 10% are statutorily required to be listed below, but other owners of smaller percentage are encouraged to be listed as well.

Name of Owner	Principal Place of Business Street Address	% of Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[ ] One or more of the more-than-10% owners listed above is a business or artificial person. Any more-than-25% owners of such a business or artificial person are listed below per 5 GCA § 5233. Note: any less-than-25% owners of such a business or artificial person is encouraged to also be listed below.

**Name of >10% Owner Business or Artificial Person:**

--

Names of owners of the >10% Owner Business or Artificial Person ("Second Tier Owner")	Owner's Principal Place of Business Street Address	% of Interest

**Name of other >10% Owner Business or Artificial Person:**

--

Names of owners of the >10% Owner Business or Artificial Person ("Second Tier Owner")	Owner's Principal Place of Business Street Address	% of Interest

B. If any Second Tier Owner identified above is an artificial person, the natural or artificial owners of such Second Tier Owner who have held more than 49% of the shares or interest in the Bidder/Offeror/Prospective Contractor (Third Tier Owners) are as follows [if none, please so state]:

Second Tier Owner Name \_\_\_\_\_

Name of Third Tier Owner	Principal Place of Business Street Address	% of Interest

Affidavit Disclosing Ownership, Influence,  
Commissions and Conflicts of Interest  
AG Procurement Form 002 (Rev. 11/17/2021)

- C. If the name of no natural person has been identified as an owner, or a Second or Third Tier Owner of the Bidder/Offeror/Prospective Contractor, please identify the name, position, address, and contact information of the natural person having the authority and responsibility for the Bid/Offer/Proposal/Prospective Contract, and the name of any natural person who has the authority and power to remove and replace the designated responsible person:

Name of Natural Person	Position	Street Address of Principal Place of Business	Phone Number, Email Address, and other Contact Information

- D. Further, I say that the persons who have received or are entitled to receive a commission, gratuity, contingent fee or other compensation to solicit, secure, or assist in obtaining business related to the Bid/Offer/Proposal/Prospective Contract for which this Affidavit is submitted are as follows (if none, please so state):

Name	Principal Place of Business Street Address	Amount of Compensation

- E. Further, I say that the persons who have directly or indirectly participated in this solicitation and who are also employees of the government of Guam or the government of the United States, if federal funds are to be used in the payment of the contract related to the Bid/Offer/Proposal/Prospective Contract for which this Affidavit is submitted, are as follows (if none, please so state):

Name	Principal Place of Business Street Address

- F. Regardless of any ownership interest, the following individuals have the power to control the performance of the contract or to control the Bidder/Offeror/Prospective Contractor, directly or indirectly:

Name	Principal Place of Business Street Address

///

///



Affidavit Disclosing Ownership, Influence,  
Commissions and Conflicts of Interest  
AG Procurement Form 002 (Rev. 11/17/2021)

- G. Until award of the contract, and throughout the term of any contract awarded to the Bidder/Offeror/Prospective Contractor represented herein, I agree to promptly make any disclosures not made previously and update changes in ownership, identities of owners and other required information, interests, compensation or conflicts of the persons required to be disclosed. I understand that failure to comply with this requirement shall constitute a material breach of contract.
- H. I hereby declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

Executed on: \_\_\_\_\_  
(date)

\_\_\_\_\_  
Signature of one of the following:  
Bidder/Offeror/Prospective Contractor, if a licensed individual  
Owner of sole proprietorship Bidder/Offeror/Prospective  
Contractor  
Partner, if the Bidder/Offeror/Prospective Contractor is a  
partnership  
Officer, if the Bidder/Offeror/Prospective Contractor is a  
corporation

Subscribed and sworn to before me

This \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

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

## AFFIDAVIT RE NON-COLLUSION

CITY OF \_\_\_\_\_ )  
 ) SS.  
ISLAND OF GUAM )

\_\_\_\_\_[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 \_\_\_\_\_, 20\_\_\_\_.

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

AG Procurement Form 003 (Jul. 12, 2010)

## AFFIDAVIT RE GRATUITIES OR KICKBACKS

CITY OF \_\_\_\_\_ )  
 ) SS.  
ISLAND OF GUAM )

\_\_\_\_\_[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 \_\_\_\_\_, 20\_\_\_\_.

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

AG Procurement Form 004 (Jul. 12, 2010)

## 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 \_\_\_\_\_, 20\_\_\_\_.

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

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

CITY OF \_\_\_\_\_ )  
 ) SS.  
ISLAND OF GUAM )

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

AG Procurement Form 006 (Feb. 16, 2010)

"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.: 2015-5693  
Daniel W. Simms Division of | Revision No.: 17  
Director Wage Determinations | Date Of Last Revision: 07/27/2022

Note: Contracts subject to the Service Contract Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026.

If the contract is entered into on or after January 30 2022 or the contract is renewed or extended (e.g. an option is exercised) on or after January 30 2022: | With certain exceptions Executive Order 14026 applies to the contract. | The contractor must pay all covered workers | at least \$15.00 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 2022. |

The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

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		14.27***
01012 - Accounting Clerk II		16.02
01013 - Accounting Clerk III		17.93
01020 - Administrative Assistant		21.43
01035 - Court Reporter		17.40
01041 - Customer Service Representative I		12.66***
01042 - Customer Service Representative II		14.23***
01043 - Customer Service Representative III		15.53
01051 - Data Entry Operator I		12.15***
01052 - Data Entry Operator II		13.25***
01060 - Dispatcher Motor Vehicle		17.39
01070 - Document Preparation Clerk		13.85***
01090 - Duplicating Machine Operator		13.85***

01111 - General Clerk I	11.08***
01112 - General Clerk II	12.09***
01113 - General Clerk III	13.57***
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	22.97
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	15.40
01410 - Supply Technician	21.43
01420 - Survey Worker	16.96
01460 - Switchboard Operator/Receptionist	10.78***
01531 - Travel Clerk I	13.01***
01532 - Travel Clerk II	14.12***
01533 - Travel Clerk III	15.09
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	17.01
05010 - Automotive Electrician	15.97
05040 - Automotive Glass Installer	14.94***
05070 - Automotive Worker	14.94***
05110 - Mobile Equipment Servicer	12.82***
05130 - Motor Equipment Metal Mechanic	17.01
05160 - Motor Equipment Metal Worker	14.94***
05190 - Motor Vehicle Mechanic	17.01
05220 - Motor Vehicle Mechanic Helper	11.73***
05250 - Motor Vehicle Upholstery Worker	13.90***
05280 - Motor Vehicle Wrecker	14.94***
05310 - Painter Automotive	15.97
05340 - Radiator Repair Specialist	14.94***
05370 - Tire Repairer	12.67***
05400 - Transmission Repair Specialist	17.01
07000 - Food Preparation And Service Occupations	
07010 - Baker	10.89***
07041 - Cook I	14.44***
07042 - Cook II	16.84
07070 - Dishwasher	9.35***
07130 - Food Service Worker	9.69***
07210 - Meat Cutter	12.13***
07260 - Waiter/Waitress	9.45***
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	18.04
09040 - Furniture Handler	10.95***
09080 - Furniture Refinisher	18.04
09090 - Furniture Refinisher Helper	13.27***
09110 - Furniture Repairer Minor	15.70
09130 - Upholsterer	18.04

11000 - General Services And Support Occupations	
11030 - Cleaner Vehicles	9.35***
11060 - Elevator Operator	9.54***
11090 - Gardener	14.28***
11122 - Housekeeping Aide	9.54***
11150 - Janitor	9.54***
11210 - Laborer Grounds Maintenance	10.79***
11240 - Maid or Houseman	9.39***
11260 - Pruner	9.66***
11270 - Tractor Operator	13.07***
11330 - Trail Maintenance Worker	10.79***
11360 - Window Cleaner	10.66***
12000 - Health Occupations	
12010 - Ambulance Driver	18.23
12011 - Breath Alcohol Technician	18.23
12012 - Certified Occupational Therapist Assistant	25.01
12015 - Certified Physical Therapist Assistant	25.01
12020 - Dental Assistant	17.94
12025 - Dental Hygienist	39.73
12030 - EKG Technician	27.43
12035 - Electroneurodiagnostic Technologist	27.43
12040 - Emergency Medical Technician	18.23
12071 - Licensed Practical Nurse I	16.30
12072 - Licensed Practical Nurse II	18.23
12073 - Licensed Practical Nurse III	20.32
12100 - Medical Assistant	12.26***
12130 - Medical Laboratory Technician	18.82
12160 - Medical Record Clerk	14.97***
12190 - Medical Record Technician	17.77
12195 - Medical Transcriptionist	16.30
12210 - Nuclear Medicine Technologist	40.06
12221 - Nursing Assistant I	12.21***
12222 - Nursing Assistant II	13.73***
12223 - Nursing Assistant III	14.98***
12224 - Nursing Assistant IV	16.82
12235 - Optical Dispenser	18.23
12236 - Optical Technician	16.30
12250 - Pharmacy Technician	15.49
12280 - Phlebotomist	16.30
12305 - Radiologic Technologist	27.43
12311 - Registered Nurse I	23.18
12312 - Registered Nurse II	28.36
12313 - Registered Nurse II Specialist	28.36
12314 - Registered Nurse III	34.32
12315 - Registered Nurse III Anesthetist	34.32
12316 - Registered Nurse IV	41.13
12317 - Scheduler (Drug and Alcohol Testing)	22.58
12320 - Substance Abuse Treatment Counselor	22.58
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	21.42
13012 - Exhibits Specialist II	26.53
13013 - Exhibits Specialist III	32.45
13041 - Illustrator I	21.42
13042 - Illustrator II	26.53
13043 - Illustrator III	32.45
13047 - Librarian	29.38
13050 - Library Aide/Clerk	17.05



13054 - Library Information Technology Systems Administrator	26.53
13058 - Library Technician	18.11
13061 - Media Specialist I	19.15
13062 - Media Specialist II	21.42
13063 - Media Specialist III	23.87
13071 - Photographer I	19.15
13072 - Photographer II	21.42
13073 - Photographer III	26.53
13074 - Photographer IV	32.45
13075 - Photographer V	39.27
13090 - Technical Order Library Clerk	21.42
13110 - Video Teleconference Technician	19.15
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	17.67
15095 - Technical Instructor/Course Developer	23.78
15110 - Test Proctor	15.70
15120 - Tutor	15.70
16000 - Laundry Dry-Cleaning Pressing And Related Occupations	
16010 - Assembler	10.37***
16030 - Counter Attendant	10.37***
16040 - Dry Cleaner	11.84***
16070 - Finisher Flatwork Machine	10.37***
16090 - Presser Hand	10.37***
16110 - Presser Machine Drycleaning	10.37***
16130 - Presser Machine Shirts	10.37***
16160 - Presser Machine Wearing Apparel Laundry	10.37***
16190 - Sewing Machine Operator	12.34***
16220 - Tailor	12.83***
16250 - Washer Machine	10.86***
19000 - Machine Tool Operation And Repair Occupations	

19010 - Machine-Tool Operator (Tool Room)	19.46
19040 - Tool And Die Maker	24.46
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	13.96***
21030 - Material Coordinator	22.97
21040 - Material Expediter	22.97
21050 - Material Handling Laborer	11.43***
21071 - Order Filler	10.62***
21080 - Production Line Worker (Food Processing)	13.96***
21110 - Shipping Packer	17.12
21130 - Shipping/Receiving Clerk	17.12
21140 - Store Worker I	15.38
21150 - Stock Clerk	21.62
21210 - Tools And Parts Attendant	13.96***
21410 - Warehouse Specialist	13.96***
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	25.04
23019 - Aircraft Logs and Records Technician	19.47
23021 - Aircraft Mechanic I	23.84
23022 - Aircraft Mechanic II	25.04
23023 - Aircraft Mechanic III	26.30
23040 - Aircraft Mechanic Helper	16.58
23050 - Aircraft Painter	22.39
23060 - Aircraft Servicer	19.47
23070 - Aircraft Survival Flight Equipment Technician	22.39
23080 - Aircraft Worker	21.03
23091 - Aircrew Life Support Equipment (ALSE) Mechanic I	21.03
23092 - Aircrew Life Support Equipment (ALSE) Mechanic II	23.84
23120 - Bicycle Repairer	19.46
23125 - Cable Splicer	15.61
23130 - Carpenter Maintenance	21.55
23140 - Carpet Layer	17.58
23160 - Electrician Maintenance	18.20
23181 - Electronics Technician Maintenance I	18.21
23182 - Electronics Technician Maintenance II	18.20
23183 - Electronics Technician Maintenance III	19.46
23260 - Fabric Worker	20.72
23290 - Fire Alarm System Mechanic	16.94
23310 - Fire Extinguisher Repairer	16.77
23311 - Fuel Distribution System Mechanic	15.61
23312 - Fuel Distribution System Operator	20.72
23370 - General Maintenance Worker	15.61
23380 - Ground Support Equipment Mechanic	13.21***
23381 - Ground Support Equipment Servicer	23.84
23382 - Ground Support Equipment Worker	19.47
23391 - Gunsmith I	21.03
23392 - Gunsmith II	15.61
23393 - Gunsmith III	18.20
23410 - Heating Ventilation And Air-Conditioning Mechanic	20.72
23411 - Heating Ventilation And Air Contidioning Mechanic (Research Facility)	17.88
23430 - Heavy Equipment Mechanic	19.02
23440 - Heavy Equipment Operator	19.50
23460 - Instrument Mechanic	17.98
	20.72

23465 - Laboratory/Shelter Mechanic	19.46
23470 - Laborer	11.43***
23510 - Locksmith	19.46
23530 - Machinery Maintenance Mechanic	23.13
23550 - Machinist Maintenance	20.72
23580 - Maintenance Trades Helper	10.99***
23591 - Metrology Technician I	20.72
23592 - Metrology Technician II	22.03
23593 - Metrology Technician III	23.33
23640 - Millwright	20.72
23710 - Office Appliance Repairer	19.46
23760 - Painter Maintenance	15.49
23790 - Pipefitter Maintenance	18.39
23810 - Plumber Maintenance	17.27
23820 - Pneudraulic Systems Mechanic	20.72
23850 - Rigger	20.72
23870 - Scale Mechanic	18.20
23890 - Sheet-Metal Worker Maintenance	17.77
23910 - Small Engine Mechanic	18.20
23931 - Telecommunications Mechanic I	19.76
23932 - Telecommunications Mechanic II	21.01
23950 - Telephone Lineman	18.75
23960 - Welder Combination Maintenance	18.31
23965 - Well Driller	21.13
23970 - Woodcraft Worker	20.71
23980 - Woodworker	15.61
24000 - Personal Needs Occupations	
24550 - Case Manager	15.01
24570 - Child Care Attendant	10.09***
24580 - Child Care Center Clerk	13.25***
24610 - Chore Aide	14.06***
24620 - Family Readiness And Support Services Coordinator	15.01
24630 - Homemaker	16.12
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	22.79
25040 - Sewage Plant Operator	22.89
25070 - Stationary Engineer	22.79
25190 - Ventilation Equipment Tender	15.72
25210 - Water Treatment Plant Operator	22.89
27000 - Protective Service Occupations	
27004 - Alarm Monitor	10.90***
27007 - Baggage Inspector	9.63***
27008 - Corrections Officer	13.26***
27010 - Court Security Officer	13.26***
27030 - Detection Dog Handler	10.90***
27040 - Detention Officer	13.26***
27070 - Firefighter	13.26***
27101 - Guard I	9.63***
27102 - Guard II	10.90***
27131 - Police Officer I	13.26***
27132 - Police Officer II	14.74***
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	13.24***
28042 - Carnival Equipment Repairer	14.46***
28043 - Carnival Worker	9.78***
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	26.02
29020 - Hatch Tender	26.02
29030 - Line Handler	26.02
29041 - Stevedore I	24.21
29042 - Stevedore II	27.82
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist Center (HFO) (see 2)	41.27
30011 - Air Traffic Control Specialist Station (HFO) (see 2)	28.46
30012 - Air Traffic Control Specialist Terminal (HFO) (see 2)	31.33
30021 - Archeological Technician I	18.17
30022 - Archeological Technician II	20.33
30023 - Archeological Technician III	25.19
30030 - Cartographic Technician	25.19
30040 - Civil Engineering Technician	25.19
30051 - Cryogenic Technician I	27.89
30052 - Cryogenic Technician II	30.80
30061 - Drafter/CAD Operator I	18.17
30062 - Drafter/CAD Operator II	20.33
30063 - Drafter/CAD Operator III	22.66
30064 - Drafter/CAD Operator IV	27.89
30081 - Engineering Technician I	16.19
30082 - Engineering Technician II	18.17
30083 - Engineering Technician III	20.33
30084 - Engineering Technician IV	25.19
30085 - Engineering Technician V	30.80
30086 - Engineering Technician VI	37.27
30090 - Environmental Technician	25.19
30095 - Evidence Control Specialist	25.19
30210 - Laboratory Technician	22.66
30221 - Latent Fingerprint Technician I	27.89
30222 - Latent Fingerprint Technician II	30.80
30240 - Mathematical Technician	25.19
30361 - Paralegal/Legal Assistant I	19.54
30362 - Paralegal/Legal Assistant II	24.21
30363 - Paralegal/Legal Assistant III	29.61
30364 - Paralegal/Legal Assistant IV	35.83
30375 - Petroleum Supply Specialist	30.80
30390 - Photo-Optics Technician	24.12
30395 - Radiation Control Technician	30.80
30461 - Technical Writer I	25.19
30462 - Technical Writer II	30.80
30463 - Technical Writer III	37.27
30491 - Unexploded Ordnance (UXO) Technician I	26.22
30492 - Unexploded Ordnance (UXO) Technician II	31.73
30493 - Unexploded Ordnance (UXO) Technician III	38.03
30494 - Unexploded (UXO) Safety Escort	26.22
30495 - Unexploded (UXO) Sweep Personnel	26.22
30501 - Weather Forecaster I	27.89
30502 - Weather Forecaster II	33.93
30620 - Weather Observer Combined Upper Air Or (see 2)	22.66

Surface Programs	
30621 - Weather Observer Senior (see 2)	25.19
31000 - Transportation/Mobile Equipment Operation Occupations	
31010 - Airplane Pilot	31.73
31020 - Bus Aide	8.97***
31030 - Bus Driver	11.73***
31043 - Driver Courier	10.26***
31260 - Parking and Lot Attendant	9.91***
31290 - Shuttle Bus Driver	11.65***
31310 - Taxi Driver	11.41***
31361 - Truckdriver Light	11.21***
31362 - Truckdriver Medium	12.16***
31363 - Truckdriver Heavy	16.10
31364 - Truckdriver Tractor-Trailer	16.10
99000 - Miscellaneous Occupations	
99020 - Cabin Safety Specialist	15.47
99030 - Cashier	9.63***
99050 - Desk Clerk	9.70***
99095 - Embalmer	26.22
99130 - Flight Follower	26.22
99251 - Laboratory Animal Caretaker I	23.62
99252 - Laboratory Animal Caretaker II	25.80
99260 - Marketing Analyst	21.54
99310 - Mortician	26.22
99410 - Pest Controller	14.61***
99510 - Photofinishing Worker	13.78***
99710 - Recycling Laborer	17.32
99711 - Recycling Specialist	23.38
99730 - Refuse Collector	16.40
99810 - Sales Clerk	10.15***
99820 - School Crossing Guard	17.45
99830 - Survey Party Chief	23.79
99831 - Surveying Aide	13.53***
99832 - Surveying Technician	17.58
99840 - Vending Machine Attendant	23.62
99841 - Vending Machine Repairer	30.08
99842 - Vending Machine Repairer Helper	23.62

\*\*\*Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00 per hour). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to contracts or contract-like instruments entered into with the federal government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on federal lands.

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.80 per hour up to 40 hours per week or \$192.00 per week or \$832.00 per month

HEALTH & WELFARE EO 13706: \$4.41 per hour up to 40 hours per week or \$176.40 per

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week or \$764.40 per month\*

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

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

HOLIDAYS: A minimum of eleven paid holidays per year: New Year's Day Martin Luther King Jr.'s Birthday Washington's Birthday Memorial Day Juneteenth National Independence 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: This wage determination does not apply to any individual employed in a bona fide executive administrative or professional capacity as defined in 29 C.F.R. Part 541. (See 41 C.F.R. 6701(3)). Because most Computer Systems Analysts and Computer Programmers who are paid at least \$27.63 per hour (or at least \$684 per week if paid on a salary or fee basis) likely qualify as exempt computer professionals under 29 U.S.C. 213(a)(1) and 29 U.S.C. 213(a)(17) this wage determination may not include wage rates for all occupations within those job families. In such instances a conformance will be necessary if there are nonexempt employees in these job families working on the contract.

Job titles vary widely and change quickly in the computer industry and are not determinative of whether an employee is an exempt computer professional. To be exempt computer employees who satisfy the compensation requirements must also have a primary duty that 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).

Any computer employee who meets the applicable compensation requirements and the above duties test qualifies as an exempt computer professional under both section 13(a)(1) and section 13(a)(17) of the Fair Labor Standards Act. (Field Assistance Bulletin No. 2006-3 (Dec. 14 2006)). Accordingly this wage determination will not

apply to any exempt computer employee regardless of which of these two exemptions is utilized.

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am.

If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

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

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

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

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

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

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition where uniform cleaning and maintenance is made the responsibility of the employee all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount or the furnishing of contrary affirmative proof as to the actual cost) reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However in those instances where the uniforms furnished are made of "wash and wear" materials may be routinely washed and dried with other personal garments and do

not require any special treatment such as dry cleaning daily washing or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract by the contractor by law or by the nature of the work there is no requirement that employees be reimbursed for uniform maintenance costs.

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

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

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

**Conformance Process:**

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

The process for preparing a conformance request is as follows:

- 1) When preparing the bid the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award the contractor prepares a written report listing in order the proposed classification title(s) a Federal grade equivalency (FGE) for each proposed classification(s) job description(s) and rationale for proposed wage rate(s) including information regarding the agreement or disagreement of the authorized representative of the employees involved or where there is no authorized representative the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action together with the agency's recommendations and pertinent information including the position of the contractor and the employees to the U.S. Department of Labor Wage and Hour Division for review (See 29 CFR 4.6(b)(2)(ii)).
- 4) Within 30 days of receipt the Wage and Hour Division approves modifies or



disapproves the action via transmittal to the agency contracting officer or notifies the contracting officer that additional time will be required to process the request.

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

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

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

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

### AFFIDAVIT RE CONTINGENT FEES

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

\_\_\_\_\_, [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 \_\_\_\_\_, 20\_\_\_\_.

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

AG Procurement **Form 007** (Jul. 15, 2010)

**SAMPLE BUSINESS ASSOCIATE AGREEMENT PROVISIONS**

(Published January 25, 2013 by US Dept. of Health and Human Services)

**Introduction**

A “business associate” is a person or entity, other than a member of the workforce of a covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to protected health information. A “business associate” also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. The HIPAA Rules generally require that covered entities and business associates enter into contracts with their business associates to ensure that the business associates will appropriately safeguard protected health information. The business associate contract also serves to clarify and limit, as appropriate, the permissible uses and disclosures of protected health information by the business associate, based on the relationship between the parties and the activities or services being performed by the business associate. A business associate may use or disclose protected health information only as permitted or required by its business associate contract or as required by law. A business associate is directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by its contract or required by law. A business associate also is directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule.

A written contract between a covered entity and a business associate must: (1) establish the permitted and required uses and disclosures of protected health information by the business associate; (2) provide that the business associate will not use or further disclose the information other than as permitted or required by the contract or as required by law; (3) require the business associate to implement appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to electronic protected health information; (4) require the business associate to report to the covered entity any use or disclosure of the information not provided for by its contract, including incidents that constitute breaches of unsecured protected health information; (5) require the business associate to disclose protected health information as specified in its contract to satisfy a covered entity’s obligation with respect to individuals’ requests for copies of their protected health information, as well as make available protected health information for amendments (and incorporate any amendments, if required) and accountings; (6) to the extent the business associate is to carry out a covered entity’s obligation under the Privacy Rule, require the business associate to comply with the requirements applicable to the obligation; (7) require the business associate to make available to HHS its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the business associate

on behalf of, the covered entity for purposes of HHS determining the covered entity's compliance with the HIPAA Privacy Rule; (8) at termination of the contract, if feasible, require the business associate to return or destroy all protected health information received from, or created or received by the business associate on behalf of, the covered entity; (9) require the business associate to ensure that any subcontractors it may engage on its behalf that will have access to protected health information agree to the same restrictions and conditions that apply to the business associate with respect to such information; and (10) authorize termination of the contract by the covered entity if the business associate violates a material term of the contract. Contracts between business associates and business associates that are subcontractors are subject to these same requirements.

This document includes sample business associate agreement provisions to help covered entities and business associates more easily comply with the business associate contract requirements. While these sample provisions are written for the purposes of the contract between a covered entity and its business associate, the language may be adapted for purposes of the contract between a business associate and subcontractor.

This is only sample language and use of these sample provisions is not required for compliance with the HIPAA Rules. The language may be changed to more accurately reflect business arrangements between a covered entity and business associate or business associate and subcontractor. In addition, these or similar provisions may be incorporated into an agreement for the provision of services between a covered entity and business associate or business associate and subcontractor, or they may be incorporated into a separate business associate agreement. These provisions address only concepts and requirements set forth in the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules, and alone may not be sufficient to result in a binding contract under State law. They do not include many formalities and substantive provisions that may be required or typically included in a valid contract. Reliance on this sample may not be sufficient for compliance with State law, and does not replace consultation with a lawyer or negotiations between the parties to the contract.

#### **Sample Business Associate Agreement Provisions**

Words or phrases contained in brackets are intended as either optional language or as instructions to the users of these sample provisions.

#### **Definitions**

##### **Catch-all definition:**

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health

Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- (a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Business Associate].
- (b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Covered Entity].
- (c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

**Obligations and Activities of Business Associate**

Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
  - (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
  - (c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- [The parties may wish to add additional specificity regarding the breach notification obligations of the business associate, such as a stricter timeframe for the business associate to report a potential breach to the covered entity and/or whether the business associate will handle breach notifications to individuals, the HHS Office for Civil Rights (OCR), and potentially the media, on behalf of the covered entity.]
- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available protected health information in a designated record set to the [Choose either "covered entity" or "individual or the individual's designee"] as necessary to satisfy covered entity's obligations under 45 CFR 164.524;

[The parties may wish to add additional specificity regarding how the business associate will respond to a request for access that the business associate receives directly from the individual (such as whether and in what time and manner a business associate is to provide the requested access or whether the business associate will forward the individual's request to the covered entity to fulfill) and the timeframe for the business associate to provide the information to the covered entity.]

(f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;

[The parties may wish to add additional specificity regarding how the business associate will respond to a request for amendment that the business associate receives directly from the individual (such as whether and in what time and manner a business associate is to act on the request for amendment or whether the business associate will forward the individual's request to the covered entity) and the timeframe for the business associate to incorporate any amendments to the information in the designated record set.]

(g) Maintain and make available the information required to provide an accounting of disclosures to the [Choose either "covered entity" or "individual"] as necessary to satisfy covered entity's obligations under 45 CFR 164.528;

[The parties may wish to add additional specificity regarding how the business associate will respond to a request for an accounting of disclosures that the business associate receives directly from the individual (such as whether and in what time and manner the business associate is to provide the accounting of disclosures to the individual or whether the business associate will forward the request to the covered entity) and the timeframe for the business associate to provide information to the covered entity.]

(h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

#### **Permitted Uses and Disclosures by Business Associate**

(a) Business associate may only use or disclose protected health information

[Option 1 – Provide a specific list of permissible purposes.]

[Option 2 – Reference an underlying service agreement, such as “as necessary to perform the services set forth in Service Agreement.”]

[In addition to other permissible purposes, the parties should specify whether the business associate is authorized to use protected health information to de-identify the information in accordance with 45 CFR 164.514(a)-(c). The parties also may wish to specify the manner in which the business associate will de-identify the information and the permitted uses and disclosures by the business associate of the de-identified information.]

(b) Business associate may use or disclose protected health information as required by law.

(c) Business associate agrees to make uses and disclosures and requests for protected health information

[Option 1] consistent with covered entity’s minimum necessary policies and procedures.

[Option 2] subject to the following minimum necessary requirements: [Include specific minimum necessary provisions that are consistent with the covered entity’s minimum necessary policies and procedures.]

(d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity [if the Agreement permits the business associate to use or disclose protected health information for its own management and administration and legal responsibilities or for data aggregation services as set forth in optional provisions (e), (f), or (g) below, then add “, except for the specific uses and disclosures set forth below.”]

(e) [Optional] Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.

(f) [Optional] Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business

associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(g) [Optional] Business associate may provide data aggregation services relating to the health care operations of the covered entity.

#### **Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions**

(a) [Optional] Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.

(b) [Optional] Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.

(c) [Optional] Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

#### **Permissible Requests by Covered Entity**

[Optional] Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity. [Include an exception if the business associate will use or disclose protected health information for, and the agreement includes provisions for, data aggregation or management and administration and legal responsibilities of the business associate.]

#### **Term and Termination**

(a) Term. The Term of this Agreement shall be effective as of [Insert effective date], and shall terminate on [Insert termination date or event] or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement [and business associate has not cured the breach or ended the violation within the time specified by covered entity]. [Bracketed language may be added if the covered



entity wishes to provide the business associate with an opportunity to cure a violation or breach of the contract before termination for cause.]

(c) Obligations of Business Associate Upon Termination.

[Option 1 – if the business associate is to return or destroy all protected health information upon termination of the agreement]

Upon termination of this Agreement for any reason, business associate shall return to covered entity [or, if agreed to by covered entity, destroy] all protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, that the business associate still maintains in any form. Business associate shall retain no copies of the protected health information.

[Option 2—if the agreement authorizes the business associate to use or disclose protected health information for its own management and administration or to carry out its legal responsibilities and the business associate needs to retain protected health information for such purposes after termination of the agreement]

Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to covered entity [or, if agreed to by covered entity, destroy] the remaining protected health information that the business associate still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at [Insert section number related to paragraphs (e) and (f) above under “Permitted Uses and Disclosures By Business Associate”] which applied prior to termination; and
5. Return to covered entity [or, if agreed to by covered entity, destroy] the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

[The agreement also could provide that the business associate will transmit the protected health information to another business associate of the covered entity at termination, and/or could add terms regarding a business associate's obligations to obtain or ensure the destruction of protected health information created, received, or maintained by subcontractors.]

(d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

**Miscellaneous [Optional]**

(a) [Optional] Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) [Optional] Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) [Optional] Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

**Acknowledgement of Receipt of Sample Business Associates Agreement Provisions  
(Published January 25, 2013 by Department of Health and Human Services).**

The undersigned certifies it has received a copy and agrees to its terms if applicable to the offeror or 3<sup>rd</sup> party engagement(s).

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Printed Name and Title of Official

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Signature of Official Authorized

Date\_\_\_\_\_

CONTRACTUAL AGREEMENT  
BETWEEN  
GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER  
CLINICAL SUPPORT DIVISION  
Drug and Alcohol Section, New Beginnings Program

AND  
SERVICE PROVIDER

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GBHWC RFP 2022-05

This AGREEMENT is made between the GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER, Clinical Services Division, Alcohol and Drug Substance Treatment Program, an agency of the government of Guam (hereinafter called the GBHWC), whose office address is 790 Governor Carlos G. Camacho Road, Tamuning, Guam 96913, and \_\_\_\_\_, a licensed Guam non-profit organization (hereinafter called the Service Provider) whose office address is \_\_\_\_\_.

WHEREAS; the GBHWC requested proposals from qualified Guam non-profit organizations to provide professional services for residential rehabilitation substance treatment for adolescent males and females; and

WHEREAS, the GBHWC has provided adequate public announcement of the need for such service through a request for proposal (GBHWC RFP 2022-05) describing the type of services required and specifying the type of information and data required of each offer and the relative importance of particular qualifications; and

WHEREAS, the Service Provider has submitted its proposal and interest in providing such services; and

WHEREAS, the award of this contract to the Service Provider has been made pursuant to a written finding by the GBHWC that the Service Provider is qualified based on the evaluation

factors set forth in the request for proposal, and that negotiations of compensation have been determined to be fair and reasonable;

NOW THEREFORE, the GBHWC and the Service Provider, in consideration of mutual covenants hereinafter set forth, agree as follows:

SECTION I.

PURPOSE

Professional services providing residential rehabilitation substance treatment for adolescent males and females.

SECTION II.

SCOPE OF WORK

Service Provider shall provide the services set forth in GBHWC RFP 2022-05. A copy of GBHWC RFP 2022-05 Section II Scope of Work is attached to this agreement as Exhibit A for easy reference purposes.

SECTION III.

CONTRACT TERM

A. Initial Term

The initial term contract shall begin upon the date that the Governor approves the contract, as signified by her execution of the contract (the "Initial Term"). After the Governor has approved the contract, the government will issue a written notice to proceed notifying the service provider when the service shall begin. The initial term of the contract shall end September 30, 2023, subject to the appropriation, allocation and availability of funds.

B. Renewal Term

At the option of the government, the contract may be renewed for up to two (2) additional one (1) year periods (each being a "Renewal Term") subject to the availability of funds and satisfactory performance. Upon expiration of the Renewal Term(s), this contract shall expire, unless sooner terminated.

C. Monthly Extension Periods

At the option of the government, the contract may be extended after the Renewal Term on a month-to-month basis (each being a "Monthly Extension Period") or in special circumstances a combination of monthly periods for two or three months, to begin immediately after the expiration date of the final Renewal Term(s), provided that in no event may the parties agree to more than six (6) Monthly Extension Periods. The Monthly Extension Periods may be agreed to by the parties only if the government is unable to continue the services under a new contract after a new solicitation and procurement is undertaken by the government.

D. Multiple Term Contract Multiple Certification of Funds.

The Initial Term and any subsequent term(s) of this contract are subject to the availability of funds. The funds for the first twelve (12) months (or pro-rated fiscal year if applicable) of the Initial Term of the contract are certified as part of the execution of the contract. In the event that funds are not allocated, appropriated or otherwise made available to support continuation of performance in any period of time after the first twelve (12) months (or pro-rata fiscal year if applicable), the contract shall be cancelled; however, this does not affect either the GBHWC's rights or the contractor's rights under any termination clause of the contract. The GBHWC shall notify the contractor on a timely basis in writing that funds are, or are not, available for the continuation of the contract for each succeeding period. In the event of cancellation of this multi-term contract as provided above, the contractor will be reimbursed its unamortized, reasonably incurred, nonrecurring costs.

There may be multiple certifications of funds by the GBHWC during any term of the contract.

#### SECTION IV.

##### SERVICE PROVIDER'S COMPENSATION FOR SERVICES

A. Compensation.

(Intentionally Left Blank-To Be Completed At A Future Date)

B. Invoicing and Payments.

All compensation is to the appropriation, allocation and availability of funds, upon completion of the services and receipt of any deliverables and a monthly invoice in the form agreed to by the parties. Payment shall be based upon actual costs, as defined in 2 GAR Division 4 § 7101 (1), submitted less disallowed costs and penalties, as

applicable. Compensation based upon the aggregate of actual cost submitted may be less than the agreed upon compensation, but in no event shall it exceed the agreed upon compensation. The invoice should reflect only those service fees incurred for the current billing period. Each invoice should also include the total amount billed from the inception of the current year contract. All invoices are subject to review and approval by the GBHWC. The acceptance and payment of any invoice shall not be deemed a waiver of any of the GBHWC's rights under this Agreement.

C. Final Payment.

The GBHWC shall make final payment delivery and acceptance of all services mentioned herein specified and performed. Prior to final payment and as a condition precedent thereto, the Service Provider shall execute and deliver to the GBHWC a release, in a form provided by the GBHWC, of claims against the GBHWC and the government of Guam arising under and by virtue of the contract. Additionally, prior to final payment and as condition precedent thereto, the Service Provider shall ensure a smooth program transition back to GBHWC or to the new service provider identified by GBHWC; and shall immediately provide the GBHWC with all program related information, files, equipment, service contributions/program income (contributions, donations, and gifts) remaining balances and all other operational and administrative and service documents and/or tangible assets.

D. Allowable Costs. (Cost Reimbursement)

The Service Provider agrees to comply with the following standards of financial management:

1. Financial Records

The Service Provider shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

The Service Provider shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the contract, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

The Service Provider shall maintain effective control over and accountability for all funds and assets. The Service Provider shall keep effective internal controls to ensure that all the GBHWC funds received are separately and properly allocated to the activities described in this Agreement. The Service Provider shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation.

The Service Provider shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and sub-grant (as applicable) contract documents, and so forth. All costs invoiced by contract in this Agreement shall be reasonable, lawful, allocable, and accounted for in accordance with generally accepted accounting principles set forth in 2 GAR Division 4 § 7101 or in any federal assistance instrument applicable to this Agreement.

5. Reimbursable Cost Principles.

The Service Provider shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and sub-grant and/or contract documents and so forth.

6. Allowable Cost.

Total allowable cost of the contract is the sum of allowable direct costs actually incurred in the performance of the contract in accordance with the terms of the contract, plus the properly allowable indirect costs, less any applicable credits. Costs shall be allowed to the extent they are: reasonable as defined in 2 GAR Division 4 § 7101 (d); and allocable, as defined in 2 GAR Division 4 § 7101 (e) and lawful under any applicable law; and not unallowable under 2 GAR Division 4 § 7101(f). In the case of costs invoiced for reimbursement, they shall be actually incurred or accrued and accounted for in accordance with generally accepted accounting principles.

7. Applicable Credits.

Applicable credits are receipts or price reductions which reduce expenditures allocable to contracts as direct or indirect costs, as defined in 2 GAR Division 4 § 7101 (h). In the event the Service Provider receives discounts, rebates and or other applicable credits accruing to or received by the Service Provider or any subcontractor under the contract, to the extent those credits are allocable to the allowable portion of the cost billed to the GBHWC; allowable costs shall be paid to the Contactor, net of all discounts, rebates and other such applicable credits. The Service Provider shall separately identify for each cost submitted for payment to the GBHWC the amount of cost that is allowable; shall identify all unallowable costs; or the Service Provider shall exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification. The Service Provider shall identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the GBHWC for payment and individually identify the amount as a discount, rebate or in case of other applicable credits, the nature of the credit. The GBHWC may permit the Service Provider to report this information on a less frequent basis than monthly, but no less frequently than annually. The Service Provider shall identify the method by which it shall report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract.

#### SECTION V.

##### THE GOVERNMENT IS NOT LIABLE

- A. The GBHWC assumes no liability for any accident or injury that may occur to the Service Provider, his or her agents, dependents, or personal property while in route to or from worksite or during any travel mandated by the terms of this Agreement.
- B. The GBHWC shall not be liable to the Service Provider for any work performed by the Service Provider prior to the approval of this Agreement by the Governor of Guam and the Service Provider hereby expressly waives any and all claims for services performed in expectation of this Agreement prior to its approval by the Governor of Guam.

#### SECTION VI.



#### SPECIAL REPORTING REQUIREMENT FOR NON-PROFIT ORGANIZATIONS

- A. In the event that the Service Provider is a non-profit organization, the Service Provider shall comply with the reporting requirements set forth in P.L. 36-107 Chapter XIII Part II Section 6 and this clause, or any subsequent public report requirement law(s). In the event one of the Service Provider's subcontractors is a non-profit organization, the provisions of this clause shall also be deemed to apply to the Service Provider's subcontractor, and the Service Provider is obligated to submit its non-profit subcontractor's information in the same manner and time periods.
- B. The Service Provider shall maintain accurate financial records of all monies paid to it under this Agreement. The Service Provider shall provide to the GBHWC a budgetary breakdown by object category as to all services under this Agreement. An initial proposed budgetary breakdown is part of the request for proposal, and the agreed cost proposal, budget, staffing request and are incorporated into the scope of services of this Agreement as part of Exhibit B.
- C. The Service Provider shall provide to the GBHWC a quarterly report describing its activities during the reporting period and the results it achieved no later than twenty (20) days after the end of each Quarter of the fiscal year.
- D. The Service Provider shall provide prior written notification to the GBHWC of all procurement of equipment and services of Five Thousand Dollars (\$5,000.00) or more as to its services related to this Agreement, or with regard to items to be invoices as part of the contract.
- E. The Service Provider shall provide access to duly authorized representative of the GBHWC, the Guam Public Auditor, or their authorized representatives, to any and all appropriate records for the purpose of audit and examination of books, documents, papers, and records of funds expended as part of the contract. The Service Provider shall upon written request by the GBHWC, the Guam Public Auditor or their authorized representatives provide source documentation, including but not limited to copies of checks or receipts, employee pay statement, inventory receipt, attendance records, utility bills.
- F. The Service Provider is subject to the Single Audit Rules and shall provide annually (as applicable) to GBHWC copies of its Audit Reports for all time periods covered as part of this Agreement.

- G. The Service Provider shall provide certified detailed inventory listing of each Fiscal Year's purchases under the contract to the GBHWC as well as a Fiscal Year-end report of all expenditures of funds under the contract no later than November 15, the initial year, and November 15, of the each subsequent year.
- H. In the event the Service Provider fails to timely provide any reports or items set forth in this section to the GBHWC after prior written reasonable notice by the GBHWC to the Service Provider and the Service Provider's failure to cure the contract default, the GBHWC in addition to other contractual rights and remedies under this contract, may withhold payment of Ten Percent (10%) of any amounts that are invoiced under this Agreement by the Service Provider.

#### SECTION VII.

##### GBHWC AGREES TO THE FOLLOWING

- A. To Maintain oversight of the Service Provider's performance in administering the residential rehabilitation substance treatment for adolescent males and females.
- B. The use of selected equipment as negotiated with the Service Provider when providing direct therapeutic intervention and/or activities to consumers.

#### SECTION VIII.

##### RESPONSIBILITY OF SERVICE PROVIDER

- A. The Service Provider shall be responsible for the professional and technical accuracy of all work and materials furnished under this Agreement. The Service Provider shall, without additional cost to the GBHWC, re-do services, correct or revise all errors or deficiencies in its services, work and material identified during the term of the contract, and any applicable warranty period.
- B. The Service Provider shall devote its best efforts to the duties and responsibilities under the contract in accordance with the laws, rules, regulations and policies of the government of Guam.
- C. The GBHWC's review, approval, acceptance of, and payment of fees for services required under the contract, shall not be construed to operate as a waiver of any rights under the contract or of any cause of action arising out of the Service Provider's failure of performance, except as provided herein, and the Service Provider shall be, and remain liable, to the GBHWC for all direct costs which may be incurred by the GBHWC as result of the Service Provider's negligent performance of any of the services or work which are performed under the contract.

SECTION IX.

ACCESS TO RECORDS AND OTHER REVIEW

- A. The Service Provider, including its subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the contract, for inspection by the GBHWC, the Public Auditor, and any applicable Federal Granting Agency, Inspector General or its delegate. Each subcontract by the Service Provider pursuant to this Agreement shall include a provision containing the conditions of this Section.
- B. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the three (3) year period, the records shall be kept until all issues are resolved, or until the end of the regular three (3) year period, whichever is later.
- C. Records for non-expendable property acquired in whole or in part, with funds from this contract funds shall be retained for three (3) years after its final disposition.
- D. The Service Provider shall provide access to any project site(s) to the GBHWC, Guam Public Auditor and in the event there are federal funds, the Federal Granting Agency or its designated Inspector General or their authorized representative. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

SECTION X.

OWNERSHIP OF DOCUMENTS

All briefs, memoranda and incidental to the Service Provider's work or materials furnished hereunder shall be and remain the property of the GBHWC including all publication rights and copyright interests, and may be used by the GBHWC without any additional cost to the GBHWC.

SECTION XI.

INDEMNITY

The Service Provider agrees to save and hold harmless the GBHWC, its officers, agents, representatives, successors and assigns, and other governmental agencies from any and all actions, proceedings, claims, demands, costs, damage, attorney fees and all other liabilities and expense of any kind or any source which may arise out of the performance of this Agreement,

caused by the negligent act or failure of the Service Provider, its officers, employees, servants, or agents, or if caused by the actions of any client of the Service Provider resulting in injury or damage to persons or property during the time when the Service Provider or any of officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Service Provider or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Service Provider, the Service Provider shall as soon as practicable but no later than two (2) days after it receives notice thereof, notify the Director of the GBHWC by certified mail.

#### SECTION XII.

##### CHANGES

The GBHWC may at any time, by written order make any change in the services to be performed hereunder. If such changes cause an increase or decrease in the costs of doing the work under this Agreement, or in the time required for this performance, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly.

#### SECTION XIII.

##### INSURANCE

The Service Provider shall procure and maintain in effect Workers Compensation, Commercial General Liability, and Comprehensive General Liability Insurance coverage for the operation of the services set forth in this Agreement. The Service Provider shall provide certificates of such insurance to the GBHWC when required and shall immediately report in writing to the GBHWC any insurance claims filed.

#### SECTION XIV.

##### TERMINATION

#### A. Termination for Defaults:

##### 1. Default.

If the Service Provider refuses or fails to perform any of the provisions of this Agreement with such diligence as shall ensure its completion within the time specified in this Agreement, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this Agreement, the GBHWC may notify the Service Provider in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the GBHWC, the GBHWC may terminate the Service Provider's right to

proceed with the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the GBHWC may procure similar professional services in a manner and upon terms deemed appropriate by the GBHWC. The Service Provider shall continue performance of this Agreement to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar professional services, goods or services.

2. The Service Provider's Duties.

Notwithstanding termination of the Agreement and subject to any directions from the GBHWC, the Service Provider shall take timely, reasonable, and necessary action to protect and preserve property in possession of the Service Provider in which the GBHWC has an interest.

3. Compensation.

Payment for completed professional services delivered and accepted by the GBHWC shall be per Section IV Compensation for the Service Provider's services. The GBHWC may withhold from amounts due the Service Provider such sums as the GBHWC deems to be necessary to protect the GBHWC against loss because of outstanding liens or claims of former lien holders and to reimburse the GBHWC for the excess costs incurred in procuring similar professional services. The Service Provider may pursue its rights under Section XVI Mandatory Disputes clause of this Agreement, and the Guam Procurement Laws and Regulations if it disagrees with the GBHWC's decision with regard to compensation.

4. Erroneous Termination for Default.

If, after notice of termination of the Service Provider's right to proceed under the provisions of this clause, it is determined for any reason that the Service Provider was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Section XXII Force Majeure of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to such clause.

5. Additional Rights and Remedies.

The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

6. Non-Profit Organization Special Reporting Requirements.

The Service Provider, if a non-profit organization subject to Section VI Special Reporting Requirements of Non-Profit Organizations (P.L. 36-54 Chapter XIII Part II Section 6) or current fiscal year related mandate; and if the Service Provider fails to timely provide any reports or items set forth in Section VI Special Reporting Requirements for Non Profit Organizations of this Agreement; then the GBHWC pursuant to that section may after prior written reasonable notice to the Service Provider and the Service Provider's failure to cure the contract default, the GBHWC in addition to other contractual rights and remedies under this Agreement, may withhold payment of Ten Percent (10%) of any amounts that are invoiced under this Agreement by the Service Provider.

B. Termination for Convenience.

1. Termination.

The Director of the GBHWC may, when the interest of the GBHWC so requires, terminate this Agreement in whole or in part, for the convenience of the GBHWC. The Director of the GBHWC shall give thirty (30) days prior written notice of the termination to the Service Provider specifying the part of the contract terminated and when termination becomes effective.

2. The Service Provider's Obligations.

The Service Provider shall incur no further obligations in connection with the terminated professional services and on the date set in the notice of termination, the Service Provider shall stop work to the extent specified. The Service Provider shall also terminate outstanding orders and subcontracts as they relate to the terminated professional services. The Service Provider shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated professional services. The Service Provider must still complete the professional services not terminated by the notice of termination and may incur obligations as are necessary to do so.

In the event there is any deliverables and/or reports due per this Agreement, the Service Provider and the GBHWC shall meet and set up the delivery dates for those items not set forth in the written notice of termination.

3. Compensation.

The Service Provider shall invoice the GBHWC in keeping Section IV Compensation for Service Provider's Services for professional services performed up to the date of termination.

4. Program Transition.

In the event of the termination under this Section XIV. Termination, the Service Provider shall take all steps necessary to ensure a smooth and professional transition of the program to prevent any interruption of the services to the clients and to preserve the integrity of the program. The Service Provider shall immediately prepare to relinquish all program related information, files, major equipment items, service contributions, and program income (contributions, donations, and gifts) remaining balances and all other operational and administrative and service documents and/or other tangible assets or items to the GBHWC.

SECTION XV.

PRODUCT OF SERVICE-COPYRIGHT

All materials developed or acquired by the Service Provider under this Agreement shall become the property of the GBHWC and shall be delivered to the GBHWC no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Service Provider under this Agreement shall be subject of an application for copyright or other claim of ownership by or on behalf of the Service Provider.

SECTION XVI.

MANDATORY DISPUTE RESOLUTION CLAUSE

In the event of a conflict between this "Mandatory Disputes Resolution Clause" and any other terms in this Agreement, it is the intent of the GBHWC and the Service Provider that the terms of this clause are to be given precedence.

A. Disputes - Contractual Controversies.

The GBHWC and the Service Provider agree to attempt resolution of all controversies which arise under, or are by virtue of, this Agreement through mutual agreement. If the controversy is not resolved by mutual agreement, then the Service Provider shall request the Director of GBHWC or his designee, in writing to issue a final decision within sixty days after receipt of the written request in keeping with 5 GCA § 5427 (c). The Director of GBHWC or their designee shall immediately furnish a copy of the decision to the Service Provider, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.

B. Absence of a Written Decision within Sixty Days.

If the Director of GBHWC, or his designee does not issue a written decision within sixty days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Service Provider may proceed as though the Director of the GBHWC, or his designee had issued a decision adverse to the Service Provider.

C. Appeals to the Office of Public Accountability.

The Director of the GBHWC, or his designee's decision shall be final and conclusive, unless fraudulent or unless the Service Provider appeals the decision administratively to the Public Auditor in accordance with 5 GCA § 5706.

D. Disputes – Money Owed To or By the Government of Guam.

This subsection applies to appeals of the GBHWC's decision on a dispute. For money owed by or to the government of under this Agreement, the Service Provider shall appeal the decision in accordance with the "Government Claims Act", 5 GCA § 6101 et. seq., 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 government of Guam or from the date when a decision should have been rendered. For all other claims by or against the GBHWC under this Agreement, the Office of the Public Auditor has jurisdiction over the appeal from the decision of the GBHWC. Appeals to the Office of the Public Auditor shall be made within sixty (60) days of the GBHWC's decision or from the date the decision should have been made.

E. Exhaustion of Administrative Remedies.

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

F. Performance of Contract Pending Final Resolution by the Court.

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

## SECTION XVII.



#### MANDATORY REPRESENTATIONS BY SERVICE PROVIDER

A. Ethical Standards.

With respect to this procurement and any other contract that the Service Provider may have, or wish to enter into, with the GBHWC, the Service Provider represents that it has not knowingly influenced, and promises that it shall not knowingly influence, any government employee to breach any of the ethical standards set forth in the Guam Procurement Law and in any of the Guam Procurement Regulations.

B. Prohibition Against Gratuities and Kickbacks.

With respect to this procurement and any other contract that the Service Provider may have or wish to enter into with the GBHWC, the Service Provider represents that he/she/it has not violated, is not violating, and promises that he/she/it shall not violate the prohibition against gratuities and kickbacks set forth in the Guam Procurement Regulations.

C. Prohibition Against Contingent Fees.

The Service Provider represents that he has not retained any person or agency upon an agreement or understanding for a percentage, commission, brokerage, or other contingent arrangement, except for retention of bona fide employees or bona fide established commercial selling agencies, to solicit or secure this contract or any other contract with the government of Guam.

D. Prohibition of Employment of Sex Offenders.

Pursuant to 5 G.C.A. § 5253: No person convicted of a sex offense under the provisions of 9 GCA Chapter 25, or an offense as defined in GCA Chapter 28 Article 28, on Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway;

The Service Provider warrants (1) that no person providing services on behalf of the Service Provider has been convicted of a sex offense as set forth in the preceding subsection; and (2) that if any person providing services on behalf of the Service Provider is convicted of a sex offense under the provisions of 9 GCA Chapter 25 or 9 GCA Chapter 28 Article 2, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person shall 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.

For the purposes of this “Prohibition of Employment of Sex Offenders Clause” in the event the Service Provider is providing services that involve direct contact with the GBHWC consumers, customers or potential eligible receivers of the GBHWC community behavioral health wellness services all locations where there is contact with those individuals is considered for purposes of this clause in this contract “property of the government of Guam”.

E. Wage and Benefit Compliance – Service Providers Providing Services.

The Service Provider shall comply with 5 GCA § 5801 et. seq., and with regard to all persons it employs whose purpose in whole or in part is the direct delivery of services contracted for with the GBHWC in this procurement, shall pay such employees in accordance with the Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct deliverance of deliverables to the government of Guam. The Service Provider shall be responsible for flowing down this obligation to its subcontractors.

The Wage Determination most recently issued by the U.S. Department of Labor at the time this contract is awarded to the Service Provider shall be used to determine wages and benefits which shall be paid to employees pursuant to this clause.

The Wage Determination promulgated by the U.S Department of Labor on a date most recent to the renewal date shall apply to any renewal terms of this agreement.

The Service Provider agrees that in addition to the Wage Determination detailed above, health and similar benefits for employees having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor shall apply. The Service Provider shall pay a minimum of ten (10) paid holidays per annum per employee.

The Service Provider shall flow the Wage and Benefit Compliance clauses above through to any of its subcontractor under this agreement.

The Service Provider agrees that any violation of the Service Provider’s obligations or its subcontractors obligations as set forth in this Section “Wage and Benefit Compliance Service Providers Providing Service’s Clause” shall be investigated by the Guam Department of Labor and may include a monetary penalty assessment by the Guam Department of Labor of no less than One Hundred Dollars (\$100.00) per day, and no more than One Thousand Dollars (\$1,000.00) per day, until such time as a violation has

been corrected, as well as the payment of all back wages and benefits due.

In addition to any and all other breach of contract actions the GBHWC may have under this procurement, in the event there is a violation in the process set forth in the preceding subsection, the Service Provider may be placed on probationary status by the Director of GBHWC, for a period of one (1) year. During the probationary status, the Service Provider shall not be awarded any contract by any instrumentality of the government of Guam. The Service Provider if it is placed on probationary status, or has been assessed a monetary penalty pursuant to this "Wage and Benefit Compliance Service Providers Providing Services Clause" may appeal such penalty or probationary status to the Superior Court of Guam as set forth in 5 GCA § 5804.

The Service Provider's Declaration of Compliance with Wage Determination with the attached most recent Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor is applicable to this contract.

Exhibit C.

The Service Provider agrees to provide upon written request by the GBHWC written certification of its compliance with its obligations under this "Wage and Benefit Compliance Service Providers Providing Services Clause" as part of each invoice, along with the names of any employees, their positions, and detailed wage and benefits paid in keeping with this section. Additionally, upon request by the GBHWC, the Service Provider shall submit source documents as to those individuals that provide direct services in part or whole under this contract and its payments to them of such wages and benefits.

F. Privacy Rights.

The Service Provider will comply with all Federal and Guam laws and regulations as to the privacy rights of individuals and as to any records and information of individuals providing services under this contract, including but not limited to the following:

1. Health Insurance Portability and Accountability (HIPAA)  
The Service Provider will comply with the Health Insurance Portability and Accountability Act (HIPAA of 1996, P.L. 104-191) and the Federal "Standards for Privacy of Individually Identifiable "Health Information" promulgated under 45 CFR Part 160 and Part 164, Subparts A and E.
2. Client Confidentiality. The Service Provider will ensure information obtained directly or indirectly from a recipient client under this contract will be kept confidential and not released in a form that identifies the person without

informed consent of the person, or of his or her legal representative, unless the disclosure is required by court order or for program monitoring by authorized Federal, or Guam monitoring agencies. (Ref. 45 CFR 1321.51 and 42 CFR Part II). Privacy Rule Standards for Privacy of Individually Identifiable Health Information, Ref. 45 CFR Part 160 and Part 164, Subparts A and E.

G. Technology Access For Blind or Visually Impaired.

The Service Provider acknowledges that no government funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired.

H. Equal Opportunity Compliance.

The Service Provider agrees to abide by all Federal and Guam laws and rules and regulations, and Executive Orders of the Governor of Guam, pertaining to equal employment opportunity. In accordance with such laws of Guam, the Service Provider assures that no person shall on the grounds of race, religion, color, national origin, ancestry, sexual orientation or gender identity be excluded from employment with or participation in, be denied benefit of, or otherwise be subjected to discrimination under any program or activity under this Agreement. If the Service Provider is found not to be in compliance with these requirements during the life of this Agreement, the Service Provider agrees to take appropriate steps to correct these deficiencies.

I. Records Discrimination Against Status Offenders Prohibited.

The Service Provider acknowledges that no private entity that receives government of Guam funding, either local or federal funds, for any of its programs may, solely on the basis of conviction of a status offense, discriminate against any person who would otherwise be eligible. P.L. 30-168 (effective 7/16/10) codified at § 20120 of Article 1, Chapter 20 of Title 19, Guam Code Annotated.

J. Restricting the Use of Mobile Phones While Driving a Vehicle, and Providing for the Public Education Requirements Regarding Such Restrictions.

The Service Provider shall ensure compliance with relative to the restrictions on the use of mobile phones while driving. P.L. 31-194

K. Drug and Smoke-Free Workplace.

The Service Provider shall ensure compliance with Federal and local drug and smoke-

free workplace laws and requirements. [Federal Drug-Free Workplace Act of 1988, the Governor's Circular No. 89-26 (Governor's Policy Statement Establishing a Drug-Free Workplace) and Clean Indoor Air Act of 1992, P.L. 21-139, Title 10 GCA, Chapter 90].

L. Social Security Number Confidentiality Act.

The Service Provider shall ensure compliance relative to preventing the inappropriate disclosure and misappropriation of social security numbers. P.L. 28-95, Article 7, Chapter 32, Title 5, Guam Code Annotated.

M. Employment of Individuals with Severe Disabilities; P.L. 26-109 Section 2, §41210(b), Article 2, Chapter 41, Division 5, Title 17 of the Guam Code Annotated.

The Service Provider shall comply with the provision of this mandate with emphasis on the employment of two percent (2%) of its workforce with severe disabilities in coordination with the Division of Vocational Rehabilitation Administrator, Department of Integrated Services for Individuals with a Disability (DISID) for placement. In the event the Service Provider is unable to employ due to the lack of individuals with disabilities who are able to work, the Service Provider shall utilize funds for the purchase of supplies produced by non-profit organizations employing individuals with disabilities. Efforts to comply with this specification shall be documented by the Service Provider and is subject to review and inspection by the GBHWC.

N. Service Provider's signed and dated OAG Form 002 Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest, is attached hereto and incorporated herein.

Pursuant to 5 G.C.A. § 5233, P.L. 36-13 (effective 04/09/2021), the representations, affirmations and certifications that the Service Provider has made, as part Form AG 002 Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest, and all previous sworn disclosure by Service Provider in GBHWC RFP 2022-05, are incorporated herein by reference. Pursuant to § 5233 (g) Service Provider shall promptly make any disclosures not previously made, required by § 5233 (c), (d) and (e), and update changes in the identities or other required information, interests, or conflicts of the person required to be disclosed as part of Form AG 002 Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest in GBHWC RFP 2022-05.

The disclosures made under 5 GCA §5233 shall remain in the public portion of the procurement record.

Service Provider acknowledges that failure to comply promptly and fully with 5 GCA § 5233 shall constitute a material breach of this Agreement.

SECTION XVIII.

ASSIGNMENT, SUCCESSORS AND ASSIGNS

Neither party may assign or otherwise transfer this Agreement or any of the rights that it grants without the prior written consent of the party. Any purported assignment in violation of the preceding sentence shall be void and of no effect. This contract shall be binding upon the parties' respective successors and permitted assigns.

SECTION XIX.

SUBCONTRACTING

The Service Provider shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the GBHWC.

SECTION XX.

STATUS OF SERVICE PROVIDER

The Service Provider and its agents and employees are independent contractors performing professional services for the GBHWC and are not employees of the GBHWC. The Service Provider and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of the GBHWC vehicles, or any other benefit afforded to employees of the GBHWC as a result of this Agreement. The Service Provider acknowledges that all sums received hereunder are reportable by the Service Provider for tax purposes, including without limitation, self-employment and business income tax. The Service Provider agrees not to purport to bind the GBHWC unless the Service Provider has express written authority to do so, and then only within the strict limits of that authority.

SECTION XXI.

GENERAL COMPLIANCE WITH LAWS

The professional services, deliverables and materials under this Agreement shall comply with all applicable Federal and Guam laws and regulations. The Service Provider shall maintain all licenses and permits during all times pertinent to this Agreement. The Service Provider is responsible for payment of all taxes under this Agreement. In the event the contract sets forth key personnel positions of stated experiences and training, the Service Provider agrees to maintain those individuals and or positions at all times pertinent to the contract.

A non-resident person without a valid Guam business license residing outside of Guam shall be subject to a withholding assessment, the equivalent of the Guam business privilege tax (BPT), which shall be the equal to four percent (4% or current rate) of the total value of a contract awarded by all government of Guam contracts for professional services as a cost of

doing business with the government of Guam. See P.L. 33-166 effective June 20, 2017 codified at 11 G.C.A., Chapter 71, Section 7114.

#### SECTION XXII.

##### FORCE MAJEURE

The Service Provider and/or the GBHWC (other than its payment obligation) shall be excused from performance under this Agreement for any period that the Service Provider or the GBHWC is prevented from performing any services in whole or in part as a result of acts of God, typhoons, earthquakes, floods, epidemics, fire, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or any other event, matter or thing, wherever occurring, which shall not be within the reasonable control of the party invoking the section (each of the foregoing deemed a "Force Majeure"), provided that the Service Provider or the GBHWC have prudently and promptly acted to take any and all reasonably necessary preventive and/or corrective steps that are within the Service Provider's or the GBHWC's control to ensure that the Service Provider or the GBHWC can promptly perform. Such non-performance (collectively, a Force Majeure Event) shall not be deemed a breach of the Agreement. This clause shall not relieve the Service Provider of responsibility for developing and implementing all prudent contingency and disaster recovery measures. Subcontractor interruptions shall not be considered a Force Majeure Event unless agreed upon by both parties. The party delayed by a Force Majeure Event shall immediately notify the other party by telephone (to be confirmed in writing, via hand delivery return receipt, within FIVE (5) days of the inception of such delay) of the occurrence of a Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event, all preventive and corrective steps taken, how it affects performance, and the anticipated duration of the inability to perform, and shall resume performance of its obligations as soon as possible after the Force Majeure condition no longer exists. The parties shall meet to discuss and determine a revised timetable for completion of any Services delayed by a Force Majeure Event under this Agreement.

#### SECTION XXIII.

##### SEVERABILITY

The provisions of the contract shall be deemed severable, and the unenforceability of any one or more provisions shall not affect the enforceability of any other provisions. In addition, if any provision of this contract is declared unenforceable, the parties shall substitute an enforceable provision that to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

#### SECTION XXIV.

#### ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of that party's rights under this Agreement shall be effective to waive any other rights.

#### SECTION XXV.

##### NO WAIVER

No failure or delay by either party in exercising any right, power or remedy shall operate at a waiver of such right, power or remedy, and no waiver shall be effective unless it is in writing and signed by the waiving party. If either party waives any right, power or remedy, such waiver shall not waive any successive or other right, power or remedy the party may have under this contract.

#### SECTION XXVI.

##### APPLICABLE LAW

The laws of Guam shall govern this Agreement, without giving effect to its choice of laws provisions. Venue shall be proper only in a Guam court of competent jurisdiction. By execution of this Agreement, the Service Provider acknowledges and agrees to the jurisdiction of the courts of Guam over any and all lawsuits arising under or out of any term of this Agreement.

#### SECTION XXVII.

##### AMENDMENT

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties.

#### SECTION XXVIII.

##### MERGER

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written agreement. No prior agreement or understanding, oral or otherwise, of the parties, or their agents shall be valid or enforceable unless embodied in this Agreement.

#### SECTION XXIX.

##### INCORPORATION AND ORDER OF PRECEDENCE



The request for proposal and the Service Provider's proposal are incorporated by reference into this Agreement and are made part of this Agreement. In the event of any conflict among these documents, the following order or precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this Agreement itself; then
3. the Request for Proposal; then
4. the Service Provider's Best and Final Offer(s), in reverse chronological order; then
5. the Service Provider's proposal.

SECTION XXX.

PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INDEMNIFICATION

- A. The Service Provider shall defend at its own expense, the government of Guam and its agencies against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark in the United States or Guam, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a procuring agency based upon the Service Provider's trade secret infringement relating to any product or service provide under this Agreement, the Service Provider agrees to reimburse the government of Guam for all costs, attorneys' fees and the amount of the judgment. To qualify for such a defense and/or payment, the government of Guam shall:
1. Give the Service Provider prompt written notice of any claim;
  2. allow the Service Provider to control the defense or the settlement of the claim; and
  3. cooperate with the Service Provider in a reasonable way to facilitate the defense or settlement of the claim.
- B. If any product or service becomes, or in the Service Provider's opinion is likely to become the subject of a claim of infringement, the Service Provider shall at its option and expense:
1. Provide a procuring agency the right to continue to using the product or service;
  2. replace or modify the product or service so that it becomes non-infringing; or
  3. accept the return of the product or service, less the unpaid portion of the purchase price any other amounts due the Service Provider. The Service Provider's obligations shall be void as to any product or service modified by the procuring agency to the extent such modification is the cause of the claim.

SECTION XXXI.

APPROVAL OF SERVICE PROVIDER PERSONNEL

Personnel proposed in the Service Provider's written proposal to the GBHWC are considered material to any services or work performed under this Agreement. No changes in personnel shall be made by the Service Provider without the prior written consent of the GBHWC. Replacement of any of the Service Provider's personnel, if approved shall be with equal ability, experience and qualifications. The Service Provider shall be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project or program immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The GBHWC shall retain the right to request the removal of any of the Service Provider's personnel at any time. A penalty of ten percent (10%) of the monthly invoice amount shall be imposed for every month the Service Provider does not have the staff.

SECTION XXXII.

SURVIVAL

The sections titled Indemnification and Patent, Copyright, Trademark and Trade Secret Indemnification shall survive the expiration of this Agreement. Software licenses, leases, maintenance and other unexpired agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

SECTION XXXIII.

PROPRIETARY INFORMATION

Proprietary information for the purpose of this Agreement is information relating to a party's research, development, trade secrets, business affairs, internal operations and management procedures and those of its customers, clients or affiliates, but does not include information lawfully obtained by third parties, which is in the public domain, or which is developed independently.

Neither party shall use or disclose directly or indirectly without prior written authorization any proprietary information concerning the other party obtained as a result of this contract. Any proprietary information removed from GBHWC's site by Service Provider in the course of providing services under this Agreement will be accorded at least the same precautions as are employed by Service Provider for similar information in the course of its own business.

SECTION XXXIV.  
CONFLICT OF INTEREST

In keeping with 2 CFR §200.112 Service Provider agrees as follows:

During the term of this Agreement, Service Provider will not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with Service Provider fully performing its obligations under this Agreement.

Additionally, Service Provider acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of GBHWC.

Thus, Service Provider agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with Service Provider's fully performing its obligations to GBHWC under the terms of this Agreement, without the prior written approval of GBHWC.

In the event that Service Provider is uncertain whether the appearance of a conflict of interest may reasonably exist, Service Provider shall submit to GBHWC a full disclosure statement setting forth the relevant details for GBHWC's consideration and direction. Failure to promptly submit a disclosure statement or to follow GBHWC's direction in regard to the apparent conflict will be grounds for termination of the contract.

Further, Service Provider will maintain a written code of standards governing the performance of its agent(s) engaged in the award and administration of contracts.

Neither Service Provider nor its agent(s) shall participate in the selection, or in the award or administration of a contract or subcontract supported by Federal or Local funds under this Agreement, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

The employee, officer or agent: Any member of the employee's immediate family (which includes a spouse, children, parents, brothers and sisters, grandparents and grandchildren, mothers-in-law and fathers-in-law, brothers-in-law and sisters-in-law, daughters-in-law and sons-in-law. Stepsiblings, stepchildren and stepparents shall also be regarded as immediate family.

5 GCA Ch 5 Article 11 Section 5610 (g) Immediate Family (P.L. 31-016)].

The employee's partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

Neither Service Provider nor its agent(s) will solicit nor accept gratuities, favors, or anything of monetary value from Service Provider's potential subcontractor's, or parties to sub-agreements.

Service Provider will comply with Ethics in Public Contracting 5 GCA Chapter 5 Article 11 Ethics in Public Contracting and 2 GAR Division 4 Chapter 11.

#### SECTION XXXV

##### TERMINATION FOR FINANCIAL EXIGENCY

The government of Guam shall have the right to terminate this contract for financial exigency by giving the Service Provider at least thirty (30) days prior written notice. For the purpose of this provision, a financial exigency shall be a determination made by the head of the purchasing agency based on the Guam legislature failure to fund this contract or in the event of Federal funds, the Federal government fails to fund the government of Guam for this program. If notice of such termination is so given, this contract shall terminate on the expiration of the time period specified in the notice, and the liability of the parties hereunder for further performance of the terms of this contract shall hereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination. The Service Provider may submit a claim in the same manner as is set forth for the termination for convenience claim.

#### SECTION XXXVI

##### PROGRAM FRAUD OR FALSE OR FRAUDULENT STATEMENTS

##### OR RELATED ACTS

Service Provider acknowledges that 5 GCA, Chapter 37 False Claims and Whistleblower Act applies to Service Provider's actions pertaining to this Agreement. See P.L. 116-34 Chapter III § 20 (lapsed into law Aug 24, 2018, codified at 5 GCA Chapter 37).

#### SECTION XXXVI

##### COMPLIANCE WITH THE FEDERAL AWARDEE PERFORMANCE

##### AND INTEGRITY INFORMATION SYSTEM

§ 200.113 Mandatory disclosures. (Uniform Grant)- Federal Awardee Performance and Integrity Information System (FAPIS)

Service Provider shall comply with the non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity

violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in appendix XII to this part are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

[85 FR 49539, Aug. 13, 2020] Appendix XII to Part 200 - Award Term and Condition for Recipient Integrity and Performance Matters

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
  - 1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

- 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- 3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- 4) Any other criminal, civil, or administrative proceeding if:
  - ii. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - iii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
  - iv. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

6. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes:
  - 1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - 2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

B. [Reserved] [80 FR 43310, July 22, 2015, as amended at 85 FR 49582, Aug. 13, 2020”

**ANNUAL COST PROPOSAL RFP 2022-05**

Form F

Offeror: \_\_\_\_\_

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The cost/budget amount is the same for each year of the contract.

Category	Hourly Rate (for A & B)	FY 2023 Year One	FY 2024 Year Two	FY 2025 Year Three
<b>A. Personnel</b>				
(Attach Staffing Pattern)		\$	\$	
		\$	\$	
<b>Total Personnel</b>		\$	\$	
<b>B. Benefits</b>		\$	\$	
		\$	\$	
<b>Total Benefits</b>		\$	\$	
<b>C. Travel</b>				
		\$	\$	
<b>Total Travel</b>		\$	\$	
<b>D. Supplies, Equipment, and Other</b>				
		\$	\$	
		\$	\$	
		\$	\$	
<b>Total Supplies, Equipment, and Other</b>		\$	\$	
<b>E. Contractual</b>				
		\$	\$	
		\$	\$	
		\$	\$	
<b>Total Contractual</b>		\$	\$	
<b>TOTAL PROPOSED BUDGET</b>		\$	\$	



**Cost Proposal Submitted by:**

**(RFP 2022-05) Page 2 of 2 Form F**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Offer Amount: \_\_\_\_\_  
(Same Amount for each contract year)

Cost Proposal ☐ Declined \_\_\_\_\_  
(Reason)

Cost Proposal ☐ Accepted

Comments/Counter offer/Negotiation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Accepted and agreed as negotiated by:

**GBHWC:**

**Offeror:**

By: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature & Date) (Signature & Date)

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

**GBHWC DIRECTOR'S APPROVAL**

Offer is accepted and terms negotiated approved: \_\_\_\_\_  
Director Date

Comment: \_\_\_\_\_

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN  
OFFICE OF THE GOVERNOR OF GUAM

Via Hand Delivery  
and E-mail: [speaker@guamlegislature.org](mailto:speaker@guamlegislature.org)

August 8, 2022

HONORABLE THERESE M. TERLAJE

Speaker

I Mina 'trentai Sais Na Liheslaturan Guåhan

36<sup>th</sup> Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

RE: **EXECUTIVE ORDER NO. 2022-21**

Hafa Adai Madame Speaker:

Pursuant to Public Law 34-16, transmitted herewith is the following Executive Order:

**EXECUTIVE ORDER NO. 2022-21: RELATIVE TO IMPLEMENTING MASK  
WEARING REQUIREMENTS AND PHYSICAL DISTANCING IN  
HEALTHCARE SETTINGS**

Thank you.

Senseramente,

LESLIE A. TRAVIS

Legal Counsel

Enclosure: Executive Order No. 2022-21

cc via email: *Maga'hāgan Guåhan*  
*Sigundo Maga'lāhen Guåhan*  
Hon. F. Philip Carbullido, Chief Justice of Guam  
Compiler of Law  
Central Files  
Cabinet Members

RICARDO J. BORDALLO GOVERNOR'S COMPLEX  
513 W. Marine Corps Drive Hagåtña, Guam 96910  
governor.guam.gov | (671) 472-8931



**ISLAND OF GUAM**  
**OFFICE OF THE GOVERNOR**  
HAGATNA, GUAM 96932  
U.S.A.

**EXECUTIVE ORDER NO. 2022- 21**

**RELATIVE TO IMPLEMENTING MASK WEARING REQUIREMENTS  
AND PHYSICAL DISTANCING IN HEALTHCARE SETTINGS**

**WHEREAS**, on March 14, 2020, I, Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan*, Governor of Guam, acting pursuant to the power provided by the Organic Act of Guam and the laws of Guam, declared a public health emergency on the island of Guam due to dangers posed by the 2019 novel coronavirus ("COVID-19"); and

**WHEREAS**, throughout the course of the pandemic on our island, we have implemented community-level restrictions for the purpose of mitigating the spread of infection, which fluctuated based on measurable COVID-19 metrics, including our daily new cases, test positivity rate, retransmission rate, and vaccination rate; and

**WHEREAS**, the ultimate goal of community-level restrictions was to manage hospitalizations and ensure the continued viability of our healthcare delivery system; and

**WHEREAS**, on February 25, 2022, the U.S. Centers for Disease Control and Prevention ("CDC") announced new metrics to monitor the transmission of COVID-19, using indicators that also focus on reducing medically significant illness and minimizing strain on the healthcare system; and

**WHEREAS**, the CDC Community Level metrics are intended to inform community actions and local decisions, including implementation and easing of restrictions, individual preventive behavior, testing strategies, and vaccine outreach; and

**WHEREAS**, the CDC Community Level metrics track the following items: the cumulative 7-day new COVID-19 cases per 100,000; the 7-day new hospital admissions per 100,000; and the percent of staffed inpatient beds occupied by COVID-19 patients. These metrics would, in turn, determine a jurisdiction's Community Level rank as low, medium, or high, with corresponding prevention recommendations for each category; and

**WHEREAS**, apart from Community Level recommendations that inform community restrictions, the CDC recommends that healthcare settings, such as hospitals and nursing homes, should continue to follow infection prevention and control recommendations; and

**WHEREAS**, the CDC's recommended practices in healthcare settings include infection prevention and control practices, such as encouraging vaccinations and boosters, posting visual alerts, establishing screening protocols, and implementing source control measures, such as the use of masks; and

**WHEREAS**, on May 2, 2022, in Executive Order No. 2022-13, based on Guam's Community Level of low according to CDC Community Level metrics, with the concurrence of the Department of Public Health and Social Services ("DPHSS"), and on the advice of the Guam National Guard Surgeon Cell and Physician's Advisor Group, I rescinded previous executive orders implementing mask-wearing requirements in public

1 of 3  
Executive Order No. 2022-21



**ISLAND OF GUAM**  
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HAGATNA, GUAM 96932  
U.S.A.

settings, subject to applicable DPHSS guidance. I further noted that businesses may continue to require the wearing of masks in their facilities subject to local and federal law, and encouraged our people to continue wearing masks if they are immunocompromised, at high risk for severe illness, or if they prefer to do so; and

**WHEREAS**, since the rescission of local mask-wearing requirements, global cases of COVID-19 have surged once again, due to the emergence of the highly infectious Omicron BA.5 variant ("BA.5"); and

**WHEREAS**, though recent samples from Guam are pending genome sequencing at off-island laboratories, BA.5 cases have not been confirmed on our island; and

**WHEREAS**, notwithstanding the fact that BA.5 cases have not been confirmed in Guam, our island has experienced a surge in cases and a corresponding rise in hospitalizations for COVID-19; and

**WHEREAS**, as of the time of this writing, our COVID-19 Community Level is high, based on our 7-day new COVID-19 cases per 100,000, which is calculated at 466.1; the 7-day new hospital admissions per 100,000, currently at 23; and the percent of staffed inpatient beds occupied by COVID-19 patients, calculated at 8%; and

**WHEREAS**, twenty-nine (29) individuals are presently hospitalized for COVID-19, including two (2) in the intensive care unit; and

**WHEREAS**, in an effort to stabilize our healthcare system and ensure the continued delivery of care to our people, I strongly urge our community to wear their masks when they are indoors, whether at work, at restaurants, or at the grocery store. Mask-wearing is our new normal. It plays a key role in our community's strategy for living with COVID-19, and is one of the critical ways in which individuals can do their part to prevent the spread of infection; and

**WHEREAS**, further, with the strong concurrence of DPHSS, the Physicians Advisory Group, and the Guam National Guard Surgeon Cell, it is necessary at this time to implement CDC recommendations of mask-wearing and physical distancing in healthcare settings, to protect our healthcare employees, and the vulnerable members of our community who are in these settings seeking medical care; and

**WHEREAS**, as we enjoy our time with family and friends, and engage in activities with others in public places, it is important that we remember the responsibility we all have to one another, to keep each other safe. Mask-wearing is a simple yet impactful way to protect and support one another during this pandemic. It is my hope that all of us remain mindful of those we have lost to COVID-19 and those currently struggling with it, and the actions we can take to prevent or minimize the spread of this disease within our community.

//



**ISLAND OF GUAM**  
**OFFICE OF THE GOVERNOR**  
HAGATNA, GUAM 96932  
U.S.A.

NOW THEREFORE, I, LOURDES A. LEON GUERRERO, *I Maga'hågan Guåhan*, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam as amended, do hereby order:

1. **IMPLEMENTING MASK WEARING REQUIREMENTS AND PHYSICAL DISTANCING IN HEALTHCARE SETTINGS.** Effective at 12:00 a.m. on August 9, 2022, healthcare settings shall require the use of face masks for everyone entering healthcare facilities, including healthcare providers, patients, and visitors. Additionally, physical distancing shall be required in healthcare settings where it will not interfere with the provision of care. This Section is subject to applicable DPHSS guidance memoranda.
2. **SEVERABILITY.** If any provision of this Executive Order or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Order that can be given effect without the invalid provision or application, and to this end, the provisions of this order are severable.
3. **PRIOR ORDERS REMAIN IN EFFECT.** All prior Executive Orders remain in full force and effect except to the extent they conflict with this Order.

SIGNED AND PROMULGATED at Hagåtña, Guam, this 8<sup>th</sup> day of August, 2022.

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

Attested by:

**JOSHUA F. TENORIO**  
*Sigundo Maga'hågan Guåhan*  
Lt. Governor of Guam



DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop C2-21-16  
Baltimore, Maryland 21244-1850



**Center for Clinical Standards and Quality/Quality, Safety & Oversight Group**

Ref: QSO-22-07-ALL  
*Revised 4/05/22*

**DATE:** December 28, 2021  
**TO:** State Survey Agency Directors  
**FROM:** Director  
Quality, Safety & Oversight Group  
**SUBJECT:** *Revised* Guidance for the Interim Final Rule - Medicare and Medicaid Programs;  
Omnibus COVID-19 Health Care Staff Vaccination

**Memorandum Summary**

- CMS is committed to ensuring America's healthcare facilities respond effectively in an evidence-based way to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency (PHE).
- On November 05, 2021, CMS published an interim final rule with comment period (IFC). This rule establishes requirements regarding COVID-19 vaccine immunization of staff among Medicare- and Medicaid-certified providers and suppliers.
- CMS is providing guidance and survey procedures for assessing and maintaining compliance with these regulatory requirements.
- The guidance in this memorandum does not apply to the following states at this time: Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, West Virginia and Wyoming.

**Surveyors in these states should not undertake any efforts to implement or enforce the IFC.**

**Background**

Since the beginning of the Public Health Emergency, CMS and the Centers for Disease Control and Prevention (CDC) data show as of mid-October, over 44 million COVID-19 cases, 3 million COVID-19 related hospitalization, and 720,000 COVID-19 deaths have been reported. The CDC has reported that [COVID-19 vaccines are safe and effective](#) at preventing severe illness from COVID-19 and limiting the spread of the virus that causes it. On [December 11, 2020](#), the Advisory Committee in Immunization Practices (ACIP) recommended, as interim guidance, that both 1) health care personnel, and 2) residents of long-term care (LTC) facilities be offered COVID-19 vaccine in the initial phase of the vaccination program. To support this recommendation, on May 13, 2021, CMS published an interim final rule with comment period

Page 1 of 5

(IFC), entitled “Medicare and Medicaid Programs; COVID-19 Vaccine Requirements for Long-Term Care (LTC) Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID) Residents, Clients, and Staff” (86 FR 26306). Also, CMS released guidance for surveyors and LTC facilities in the CMS memo, QSO-21-19-NH, Interim Final Rule - COVID-19 Vaccine Immunization Requirements for Residents and Staff. This rule required all certified LTC facilities (i.e., nursing homes) to educate all residents and staff on the benefits and potential side effects associated with the COVID-19 vaccine, and offer the vaccine.

The regulation was intended to help increase vaccination rates among nursing home residents and staff to reduce the risk of infection and disease associated with COVID-19. Approximately two months after the publication of the rule, about 80 percent of nursing home residents were vaccinated. However, during that same time, roughly 60% of nursing home staff were vaccinated.<sup>1</sup> Therefore, more actions are warranted to increase vaccination rates among staff.

On August 18, 2021, CMS announced that it would be issuing a regulation that all nursing home staff would have to be vaccinated against COVID-19 as a requirement for LTC facilities participating with the Medicare and Medicaid programs. Subsequently, on September 9, 2021, CMS announced that this requirement would be extended to nearly all Medicare and Medicaid-certified providers and suppliers. These actions aim to support increasing vaccination rates among staff working in all facilities, providers, and certified suppliers that participate in Medicare and Medicaid.

#### **Discussion**

On November 5, 2021, CMS published an IFC with comment period (86 FR 61555), entitled “Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination,” revising the infection control requirements that most Medicare- and Medicaid-certified providers and suppliers must meet to participate in the Medicare and Medicaid programs. These changes are necessary to protect the health and safety of patients and staff during the COVID-19 public health emergency. The COVID-19 vaccination requirements and policies and procedures required by this IFC must comply with applicable federal non-discrimination and civil rights laws and protections, including providing reasonable accommodations to individuals who are legally entitled to them because they have a disability or sincerely held religious beliefs, practices, or observations that conflict with the vaccination requirement. More information on federal non-discrimination and civil rights laws is available here: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

#### **Vaccination Enforcement– Surveying for Compliance**

Medicare and Medicaid-certified facilities are expected to comply with all regulatory requirements, and CMS has a variety of established enforcement remedies. For nursing homes, home health agencies, and hospice (beginning in 2022), this includes civil monetary penalties, denial of payments, and—as a final measure—termination of participation from the Medicare and Medicaid programs. The sole enforcement remedy for non-compliance for hospitals and certain other acute and continuing care providers is termination; however, CMS’s primary goal is to bring health care facilities into compliance. Termination would generally occur only after providing a facility with an opportunity to make corrections and come into compliance.

<sup>1</sup> COVID-19 Nursing Home Data - Centers for Medicare & Medicaid Services Data (cms.gov)



CMS expects all providers' and suppliers' staff to have received the appropriate number of doses by the timeframes specified in the QSO-22-07 unless exempted as required by law, or delayed as recommended by CDC. **Facility staff vaccination rates under 100% constitute non-compliance under the rule.** Non-compliance does not necessarily lead to termination, and facilities will generally be given opportunities to return to compliance. Consistent with CMS's existing enforcement processes, this guidance will help surveyors determine the severity of a noncompliance deficiency finding at a facility when assigning a citation level. These enforcement action thresholds are as follows:

**Within 30 days after issuance of this memorandum<sup>2</sup>, if a facility demonstrates that:**

- Policies and procedures are developed and implemented for ensuring all facility staff, regardless of clinical responsibility or patient or resident contact are vaccinated for COVID-19; **and**
- 100% of staff have received at least one dose of COVID-19 vaccine, or have a pending request for, or have been granted qualifying exemption, or identified as having a temporary delay as recommended by the CDC, the **facility is compliant under the rule;** **or**
- Less than 100% of all staff have received at least one dose of COVID-19 vaccine, or have a pending request for, or have been granted a qualifying exemption, or identified as having a temporary delay as recommended by the CDC, the **facility is non-compliant under the rule.** The facility will receive notice<sup>3</sup> of their non-compliance with the 100% standard. A facility that is above 80% **and** has a plan to achieve a 100% staff vaccination rate within 60 days would not be subject to additional enforcement action. States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety. Facilities that do not meet these parameters could be subject to additional enforcement actions depending on the severity of the deficiency and the type of facility (e.g., plans of correction, civil monetary penalties, denial of payment, termination, etc.).

**Within 60 days after the issuance of this memorandum<sup>4</sup>, if the facility demonstrates that:**

- Policies and procedures are developed and implemented for ensuring all facility staff, regardless of clinical responsibility or patient or resident contact are vaccinated for COVID-19; **and**
- 100% of staff have received the necessary doses to complete the vaccine series (i.e., one dose of a single-dose vaccine or all doses of a multiple-dose vaccine series), or have been granted a qualifying exemption, or identified as having a temporary delay as recommended by the CDC, the **facility is compliant under the rule; or**
- Less than 100% of all staff have received at least one dose of a single-dose vaccine, or all doses of a multiple-dose vaccine series, or have been granted a qualifying exemption, or identified as having a temporary delay as recommended by the CDC, the **facility is non-**

<sup>2</sup> If 30 days falls on a weekend or designated federal holiday, CMS will use enforcement discretion to initiate compliance assessments the next business day.

<sup>3</sup> This information will be communicated through the CMS Form-2567, using the applicable Automated Survey Process Environment (ASPEN) federal tag.

<sup>4</sup> If 60 days falls on a weekend or designated federal holiday, CMS will use enforcement discretion to initiate compliance assessments the next business day.



**compliant under the rule.** The facility will receive notice<sup>5</sup> of their non-compliance with the 100% standard. A facility that is above 90% **and** has a plan to achieve a 100% staff vaccination rate within 30 days would not be subject to additional enforcement action. States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety. Facilities that do not meet these parameters could be subject to additional enforcement actions depending on the severity of the deficiency and the type of facility (e.g., plans of correction, civil monetary penalties, denial of payment, termination, etc.).

**Within 90 days and thereafter following issuance of this memorandum, facilities failing to maintain compliance with the 100% standard may be subject to enforcement action.**

Federal, state, Accreditation Organization, and CMS-contracted surveyors will begin surveying for compliance with these requirements as part of initial certification, standard recertification or reaccreditation, and complaint surveys 30 days following the issuance of this memorandum. *Surveying for staff vaccination requirements is not required on Life Safety Code (LSC)-only complaints, or LSC-only follow-up surveys. Surveyors may modify the staff vaccination compliance review if the provider/supplier was determined to be in substantial compliance with this requirement within the previous six weeks.* Additional information and expectations for compliance can be found at the provider-specific guidance attached to this memorandum.

**Provider-Specific Guidance:**

Guidance specific to provider types and certified suppliers is provided in the following attachments. The provider-specific guidance should be used in conjunction with the information in this memo.

- Attachment A: LTC Facilities (nursing homes)
- Attachment B: ASC
- Attachment C: Hospice
- Attachment D: Hospitals
- Attachment E: PRTF
- Attachment F: ICF/IID
- Attachment G: Home Health Agencies
- Attachment H: CORF
- Attachment I: CAH
- Attachment J: OPT
- Attachment K: CMHC
- Attachment L: HIT
- Attachment M: RHC/FQHC
- Attachment N: ESRD Facilities

**Enforcement Actions**

CMS will follow current enforcement procedures based on the level of deficiency cited during a survey.

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<sup>5</sup> This information will be communicated through the CMS Form-2567, using the applicable Automated Survey Process Environment (ASPEN) tag.

**Contact:**

[DNH\\_TriageTeam@cms.hhs.gov](mailto:DNH_TriageTeam@cms.hhs.gov) for questions related to nursing homes;  
[QSOG\\_Emergencyprep@cms.hhs.gov](mailto:QSOG_Emergencyprep@cms.hhs.gov) for question related to acute and continuing care providers.

**Effective Date:** This policy should be communicated with all survey and certification staff, their managers, and the State/CMS Location training coordinators immediately. The effective dates of the specific actions are specified above.

/s/

Karen L. Tritz  
Director, Survey & Operations Group

David R. Wright  
Director, Quality, Safety & Oversight Group

cc: Survey and Operations Group Management  
Attachments: A through N

(CMS QSO-22-07-ALL Attachment K) Community Mental Health Centers (CMHC) *Revised*

This attachment is a supplement to and should be used in conjunction with the following memoranda:  
*QSO-22-07-ALL-Revised, QSO-22-09-ALL-Revised, and*  
QSO 22-11-ALL-*Revised* memorandum: Guidance for the Interim Final Rule – Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination.

*While the memoranda noted above apply to specific states, the regulations and guidance described in this attachment applies to all states. Implementation of this guidance will occur according to the timeframes and parameters identified in either QSO-22-07-ALL-Revised effective December 28, 2021, QSO-22-09-ALL-Revised effective January 14, 2022, or QSO-22-11-ALL-Revised effective January 20, 2022.*

**M-0114**

**§ 485.904 Condition of participation: Personnel qualifications.**

(c) *Standard: COVID-19 vaccination of center staff.* The CMHC must develop and implement policies and procedures to ensure that all center staff are fully vaccinated for COVID-19. For purposes of this section, staff are considered fully vaccinated if it has been 2 weeks or more since they completed a primary vaccination series for COVID-19. The completion of a primary vaccination series for COVID-19 is defined here as the administration of a single-dose vaccine, or the administration of all required doses of a multi-dose vaccine.

(1) Regardless of clinical responsibility or client contact, the policies and procedures must apply to the following center staff, who provide any care, treatment, or other services for the center and/or its clients:

- (i) Center employees;
- (ii) Licensed practitioners;
- (iii) Students, trainees, and volunteers; and
- (iv) Individuals who provide care, treatment, or other services for the center and/or its clients, under contract or by other arrangement.

(2) The policies and procedures of this section do not apply to the following center staff:

- (i) Staff who exclusively provide telehealth or telemedicine services outside of the center setting and who do not have any direct contact with patients and other staff specified in paragraph (c)(1) of this section; and
- (ii) Staff who provide support services for the center that are performed exclusively outside of the center setting and who do not have any direct contact with patients and other staff specified in paragraph (c)(1) of this section.

(3) The policies and procedures must include, at a minimum, the following components:

- (i) A process for ensuring all staff specified in paragraph (c)(1) of this section (except for those staff who have pending requests for, or who have been granted, exemptions to the vaccination requirements of this section, or those staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations) have received, at a minimum, a single-dose COVID-19 vaccine, or the first dose of the primary vaccination series for a multi-dose COVID-19 vaccine

prior to staff providing any care, treatment, or other services for the CMHC and/or its clients;

- (ii) A process for ensuring that all staff specified in paragraph (c)(1) of this section are fully vaccinated for COVID-19, except for those staff who have been granted exemptions to the vaccination requirements of this section, or those staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations;
- (iii) A process for ensuring the implementation of additional precautions, intended to mitigate the transmission and spread of COVID-19, for all staff who are not fully vaccinated for COVID-19;
- (iv) A process for tracking and securely documenting the COVID-19 vaccination status for all staff specified in paragraph (c)(1) of this section;
- (v) A process for tracking and securely documenting the COVID-19 vaccination status of any staff who have obtained any booster doses as recommended by the CDC;
- (vi) A process by which staff may request an exemption from the staff COVID-19 vaccination requirements based on an applicable Federal law;
- (vii) A process for tracking and securely documenting information provided by those staff who have requested, and for whom the CMHC has granted, an exemption from the staff COVID-19 vaccination requirements;
- (viii) A process for ensuring that all documentation, which confirms recognized clinical contraindications to COVID-19 vaccines and which supports staff requests for medical exemptions from vaccination, has been signed and dated by a licensed practitioner, who is not the individual requesting the exemption, and who is acting within their respective scope of practice as defined by, and in accordance with, all applicable State and local laws, and for further ensuring that such documentation contains
  - (A) All information specifying which of the authorized COVID-19 vaccines are clinically contraindicated for the staff member to receive and the recognized clinical reasons for the contraindications; and
  - (B) A statement by the authenticating practitioner recommending that the staff member be exempted from the CMHC's COVID-19 vaccination requirements for staff based on the recognized clinical contraindications;
- (ix) A process for ensuring the tracking and secure documentation of the vaccination status of staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations, including, but not limited to, individuals with acute illness secondary to COVID-19, and individuals who received monoclonal antibodies or convalescent plasma for COVID-19 treatment; and
- (x) Contingency plans for staff who are not fully vaccinated for COVID-19.

#### **GUIDANCE**

#### **DEFINITIONS**

**“Booster”**: per [CDC](#), refers to a dose of vaccine administered when the initial sufficient immune response to the primary vaccination series is likely to have waned over time.

**“Clinical contraindication”** refers to conditions or risks that precludes the administration of a treatment or intervention. With regard to recognized clinical contraindications to receiving a COVID-19 vaccine, facilities should refer to the CDC informational document, *Summary*

*Document for Interim Clinical Considerations for Use of COVID-19 Vaccines Currently*

*Authorized in the United States*, accessed at <https://www.cdc.gov/vaccines/covid19/downloads/summary-interim-clinical-considerations.pdf>. For COVID-19 vaccines, according to the CDC, a vaccine is clinically contraindicated if an individual has a severe allergic reaction (e.g., anaphylaxis) after a previous dose or to component of the COVID-19 vaccine or an immediate (within 4 hours of exposure) allergic reaction of any severity to a previous dose or known (diagnosed) allergy to a component of the vaccine.

**“Fully vaccinated”** refers to staff who are two weeks or more from completion of their primary vaccination series for COVID-19.

**“Good Faith Effort”** refers to a provider that has taken aggressive steps toward achieving compliance with staff vaccination requirement **and/or** the provider has no or has limited access to vaccine, and has documented attempts to access to the vaccine.

**“Primary Vaccination Series”** refers to staff who have received a single-dose vaccine or all doses of a multi-dose vaccine for COVID-19.

**“Staff”** refers to individuals who provide any care, treatment, or other services for the CMHC and/or its clients, including employees; licensed practitioners; adult students, trainees, and volunteers; and individuals who provide care, treatment, or other services for the CMHC and/or its clients, under contract or other arrangement. This also includes individuals under contract or arrangement with the CMHC, including hospice and dialysis staff, physical therapists, occupational therapists, mental health professionals, licensed practitioners, or adult students, trainees or volunteers. **Staff would not include anyone who provides only telemedicine services or support services outside of the CMHC and who does not have any direct contact with clients and other staff specified in paragraph (c)(1).**

**“Temporarily delayed vaccination”** refers to vaccination that must be temporarily *deferred*, as recommended by CDC, due to clinical considerations, including *known COVID-19 infection until recovery from the acute illness (if symptoms were present) and criteria to discontinue isolation have been met* (<https://www.cdc.gov/vaccines/covid-19/downloads/summary-interim-clinical-considerations.pdf>)

#### **Background:**

All CMHCs are required to achieve a 100% vaccination rate for their staff through the development of a policy to address vaccination applicable to all staff who provide any care, treatment, or other services for the CMHC and/or its clients.

There may be many infrequent services and tasks performed in or for a CMHC that is conducted by “one-off” vendors, volunteers, and professionals. CMHCs are not required to ensure the vaccination of individuals who very infrequently provide ad hoc non-healthcare services (such as annual elevator inspection), services that are performed exclusively off-site, and are not at or adjacent to any site of client care (such as accounting services), but they may choose to extend COVID-19 vaccination requirements to them if feasible. CMHCs should consider the frequency of presence, services provided, and proximity to clients and staff.

## Surveying for Compliance

Surveyors will begin surveying *facilities from states identified in each memorandum* for compliance 30 days after issuance of the *applicable* memorandum. Surveyors *should* focus on the staff that regularly work in the CMHC (e.g., weekly), using a phased-in approach as described below.

*NOTE: Facility staff who have been suspended or are on extended leave e.g., Family and Medical Leave Act (FMLA) leave, or Worker's Compensation Leave, would not count as unvaccinated staff for determining compliance with this requirement.*

*Surveying for staff vaccination requirements is not required on Life Safety Code (LSC)-only complaints, or LSC-only follow-up surveys. Surveyors may modify the staff vaccination compliance review if the facility was determined to be in substantial compliance with this requirement within the previous six weeks.*

CMHCs will be expected to meet the following:

### Vaccination Enforcement

CMS expects all facilities' staff to have received the appropriate number of doses by the timeframes specified in this memorandum unless exempted as required by law. **Facility staff vaccination rates under 100% constitute non-compliance under the rule.**

Within 30 days following the issuance of the *applicable* memorandum<sup>1</sup>, if a facility demonstrates:

- Policies and procedures are developed and implemented for ensuring all facility staff, regardless of clinical responsibility or resident contact are vaccinated for COVID-19, including all required components of the policies and procedures specified below (e.g., related to tracking staff vaccinations, documenting medical and religious exemptions, etc.); **and**
- 100% of staff have received at least one dose of COVID-19 vaccine or have a pending request for, or have been granted a qualifying exemption, or are identified as having a temporary delay as recommended by the CDC, the **facility is compliant under the rule; or**
- Less than 100% of all staff have received at least one dose of COVID-19 vaccine, or have a pending request for, or have been granted a qualifying exemption, or are identified as having a temporary delay as recommended by the CDC, the **facility is non-compliant under the rule**. The facility will receive notice<sup>2</sup> of their non-compliance with the 100% standard. A facility that is above 80% **and** has a plan to achieve a 100% staff vaccination rate within 60 days would not be subject to additional enforcement action. States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety. Facilities that do not meet these parameters could be subject to additional enforcement actions depending on the severity of the deficiency and the type of facility (e.g., plans of correction and termination.).

Within 60 days following the issuance of the *applicable* memorandum<sup>3</sup>, if a facility demonstrates:

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<sup>1</sup> If 30 days falls on a weekend or designated federal holiday, CMS will use enforcement discretion to initiate compliance assessments the next business day.

<sup>2</sup> This information will be communicated through the CMS Form-2567, using the appropriate Automated Survey Process Environment (ASPEN).

<sup>3</sup> If 60 days falls on a weekend or designated federal holiday, CMS will use enforcement discretion to initiate compliance assessments the next business day.

- Policies and procedures are developed and implemented for ensuring all facility staff, regardless of clinical responsibility or resident contact are vaccinated for COVID-19, including all required components of the policies and procedures specified below (e.g., related to tracking staff vaccinations, documenting medical and religious exemptions, etc.); **and**
- 100% of staff have received the necessary doses to complete the vaccine series (i.e., one dose of a single-dose vaccine or all doses of a multiple vaccine series) or have been granted a qualifying exemption, or are identified as having a temporary delay as recommended by the CDC, the **facility is compliant under the rule; or**
- Less than 100% of all staff have received at least one dose of COVID-19 vaccine, or have a pending request for, or have been granted a qualifying exemption, or are identified as having a temporary delay as recommended by the CDC, the **facility is non-compliant under the rule**. The facility will receive notice<sup>4</sup> of their non-compliance with the 100% standard. A facility that is above 90% **and** has a plan to achieve a 100% staff vaccination rate within 30 days would not be subject to additional enforcement action. States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety. Facilities that do not meet these parameters could be subject to additional enforcement actions depending on the severity of the deficiency and the type of facility (e.g., plans of correction and termination.).

**Within 90 days and thereafter following issuance of the *applicable* memorandum, facilities failing to maintain compliance with the 100% standard may be subject to enforcement action.**

**Note:** The requirements described above do not include the 14-day waiting period as identified by CDC for full vaccination. Rather these requirements are considered met with the completed vaccine series (i.e., one dose of a single dose vaccine, or final dose of a multi-dose vaccine series).

#### **Policies and Procedures**

The CMHC policies and procedures must be implemented within **30 days<sup>5</sup> after the issuance of the *applicable memorandum*** and address each of the following components:

CMHCs must have a process for ensuring all staff (as defined above) have received at least a single-dose, or the first dose of a multi-dose COVID-19 vaccine series prior to providing any care, treatment, or other services for the facility and/or its patients.

The policy must also ensure those staff who are not yet fully vaccinated, or who have been granted an exemption or accommodation as authorized by law, or who have a temporary delay, adhere to additional precautions that are intended to mitigate the spread of COVID-19. This requirement is not explicit and does not specify actions that must be taken; there are a variety of actions or job modifications a facility can implement to potentially reduce the risk of COVID-19 transmission *examples including*, but *are* not limited to:

- Reassigning staff who have not completed their primary vaccination series to non client care areas, to duties that can be performed remotely (i.e., telework), or to duties which limit exposure to those most at risk (e.g., assign to clients who are not immunocompromised, unvaccinated);
- Requiring staff who have not completed their primary vaccination series to follow additional, [CDC-recommended precautions](#), such as adhering to universal source control and physical distancing measures

<sup>4</sup> This information will be communicated through the CMS Form-2567, using the appropriate Automated Survey Process Environment (ASPEN).

<sup>5</sup> If 30 days falls on a weekend or designated federal holiday, CMS will use enforcement discretion to initiate compliance assessments the next business day

in areas that are restricted from client access (e.g., staff meeting rooms, kitchen), even if the facility or service site is located in a county with low to moderate community transmission.

- Requiring at least weekly testing for exempted staff, and staff who have not completed their primary vaccination series, until the regulatory requirement is met, regardless of whether the facility or service site is located in a county with low to moderate community transmission in addition to following [CDC recommendations](#) for testing unvaccinated in facilities located in counties with substantial to high community transmission.
- Requiring staff who have not completed their primary vaccination series to use a NIOSH-approved N95 or equivalent or higher-level respirator for source control, regardless of whether they are providing direct care to or otherwise interacting with clients.

*NOTE: This requirement is not explicit and does not specify which actions must be taken. The examples above are not all inclusive, and represent actions that can be implemented. However, facilities can choose other precautions that align with the intent of the regulation which is intended to "mitigate the transmission and spread of COVID-19 for all staff who are not fully vaccinated."*

Facilities may also consult with their local health departments to identify other actions that can potentially reduce the risk of COVID-19 transmission from unvaccinated staff.

The CMHC must track and securely document:

- Each staff member's vaccination status (this should include the specific vaccine received, and the dates of each dose received, or the date of the next scheduled dose for a multidose vaccine);
- Any staff member who has obtained any booster doses (this should include the specific vaccine booster received and the date of the administration of the booster);
- Staff who have been granted an exemption from vaccination (this should include the type of exemption and supporting documentation); requirements by the CMHC; and
- Staff for whom COVID-19 vaccination must be temporarily delayed and should track when the identified staff can safely resume their vaccination.

Facilities that employ or contract staff who telework full-time (e.g., 100 percent of their time is remote from sites of resident care and staff who do work at sites of care) should identify these individuals as a part of implementing the facility's policies and procedures, but those individuals are not subject to the vaccination requirements. Note, however, that these individuals may be subject to other federal requirements for COVID-19 vaccination. Facilities have the flexibility to use the tracking tools of their choice; however, they must provide evidence of this tracking for surveyor review. Additionally, facilities' tracking mechanism should clearly identify each staff's role, assigned work area, and how they interact with residents.

#### **Vaccination Exemptions:**

Facilities must have a process by which staff may request an exemption from COVID-19 vaccination based on an applicable Federal law. This process should clearly identify how an exemption is requested, and to whom the request must be made. Additionally, facilities must have a process for collecting and evaluating such requests, including the tracking and secure documentation of information provided by those staff who have requested exemption, the facility's determination of the request, and any accommodations that are granted.

**Note:** Staff who are unable to furnish proper exemption documentation must be vaccinated or the facility must follow the actions for unvaccinated staff.

#### **Medical Exemptions:**

Certain allergies, or recognized medical conditions may provide grounds for an exemption. With regard to recognized clinical contraindications to receiving a COVID-19 vaccine, CMHCs should refer to the CDC informational document, *Summary Document for Interim Clinical Considerations for Use of COVID-19 Vaccines*



Currently Authorized in the United States, accessed at <https://www.cdc.gov/vaccines/covid-19/downloads/summary-interim-clinicalconsiderations.pdf>. In general, CDC considers a history of a severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine, or an immediate allergic reaction of any severity to a previous dose, or known (diagnosed) allergy to a component of the COVID-19 vaccine, to be a contraindication to vaccination with COVID-19 vaccines.

Medical exemption documentation must specify which authorized or licensed COVID-19 vaccine is clinically contraindicated for the staff member and the recognized clinical reasons for the contraindication. The documentation must also include a statement recommending that the staff member be exempted from the CMHC's COVID-19 vaccination requirements based on the medical contraindications.

A staff member who requests a medical exemption from vaccination must provide documentation signed and dated by a licensed practitioner acting within their respective scope of practice and in accordance with all applicable State and local laws. The individual who signs the exemption documentation cannot be the same individual requesting the exemption.

CMHCs must have a process to track and secure documentation of the vaccine status of staff whose vaccine is temporarily delayed. CDC recommends a temporary delay in administering the COVID-19 vaccination *due to clinical considerations, including known COVID-19 infection until recovery from the acute illness (if symptoms were present) and criteria to discontinue isolation have been met.*

**Non-Medical Exemptions, Including Religious Exemptions:**

Requests for non-medical exemptions, such as a religious exemption in accordance with Title VII, must be documented and evaluated in accordance with each CMHC's policies and procedures. We direct CMHCs to the Equal Employment Opportunity Commission (EEOC) Compliance Manual on Religious Discrimination (<https://www.eeoc.gov/laws/guidance/section12-religious-discrimination>) for information on evaluating and responding to such requests.

**Note:** Surveyors will **not** evaluate the details of the request for a religious exemption, **nor** the rationale for the CMHC's acceptance or denial of the request. Rather, surveyors will review to ensure the CMHC has an effective process for staff to request a religious exemption for a sincerely held religious belief.

**Accommodations of Unvaccinated Staff with a Qualifying Exemption:** While accommodations could be appropriate under certain limited circumstances, no accommodation should be provided to staff that is not legally required. For individual staff members that have valid reasons for exemption facility can address those individually. An example of an accommodation for an unvaccinated employee with a qualifying exemption could include mandatory routine COVID-19 testing in accordance with OSHA and CDC guidelines, physical distancing from co-workers and patients, re-assignment or modification of duties, teleworking, or a combination of these actions. Accommodations can be addressed in the CMHC's policies and procedures.

Staff who have been granted an exemption to COVID-19 vaccination requirements should adhere to national infection prevention and control standards for unvaccinated health care personnel. For additional information see CDC's [Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#) webpage.

Regulatory Provisions implemented **60 days after issuance of the applicable memorandum:** Facilities must have a process for ensuring that all staff are fully vaccinated for COVID-19, except for those staff who have been granted exemptions to the vaccination requirements of this section, or those staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by CDC, due to clinical precautions and considerations.

## Contingency Plan

For staff that are not fully vaccinated, the CMHC must develop contingency plans for staff who have not completed the primary vaccination series for COVID-19.

Contingency plans should include actions that the CMHC would take when staff have indicated that they will not get vaccinated and do not qualify for an exemption, but contingency plans should also address staff who are not fully vaccinated due to an exemption or temporary delay in vaccination, such as through the additional precautions. Facilities should prioritize contingency plans for those staff that have obtained no doses of any vaccine over staff that have received a single dose of a multi-dose vaccine. For example, contingency plans could include a deadline for staff to have obtained their first dose of a multiple-dose vaccine. The plans should also indicate the actions the CMHC will take if the deadline is not met, such as actively seeking replacement staff through advertising or obtaining temporary vaccinated staff until permanent vaccinated replacements can be found.

### Survey Process

Compliance will be assessed through observation, interview, and record review as part of the survey process.

#### 1. Entrance Conference

- Surveyors will ask CMHCs to provide vaccination policies and procedures. At a minimum, the policy and procedures must provide:
  - A process for ensuring all required staff have received, at a minimum, the first dose of a multi-dose COVID-19 vaccine, or a one-dose COVID-19 vaccine, before staff provide any care, treatment, or other services for the CMHC and/or its clients;
  - A process for ensuring that all required staff are fully vaccinated; ○ A process for ensuring that the CMHC continues to follow all standards of infection prevention and control practice, for reducing the transmission and spread of COVID-19 in the CMHC, especially by those staff who are unvaccinated or who are not yet fully vaccinated;
  - A process for tracking and securely documenting the COVID-19 vaccination status for all required staff;
  - A process for ensuring all staff obtain any recommended booster doses, and any recommended additional doses for individuals who are immunocompromised, in accordance with the recommended timing of such doses;
  - A process by which staff may request a vaccine exemption from the COVID-19 vaccination requirements based on recognized clinical contraindications or applicable Federal laws, such as religious beliefs or other reasonable accommodations
  - A process for tracking and securely documenting information confirming recognized clinical contraindications to COVID-19 vaccines provided by those staff who have requested and have been granted a medical exemption to vaccination;
  - A process for ensuring that all documentation, which confirms recognized clinical contraindications to COVID-19 vaccines and which supports staff requests for medical exemptions from vaccination, has been signed and dated by a licensed practitioner, who is not the individual requesting the exemption, and who is acting within their respective scope of practice as defined by, and in accordance with, all applicable State and local laws, and for further ensuring that such documentation contains—
    - all information specifying which of the authorized COVID-19 vaccines are clinically contraindicated for the staff member to receive and the recognized clinical reasons for the contraindications; and
    - a statement by the authenticating practitioner recommending that the staff member be exempted from the CMHC's COVID-19 vaccination requirements for staff based on the recognized clinical contraindications;
  - A process for ensuring the tracking and secure documentation of the vaccination status of staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by

- the CDC, due to clinical precautions and considerations, including, but not limited to, individuals with acute illness secondary to COVID-19, or individuals who received monoclonal antibodies or convalescent plasma for COVID-19 treatment; and
    - Contingency plans for staff that are not yet vaccinated for COVID-19 (and without an exemption for medical contraindications or without a temporary delay in vaccination due to clinical considerations as recommended by the CDC and as specified in paragraph c)(3)(x)), including deadlines for staff to be vaccinated.
  - The CMHC will provide a list of all staff and their vaccine status.
    - Including the percentage of unvaccinated staff, excluding those staff that have approved exemptions
    - If any concerns are identified with the staff vaccine status list, surveyors should verify the percentage of vaccinated staff.
    - The CMHC must identify any staff member remaining unvaccinated because it's medically contraindicated or has a religious exemption.   ○ The CMHC must also identify newly hired staff (hired in the last 60 days).
    - The CMHC must indicate the position or role of each staff member
  - *The CMHC will provide their process for how the CMHC ensures that their contracted staff are compliant with the vaccination requirement*
2. Record Review, interview, and observations:
- Surveyors will review the policy and procedure to ensure all components are present.
  - Surveyors will review any contingency plan developed to mitigate the spread of COVID-19 infections by the CMHC that may include:
    - Requiring unvaccinated staff to follow additional, [CDC-recommended precautions](#), such as adhering to universal source control and physical distancing measures in areas that are restricted from client access (e.g., staff meeting rooms, kitchen), even if the facility or service site is located in a county with low to moderate community transmission.
    - Reassigning unvaccinated staff to non-client care areas, to duties that can be performed remotely (i.e., telework), or to duties which limit exposure to those most at risk (e.g., assign to clients who are not immunocompromised, unvaccinated);
    - Requiring at least weekly testing for unvaccinated staff, regardless of whether the facility or service site is located in a county with low to moderate community transmission
    - Requiring unvaccinated staff to use a NIOSH-approved N95 or equivalent or higher-level respirator for source control, regardless of whether they are providing direct care to or otherwise interacting with clients
  - Surveyors will select a sample of staff based on current staff sample selection guidelines. Surveyors should also examine the documentation of each staff identified as unvaccinated due to medical contraindications. The sample should include (as applicable):
    - Direct care staff, *including those contracted staff meeting the definition of staff* (vaccinated and unvaccinated)   ○ Contracted staff   ○ Direct care staff with an exemption
  - *There should be a minimum of 6 direct care/patient engagement staff. This includes direct care contracted staff that are onsite at time of the survey. Of this 6- person sample, 4 should include vaccinated staff/contractors and 2 unvaccinated staff/contractors (1 that is not fully vaccinated and 1 with a medical exemption or temporary delay.) Two of the direct care staff sampled should be contractors.*

- *The list of vaccinated staff maintained by the facility are used for sampling staff. Please refer to survey process for instructions for sampling contracted staff.*
- *Surveyors should choose a sample of at least of 2 contracted staff (1 vaccinated and 1 unvaccinated or exempt) who are not included in those direct care contracted staff outlined above.*
- For each individual identified by the CMHC as vaccinated, surveyors will:
  - Review CMHC records to verify vaccination status. Examples of acceptable forms of proof of vaccination include:
    - CDC COVID-19 vaccination record card (or a legible photo of the card),
    - Documentation of vaccination from a health care provider or electronic health record, or
    - State immunization information system record.
  - Conduct follow-up interviews with staff and administration if any discrepancies are identified. If applicable, determine if any additional doses were provided.

**NOTE:** *Failure of contract staff to provide evidence of vaccination status reflects noncompliance and should be cited under the requirement to have policies and procedures for ensuring that all staff are fully vaccinated, except for those staff who have been granted exemptions or a temporary delay.*

- For each individual identified by the CMHC as unvaccinated, surveyors will
  - Review CMHC records
    - Determine, if they have been educated and offered vaccination
    - Interview staff and ask if they plan to get vaccinated if they have declined to get vaccinated and if they have a medical contraindication or religious exemption.
      - Request and review documentation of the medical contraindication.
      - Request to see employee record of the staff education on CMHC policy and procedure regarding unvaccinated individuals.
    - Observe staff providing care to determine compliance with current standards of practice with infection control and prevention.
- For each individual identified by the CMHC as unvaccinated due to a medical contraindication:
  - Review and verify that all required documentation is:
    - Signed and dated by physician or advanced practice provider
    - States the specific vaccine that is contraindicated and the recognized clinical reason for the contraindication with a statement recommending exemption.

General Information: [https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19vaccines-us.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fvaccines%2Fcovid19%2Finfo-by-product%2Fclinical-considerations.html](https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19vaccines-us.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fvaccines%2Fcovid19%2Finfo-by-product%2Fclinical-considerations.html)

## Level of Deficiency

For instances of non-compliance identified through the survey process, the level of deficiency will be determined based on the following criteria: From 30-60 days following issuance of this memorandum, the expected minimum threshold for use in these determinations will be 80%. From 60-90 days following issuance of this memorandum, the expected minimum threshold will be 90%. From 90 days on, the expected minimum threshold will be 100%.

States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety not otherwise addressed by the criteria below:

- **Immediate Jeopardy:**
  - 40% or more of staff remain unvaccinated creating a likelihood of serious harm
- **OR**
  - Did not meet the 100% staff vaccination rate standard; observations of noncompliant infection control practices by staff, (e.g., staff failed to properly don PPE) **and** 1 or more components of the policies and procedures were not developed or implemented.
- **Condition Level-**
  - Did not meet the 100% staff vaccination rate standard; **and** ○ 1 or more components of the policies and procedures were not developed and implemented
- **OR,** ○ 21-39% of staff remain unvaccinated creating a likelihood of serious harm.
- **Standard Level:**
  - 100% of staff are vaccinated and all new staff have received at least one dose; **and** ○ 1 or more components of the policies and procedures were not developed and implemented
- **OR,** ○ Did not meet the 100% staff vaccination rate standard, but are making good faith efforts toward vaccine compliance.

## Plan of Correction

### To Qualify for Substantial Compliance and Clear the Citation:

- The CMHC has met the requirement of staff fully vaccinated (either by staff obtaining additional doses, or replacing unvaccinated staff with vaccinated staff). **OR,**
- The combined number of staff that are vaccinated (have received a single dose of a vaccine or all of the doses in the multiple dose vaccine series or have received at least one dose of a multiple vaccine series) meet the requirement.
  - Staff that has received at least one dose must also have their second dose scheduled.

### To Qualify for Substantial Compliance, but the Citation Remains at Standard Level:

- The CMHC has not met the requirement of staff vaccinated, but has provided evidence of the unvaccinated staff that have obtained their first dose, AND the remainder of the unvaccinated staff are scheduled for their first dose.

### Components of a Plan of Correction AND/OR Actions Required for IJ Removal

Plans of correction or Immediate Jeopardy removal plans for noncompliance should be reviewed to ensure they include the following:

- Correcting any gaps in the facility's policies and procedures.
- Implementation of the facility's contingency plan, that should include a deadline for each unvaccinated staff to have received their first dose of a vaccine.
- Implementation of additional precautions to mitigate the spread of COVID-19 by unvaccinated staff.

### **Good-Faith Effort:**

Surveyors and CMS may lower the citation level and/or enforcement action if they identify that any of the following have occurred **prior to the survey** (note: noncompliance is still cited, only the citation level and enforcement is adjusted).

- a. If the CMHC has no or has limited access to vaccine, and the CMHC has documented attempts to obtain vaccine access (e.g., contact with health department and pharmacies).
- b. If the CMHC provides evidence that they have taken aggressive steps to have all staff vaccinated, such as advertising for new staff, hosting vaccine clinics, etc.

### **Enforcement Actions**

CMS will follow current enforcement procedures based on the level of deficiency cited during the survey.

## Form I

Guam Behavioral Health and Wellness Center  
U.S. Department of Health and Human Services  
Substance Abuse and Mental Health Services Administration  
Federal Grant Funds

Compliance with Federal Financial Accountability Transparency Act

Partner/Subrecipient/ Sub Grantee agree that:

Award Term for Federal Financial Accountability and Transparency Act (FFATA)

Reporting Subawards and Executive Compensation.

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.) 3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if— i. the total Federal funding authorized to date under this award is \$25,000 or more; ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at <http://www.ccr.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if— i.in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and ii.The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.

2.Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i.To the recipient.

ii.By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1.Entity means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe; ii. A foreign public entity; iii. A domestic or foreign nonprofit organization; iv. A domestic or foreign for-profit organization; v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2.Executive means officers, managing partners, or any other employees in management positions.

3.Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_\_\_ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4.Subrecipient means an entity that:

i. Receives a subaward from you (the recipient) under this award; and ii.Is accountable to you for the use of the Federal funds provided by the subaward.

5.Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.



vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

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SUBMITTED BY:

Signature of Authorized Official:	Date:
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Name of Authorized Official:
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Name of Organization:
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**This form should be submitted in the Proposal Envelope.**

**Form J**

Guam Behavioral Health and Wellness Center  
U.S. Department of Health and Human Services  
Substance Abuse and Mental Health Services Administration  
Federal Grant Funds

Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations SMA 170

Partner/Subrecipient/ Sub Grantee by signing certify that they will comply as applicable, with the Substance Abuse and Mental Health Services Administration (SAMHSA) Charitable Choice statutes codified at sections 581-584 and 1955 of the Public Health Services Act (42. U.S.C. §§290kk, et. seq., and 300x-65) and their governing regulations at 42 C.F.R. part 54 and 54a respectively.

SAMHSA's two Charitable Choice provisions [Sections 581-584 and Section 1955 of the Public Health Service (PHS) Act, 42 USC 290k, et seq., and 42 USC 300x-65 et seq., respectively] allow religious organizations to provide SAMHSA-funded substance abuse services without impairing their religious character and without diminishing the religious freedom of those who receive their services. These provisions contain important protections both for religious organizations that receive SAMHSA funding and for the individuals who receive their services, and apply to religious organizations and to State and local governments that provide substance abuse prevention and treatment services under SAMHSA grants.

APPLICANT ORGANIZATION :

\_\_\_\_\_

SUBMITTED BY:

Signature of Authorized Official:	Date:
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Name of Authorized Official:
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Name of Organization:
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**This form should be submitted in the Proposal Envelope.**

Guam Behavioral Health and Wellness Center  
U.S. Department of Health and Human Services  
Substance Abuse and Mental Health Services Administration  
Federal Grant Funds

Federal Grant Fund Certifications and Assurances

Partner/Subrecipient/ Sub Grantee by their signature below certify and assure their compliance with the following:

**1. Certification Regarding Debarment and Suspension**

The undersigned (authorized official signing for the organization) certifies to the best of his or her knowledge and belief, that the organization, defined as the primary participant in accordance with 45 CFR Part 76, and its principals: are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency; have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Should the undersigned not be able to provide this certification, an explanation as to why should be set forth in a letter with the letter head of the organization on it and accompany this form in the proposal package.

The undersigned agrees by submitting this proposal that it will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions" in all lower tier covered transactions (i.e., transactions with subgrantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

**2. Certification Regarding Drug-Free Workplace Requirements**

The undersigned (authorized official signing for the organization) certifies that the organization will, or will continue to, provide a drug-free work-place in accordance with 45 CFR Part 76 by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's work-place and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an ongoing drug-free awareness program to inform employees about--
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- d. Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will--
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d) (2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

For purposes of paragraph (e) regarding agency notification of criminal drug convictions, the DHHS has designated the following central point for receipt of such notices:

Office of Grants and Acquisition Management  
Office of Grants Management  
Office of the Assistant Secretary for Management and Budget  
Department of Health and Human Services  
200 Independence Avenue, S.W., Room 517-D  
Washington, D.C. 20201

Notice is also required to the government of Guam Department contract designated contact.

### 3. Certifications Regarding Lobbying

Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (non-appropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING \$100,000 in total costs (45 CFR Part 93).

The undersigned (authorized official signing for the organization) certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are available upon request from GBHWC or via the SAMHSA grant management website, forms.)

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S.

Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **4. Certification Regarding Program Fraud Civil Remedies Act (PFCRA)**

The undersigned (authorized official signing for the organization) certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees that the organization will comply with the U.S. Department of Public Health Service terms and conditions of the grant award that is part of the funding for this procurement.

#### **5. Certification Regarding Environmental Tobacco Smoke**

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, daycare, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing the certification, the undersigned certifies that the organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The organization agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

The U.S. Department of Public Health Services strongly encourages all contract grant fund recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

#### **6. Certification Regarding Non-Discrimination**

The undersigned certifies that the organization shall comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

Certification Regarding the Hatch Act

The undersigned certifies that the organization shall comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and

#### **7. Single Audit Act**

7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds. The undersigned certifies the organization shall cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

#### **8. Notice of Grant Award**

The undersigned certifies it has received a copy of the Notice of Grant Award of the federal grant funds that are part of this procurement with its accompanying terms and conditions, and attaches a copy of the Notice of Grant award to this form. The undersigned certifies the organization shall comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing the program. (A copy of the Notice of Grant award is attached hereto; and is incorporated herein as if fully rewritten).

This form consists of 4 pages and additionally includes a copy of the Notice of Grant Award incorporated herein by reference as if fully re-written.

(Please PRINT and attach a copy of the Notice of Grant Award to the signed form upon its submission).

SUBMITTED BY:

Signature of Authorized Official:	Date:
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Name of Authorized Official:
------------------------------

Name of Organization:
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**This form should be submitted in the Proposal Envelope**

## Form K.1



**Department of Health and Human Services**  
Substance Abuse and Mental Health Services Administration  
Center for Substance Abuse Treatment

**Notice of Award**  
FAIN# B08TI083443  
**Federal Award Date**  
02/01/2021

Recipient Information	Federal Award Information																								
<b>1. Recipient Name</b> GOVERNMENT OF GUAM- DEPARTMENT OF ADMINISTRATION MANUEL F.L. GUERRERO BUILDING  HAGATNA, GU 96932	<b>11. Award Number</b> 1B08TI083443-01																								
<b>2. Congressional District of Recipient</b> 98	<b>12. Unique Federal Award Identification Number (FAIN)</b> B08TI083443																								
<b>3. Payment System Identifier (ID)</b> 1980018947C1	<b>13. Statutory Authority</b> Subparts II&III,B,Title XIX,PHS Act/45 CFR Part96																								
<b>4. Employer Identification Number (EIN)</b> 980018947	<b>14. Federal Award Project Title</b> Substance Abuse Prevention & Treatment Block Grant																								
<b>5. Data Universal Numbering System (DUNS)</b> 778904292	<b>15. Assistance Listing Number</b> 93.959																								
<b>6. Recipient's Unique Entity Identifier</b>	<b>16. Assistance Listing Program Title</b> Block Grants for Prevention and Treatment of Substance Abuse																								
<b>7. Project Director or Principal Investigator</b> Theresa Arriola  theresa.arriola@gbhwc.guam.gov	<b>17. Award Action Type</b> New Competing																								
<b>8. Authorized Official</b>  theresa.arriola@gbhwc.guam.gov	<b>18. Is the Award R&amp;D?</b> No																								
<b>Federal Agency Information</b>	<table border="1"> <thead> <tr> <th colspan="2">Summary Federal Award Financial Information</th> </tr> </thead> <tbody> <tr> <td colspan="2"><b>19. Budget Period Start Date 10/01/2020 – End Date 09/30/2022</b></td> </tr> <tr> <td><b>20. Total Amount of Federal Funds Obligated by this Action</b></td> <td>\$286,010</td> </tr> <tr> <td>    20 a. Direct Cost Amount</td> <td>\$286,010</td> </tr> <tr> <td>    20 b. Indirect Cost Amount</td> <td>\$0</td> </tr> <tr> <td><b>21. Authorized Carryover</b></td> <td></td> </tr> <tr> <td><b>22. Offset</b></td> <td></td> </tr> <tr> <td><b>23. Total Amount of Federal Funds Obligated this budget period</b></td> <td>\$286,010</td> </tr> <tr> <td><b>24. Total Approved Cost Sharing or Matching, where applicable</b></td> <td>\$0</td> </tr> <tr> <td><b>25. Total Federal and Non-Federal Approved this Budget Period</b></td> <td>\$286,010</td> </tr> <tr> <td colspan="2"><b>26. Project Period Start Date 10/01/2020 – End Date 09/30/2022</b></td> </tr> <tr> <td><b>27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period</b></td> <td>\$286,010</td> </tr> </tbody> </table>	Summary Federal Award Financial Information		<b>19. Budget Period Start Date 10/01/2020 – End Date 09/30/2022</b>		<b>20. Total Amount of Federal Funds Obligated by this Action</b>	\$286,010	20 a. Direct Cost Amount	\$286,010	20 b. Indirect Cost Amount	\$0	<b>21. Authorized Carryover</b>		<b>22. Offset</b>		<b>23. Total Amount of Federal Funds Obligated this budget period</b>	\$286,010	<b>24. Total Approved Cost Sharing or Matching, where applicable</b>	\$0	<b>25. Total Federal and Non-Federal Approved this Budget Period</b>	\$286,010	<b>26. Project Period Start Date 10/01/2020 – End Date 09/30/2022</b>		<b>27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period</b>	\$286,010
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<b>9. Awarding Agency Contact Information</b> Wendy Pang Grants Management Specialist Center for Substance Abuse Treatment wendy.pang@samhsa.hhs.gov (240) 276-1419	<b>28. Authorized Treatment of Program Income</b> Additional Costs																								
<b>10. Program Official Contact Information</b> Theresa Mitchell  Center for Substance Abuse Treatment Theresa.Mitchell@samhsa.hhs.gov 240-276-1365	<b>29. Grants Management Officer - Signature</b> Odessa Crocker																								
<b>30. Remarks</b> Acceptance of this award, including the "Terms and Conditions," is acknowledged by the recipient when funds are drawn down or otherwise requested from the grant payment system.																									



SABG  
Department of Health and Human Services  
Substance Abuse and Mental Health Services Administration  
Center for Substance Abuse Treatment

Notice of Award

Issue Date: 02/01/2021

**Award Number:** 1B08TI083443-01  
**FAIN:** B08TI083443-01  
**Contact Person:** Theresa Arriola

**Program:** Substance Abuse Prevention & Treatment Block Grant

GOVERNMENT OF GUAM- DEPARTMENT OF ADMINISTRATION  
MANUEL F.L. GUERRERO BUILDING

HAGATNA, GU 96932

**Award Period:** 10/01/2020 – 09/30/2022

Dear Grantee:

The Substance Abuse and Mental Health Services Administration hereby awards a grant in the amount of \$286,010 (see "Award Calculation" in Section I) to GOVERNMENT OF GUAM- DEPARTMENT OF ADMINISTRATION in support of the above referenced project. This award is pursuant to the authority of Subparts II&III,B, Title XIX, PHS Act/45 CFR Part96 and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

If you have any questions about this award, please contact your Grants Management Specialist and your Government Project Officer listed in your terms and conditions.

Sincerely yours,  
Odessa Crocker  
Grants Management Officer  
Division of Grants Management

See additional information below

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**SECTION I – AWARD DATA – 1B08TI083443-01**

**FEDERAL FUNDS APPROVED:** \$2,216,162  
**AMOUNT OF THIS ACTION (FEDERAL SHARE):** \$286,010  
**CUMULATIVE AWARDS TO DATE:** \$286,010  
**UNAWARDED BALANCE OF CURRENT YEAR'S FUNDS:** \$1,930,152

**Fiscal Information:**

**CFDA Number:** 93.959  
**EIN:** 1980018947C  
1  
**Document** 21B1GUSAP  
**Number:** T  
**Fiscal Year:** 2021

IC	CAN	01
TI	C96N470	\$286,010

PCC: SAPT / OC: 4115

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**SECTION II – PAYMENT/HOTLINE INFORMATION – 1B08TI083443-01**

Payments under this award will be made available through the HHS Payment Management System (PMS). PMS is a centralized grants payment and cash management system, operated by the HHS Program Support Center (PSC), Division of Payment Management (DPM). Inquiries regarding payment should be directed to: The Division of Payment Management System, PO Box 6021, Rockville, MD 20852, Help Desk Support – Telephone Number: 1-877-614-5533.

The HHS Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. The telephone number is: 1-800-HHS-TIPS (1-800-447-8477). The mailing address is: Office of Inspector General, Department of Health and Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington, DC 20201.

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**SECTION III – TERMS AND CONDITIONS – 1B08TI083443-01****STANDARD TERMS AND CONDITIONS****SABG FY 2021 Award Terms and Reporting Requirements****REMARKS:**

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This Notice of Award (NoA) approves the first incremental payment of Fiscal Year (FY) 2021. Awarded funds "Amount of This Action" are for the FY 2021 regular allotment only.

The "Federal Funds Approved" on page 3 includes the FY 2021 COVID Supplement allotment, however, no COVID Supplement funds are approved with this NoA. COVID supplement funds will be issued on a subsequent NoA.

**FFR submission change:**

Effective January 1, 2021, award recipients are required to submit the SF-425 Federal Financial Report (FFR) via the Payment Management System (PMS).

This change is applicable to the FFR due in December 2021 for the FY 2020 Award Period; and all reports thereafter.

If a recipient or recipient staff responsible for FFR submission does not already have an account with PMS, please [Contact PMS](#) to obtain access.

**STANDARD TERMS:**

**1) Acceptance of the Terms of an Award**

By drawing or otherwise obtaining funds from the HHS Payment Management System, the recipient acknowledges acceptance of the terms and conditions of the award and is obligated to perform in accordance with the requirements of the award. Except for any waiver granted explicitly elsewhere in this section, this award does not constitute approval for waiver of any Federal statutory/regulatory requirements for a SABG. Once a recipient accepts an award, the contents of the Notice of Award (NoA) are binding on the recipient unless and until modified by a revised NoA signed by the GMO.

**Certification Statement:**

By drawing down funds, The recipient agrees to abide by the statutory requirements of all sections of the Substance Abuse Prevention and Treatment Block Grant (SABG) (Public Health Service Act, Sections 1921-1935 and sections 1941-1957) (42 U.S.C. 300x-21-300x-35 and 300x-51-300x-67, as amended), and other administrative and legal requirements as applicable for the duration of the award.

**2) SABG Administrative Requirements**

This NoA issued is subject to the administrative requirements for HHS block grants under 45 CFR Part 96, as applicable, and 45 CFR Part 75, as specified. Except for section 75.202 of Subpart C, and sections 75.351 through 75.353 of Subpart D, the requirements in Subpart C, Subpart D, and Subpart E do not apply to this program (reference 45 CFR Part 75 Subpart B, 75.101(d)).

Except for any waiver granted explicitly elsewhere in this section, this award does not constitute approval for waiver of any Federal statutory/regulatory requirements for a SABG.

**3) Flowdown of requirements to sub-recipients**

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The grantee, as the awardee organization, is legally and financially responsible for all aspects of this award including funds provided to sub-recipients, in accordance with 45 CFR 75.351 75.353, Sub-recipient monitoring and management.

#### **4) Availability of Funds**

Funds awarded under this grant must be obligated and expended by September 30, 2022.

Recipients must liquidate all obligations incurred under an award not later than ninety (90) days after the end of the award obligation and expenditure period (i.e., the project period) which also coincides with the due date for submission of the FINAL SF-425, *Federal Financial Report* (FFR). After ninety (90) days, letter of credit accounts are locked. SAMHSA does not approve extensions to the ninety (90) day post-award reconciliation/liquidation period. Therefore, recipients are expected to complete all work and reporting within the approved project period and the aforementioned 90-day post-award reconciliation/liquidation period. Recipients (late) withdrawal requests occurring after the aforementioned periods are denied. In rare instances, SAMHSA may approve an extension to submit a FINAL SF-425 FFR report, but this is *not* an extension of the 90-day post award reconciliation/liquidation period, but rather only an extension to submit the Final SF-425 report (FFR).

#### **5) Executive Pay**

The Consolidated Appropriations Act, 2020 (P.L. 116-94) signed into law on December 20, 2019 restricts the amount of direct salary to Executive Level II of the Federal Executive pay scale. The Executive Level II salary was increased to \$197,300 effective January 2020.

For awards issued prior to this change, if adequate funds are available in active awards, and if the salary cap increase is consistent with the institutional base salary, recipients may rebudget to accommodate the current Executive Level II salary level. However, no additional funds will be provided to these grant awards.

#### **6) Marijuana Restriction**

Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 C.F.R. § 75.300(a) (requiring HHS to “ensure that Federal funding is expended . . . in full accordance with U.S. statutory . . . requirements.”) 21 U.S.C. §§ 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

#### **7) SAM and DUNS Requirements**

THIS AWARD IS SUBJECT TO REQUIREMENTS AS SET FORTH IN 2 CFR 25.110 CENTRAL CONTRACTOR REGISTRATION CCR) (NOW SAM) AND

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DATA UNIVERSAL NUMBER SYSTEM (DUNS) NUMBERS. 2 CFR Part 25 -  
Appendix A4

System of Award Management (SAM) and Universal Identifier Requirements

A. Requirement for System of Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you, as the recipient, must maintain the currentness of your information in the SAM, until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for unique entity identifier if you are authorized (reference project description) to make subawards under this award,  
you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you, unless the entity has provided its unique entity identifier to you.

2. May not make a subaward to an entity, unless the entity has provided its unique entity identifier to you.

C. Definitions. For purposes of this award term:

1. System of Award Management (SAM) means the federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at: <http://www.sam.gov>).

2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, Subpart C:

a. A governmental organization, which is a state, local government, or Indian Tribe; b. A foreign public entity; c. A domestic or foreign nonprofit organization; d. A domestic or foreign for-profit organization; and e. A Federal agency, but only as a sub-recipient under an award or sub-award to a nonfederal entity.

4. Sub-award:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible sub-recipient. b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330). c. A sub-award may be provided through any legal agreement, including an agreement that you consider a contract.

5. Sub-recipient means an entity that: a. Receives a sub-award from you under this award; and b. Is accountable to you for the use of the federal funds provided by the sub-award.

**8) Federal Financial Accountability and Transparency Act (FFATA)**

Reporting Subawards and Executive Compensation, 2 CFR, Appendix A to Part 170

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term,

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you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.

- i. You must report each obligating action described in paragraph a. 1. of this award term to <http://www.fsrs.gov>.
- ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted specify at <http://www.fsrs.gov>.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

- i. the total Federal funding authorized to date under this award is \$25,000 or more;
- ii. in the preceding fiscal year, you received— (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
- iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b. 1. of this award term:

- i. As part of your registration profile at <https://www.sam.gov>.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received— (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c. 1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. Subawards,

and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a nonFederal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and NonProfit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

[75 FR 55669, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

#### **9) Mandatory Disclosures**

Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the HHS Office of Inspector General (OIG), all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

**U.S. Department of Health and Human Services**

**Office of Inspector General ATTN: Mandatory Grant Disclosures, Intake Coordinator**

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330 Independence Avenue, SW, Cohen Building Room  
5527 Washington, DC 20201

Fax: (202) 205-0604 (Include Mandatory Grant Disclosures in subject line) or email:  
[MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov)

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

**10) The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(G)), as amended, and 2 C.F.R. PART 175**

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. SAMHSA may unilaterally terminate this award, without penalty, if a private entity recipient, or a private entity subrecipient, or their employees:

- a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- b) Procure a commercial sex act during the period of time that the award is in effect; or,
- c) Use forced labor in the performance of the award or subawards under the award.

The text of the full award term is available at 2 C.F.R. 175.15(b). See <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf>.

**11) Drug-Free Workplace Requirements**

The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. When the AR signed the application, the AR agreed that the recipient will provide a drug-free workplace and will comply with the requirement to notify SAMHSA if an employee is convicted of violating a criminal drug statute.

Failure to comply with these requirements may be cause for debarment. Government wide requirements for Drug-Free Workplace for Financial Assistance are found in 2 CFR part 182; HHS implementing regulations are set forth in 2 CFR part 382.400. All recipients of SAMHSA grant funds must comply with the requirements in Subpart B (or Subpart C if the recipient is an individual) of Part 382.

**12) Lobbying**

No funds provided under the attached Notice of Award (NoA) may be used by you or any sub-recipient under the grant to support lobbying activities to influence proposed or pending federal or state legislation or appropriations. The prohibition relates to the use of federal grant funds and is not intended to affect your right or that of any other organization, to petition Congress or any other level of government, through the use of other nonfederal resources.

Reference 45 CFR Part 93.



### 13) Accessibility Provisions

Grant recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency.

The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see

<http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html>. Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see

<http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html>. Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under Federal civil rights laws at <https://www.hhs.gov/civil-rights/index.html> or call 1-800-368-1019 or TDD 1-800-537-7697.

Also note that it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=1&lvlid=6>.

### 14) Federal Recognition of Same-Sex Spouses/Marriages

On June 26, 2013, in *United States v. Windsor*, the Supreme Court held that section 3 of the Defense of Marriage Act (DOMA) (P.L. 104-199), which prohibited federal recognition of same-sex marriages, was unconstitutional. As a result of that decision and consistent with HHS policy, SAMHSA recognizes same-sex marriages and same-sex spouses on equal terms with opposite sex-marriages and opposite-sex spouses, regardless of where the couple resides.

On June 26, 2015, in *Obergefell v. Hodges*, the Court held that the Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state. Consistent with both of these decisions, you must treat as valid the marriages of same-sex couples. This policy does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law as something other than a marriage.

### 15) Audits

Non-Federal recipients that expend \$750,000 or more in federal awards during the recipient's fiscal year must obtain an audit conducted for that year in accordance with the provisions of 45 CFR 96.31.

Recipients are responsible for submitting their Single Audit Reports and the Data Collections Forms (SF-FAC) electronically to the Federal Audit Clearinghouse Visit disclaimer page (FAC) within the earlier of 30 days after receipt or nine months after the FY's end of the audit period. The FAC operates on behalf of the OMB.

For specific questions and information concerning the submission process:  
Visit the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb>  
Call FAC at the toll-free number: (800) 253-0696

#### **16) Tobacco**

The state is required to maintain methodologically sound procedures for the measurement of compliance with the tobacco requirements listed in the application. Although improvement in the following activities is encouraged, all modifications in the conduct of the following activities must be approved by the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention prior to implementation:

Activities described in Annual Synar Report Appendix B that include: (a) creation of the sampling frame, (b) probability sampling of tobacco outlets that meets the SAMHSA precision requirement of 3 percentage point for the retailer violation rate with respect to a right-sided 95% confidence level;

Activities described in Annual Synar Report Appendix C that include: (a) methods of recruitment and training of adult and youth inspectors, (b) method of verifying age of inspectors, (c) method of accounting for distribution of youth and (d) purchase attempt procedures; and

#### **Synar reporting procedures**

These procedures are designed to ensure that violation rates for the state may be estimated in a valid and stable fashion from year to year.

2) The state is required to complete all random, unannounced inspections for the annual Synar survey for the Federal Fiscal Year 2022 application by September 30, 2021.

3) The state is required to use minors 15 years old and older in the conduct of all random, unannounced inspections for the annual Synar survey.

4) The state is required to maintain a retailer violation rate at 20 percent or below in order to comply with the requirements of section 1926 of the Public Health Services Act.

SAPT Application	Target Rate
FFY 2022	20 percent
FFY 2023	20 percent

#### **17) Submitting Responses to Conditions and Reporting Requirements**

Unless otherwise identified in the special terms and conditions of award and post award requests, all responses to special terms and conditions of award and post award requests must be sent to the Grants Management Specialist and the Government Program Official as identified in the Notice of Award.

**The grant or cooperative agreement award number MUST be included in the SUBJECT line of the email.**

## **SABG Reporting Requirements**

### **1. Federal Financial Report (FFR)**

The recipient is required to submit a Federal Financial Report (FFR) by **December 29, 2022** which is 90 days after the close of the statutory grant period (45 CFR 96.30). The SF-425 shall report total funds obligated and total funds expended by the grantee.

The SF-425 is available at (<http://apply07.grants.gov/apply/forms/sample/SF425-V1.0.pdf>).

The final FFR must be submitted via Payment Management System.

Recipients must liquidate all obligations incurred under an award not later than ninety (90) days after the end of the award obligation and expenditure period (i.e., the project period) which also coincides with the due date for submission of the FINAL SF-425, *Federal Financial Report* (FFR). After ninety (90) days, letter of credit accounts are locked. SAMHSA does not approve extensions to the ninety (90) day post-award reconciliation/liquidation period. Therefore, recipients are expected to complete all work and reporting within the approved project period and the aforementioned 90-day post-award reconciliation/liquidation period. Recipients (late) withdrawal requests occurring after the aforementioned periods are denied. In rare instances, SAMHSA may approve an extension to submit a FINAL SF-425 FFR report, but this is *not* an extension of the 90-day post award reconciliation/liquidation period, but rather only an extension to submit the Final SF-425 report (FFR).

### **2. Annual Report**

There is an annual report due by **December 1** of the fiscal year for which the State is seeking a grant. Grant awards will not be made without the report required under 96.130(e).

Title XIX, Part B, Subpart III of the Public Health Service Act (42 U.S.C. 300x-52(a)), requires the secretary of the Department of Health and Human Services, acting through the Assistant Secretary of the Substance Abuse and Mental Health Services Administration (SAMHSA), to determine the extent to which states and jurisdictions have implemented the state plan for the prior fiscal year. The purpose of the annual report is to provide information to assist the secretary in making this determination. States and jurisdictions are requested to prepare and submit their reports for the last completed state fiscal year (SFY), in the format provided in the guidance (<https://www.samhsa.gov/grants/block-grants>). The report must address the purposes for which the SABG were expended, the recipients of grant funds, and the authorized activities conducted, and services purchased with such funds. Particular attention should be given to the progress made toward accomplishing the goals and performance indicators identified in the grantee's SABG application. Grantees are required to prepare and submit their respective reports utilizing SAMHSA's Web Block Grant Application System (BGAS). This report must be received by SAMHSA no later than **December 1, 2021** in order for the grantee to receive its next grant. Failure to comply with these requirements may cause the initiation of enforcement actions that can culminate in discontinuation of SABG grants.

The report must be submitted via the electronic interface, WebBGAS by **December 1, 2021**. Please contact your Government Program Official (State Project Officer) for additional submission information.

### **3. Synar Report**

There is a Synar report due by **December 31** of the fiscal year for which the State is seeking a grant. Grant awards may be reduced without the report required under 96.130(e).

Section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) requires States receiving SABG funds to have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18. States must also annually submit a report describing (i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant; (ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and (iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

In accordance with the regulatory requirements provided at 45 CFR 75.113 and Appendix XII to 45 CFR Part 75, recipients that have currently active Federal grants, cooperative agreements, and procurement contracts with cumulative total value greater than \$10,000,000 must report and maintain information in the System for Award Management (SAM) about civil, criminal, and administrative proceedings in connection with the award or performance of a Federal award that reached final disposition within the most recent five-year period. The recipient must also make semiannual disclosures regarding such proceedings. Proceedings information will be made publicly available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). Full reporting requirements and procedures are found in Appendix XII to 45 CFR Part 75.

#### **Staff Contacts:**

Theresa Mitchell, Program Official  
**Phone:** 240-276-1365 **Email:** Theresa.Mitchell@samhsa.hhs.gov **Fax:** 240-276-2700

Wendy Pang, Grants Specialist  
**Phone:** (240) 276-1419 **Email:** wendy.pang@samhsa.hhs.gov **Fax:** (240) 276-1430



## Fiscal Year 2022 – Award Standard Terms

Name	Language
1 <b>Acceptance of the Terms of an Award</b>	<p>By drawing or otherwise obtaining funds from the Health and Human Services (HHS) Payment Management System, the recipient acknowledges acceptance of the terms and conditions of the award and is obligated to perform in accordance with the requirements of the award. If the recipient cannot accept the terms, the recipient should notify the Grants Management Officer (GMO) within thirty (30) days of receipt of this award notice. Once an award is accepted by a recipient, the contents of the Notice of Award (NoA) are binding on the recipient unless and until modified by a revised NoA signed by the GMO.</p> <p><b>Certification Statement:</b> By drawing down funds, the recipient certifies that proper financial management controls and accounting systems, to include personnel policies and procedures, have been established to adequately administer Federal awards and funds drawn down. Recipients of Department of Health and Human Services' (DHHS) grants or cooperative agreement awards must comply with all terms and conditions of their awards, including: (a) terms and conditions included in the <a href="#">HHS Grants Policy Statement</a> in effect at the time of a new, non-competing continuation, or renewal award, including the requirements of HHS grants administration regulations; (b) requirements of the authorizing statutes and implementing regulations for the program under which the award is funded; (c) applicable requirements or limitations in appropriations acts; and (d) any requirements specific to the particular award specified in program policy and guidance, the Notice of Funding Opportunity (NOFO), or the Notice of Award (NoA).</p>
2 <b>Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards</b>	<p>The NoA issued is subject to the administrative requirements, cost principles, and audit requirements that govern Federal monies associated with this award, as applicable, in the Uniform Guidance – <a href="#">2 Code of Federal Regulations (CFR) § 200</a> as codified by HHS at <a href="#">45 CFR § 75</a>.</p>
3 <b>Award Expectations</b>	<p>The eligibility and program requirements originally outlined in the NOFO must continue to be adhered to as the funded project is implemented. Recipients must comply with the performance goals, milestones, outcomes, and performance data collection as reflected in the NOFO and related policy and guidance. Additional terms and/or conditions may be applied to this award if outstanding financial or programmatic compliance issues are identified by Substance Abuse and Mental Health Services Administration (SAMHSA).</p>
4 <b>Flow down of requirements to sub-recipients</b>	<p>The recipient, as the awardee organization, is legally and financially responsible for all aspects of this award including funds provided to sub-recipients, in accordance with <a href="#">45 CFR § 75.351 – 75.352</a>, Sub-recipient monitoring and management.</p>
5 <b>Future Funding</b>	<p>As indicated in the NoA, recommended future support reflects total costs (direct plus indirect). Funding is subject to the availability of Federal funds and satisfactory progress of the project.</p>
6 <b>Non-Supplant</b>	<p>Federal award funds must supplement, not replace (supplant) nonfederal funds. All recipients who receive awards under programs that prohibit supplanting by law must ensure that federal funds do not supplant funds that have been budgeted for the same purpose through non-federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected receipt of federal funds.</p>

Name	Language
7 <b>Unallowable Costs</b>	All costs incurred prior to the award issue date and costs not consistent with the funding opportunity, <a href="#">45 CFR § 75</a> , and the <a href="#">HHS Grants Policy Statement</a> , are not allowable under this award.
8 <b>Conflicts of Interest Policy</b>	<p>Consistent with <a href="#">45 CFR § 75.112</a>, recipients must establish written policies and procedures to prevent employees, consultants, and others (including family, business, or other ties) involved in grant-supported activities, from involvement in actual or perceived conflicts of interest. The policies and procedures must:</p> <ul style="list-style-type: none"> <li>• address conditions under which outside activities, relationships, or financial interest are proper or improper;</li> <li>• provide for advance disclosure of outside activities, relationships, or financial interest to a responsible organizational official;</li> <li>• include a process for notification and review by the responsible official of potential or actual violations of the standards; and</li> <li>• specify the nature of penalties that may be imposed for violations.</li> </ul>
9 <b>Administrative and National Policy Requirements</b>	Public policy requirements are requirements with a broader national purpose than that of the Federal sponsoring program or award that an applicant/recipient must adhere to as a prerequisite to and/or condition of an award. Public policy requirements are established by statute, regulation, or Executive order. In some cases they relate to general activities, such as preservation of the environment, while, in other cases they are integral to the purposes of the award-supported activities. An application funded with the release of federal funds through a grant award does not constitute or imply compliance with federal statute and regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulations.
10 <b>Carryover - Expanded Authority for Unobligated Balances from One Budget Period to Any Subsequent Budget Period</b>	<p>Federal administrative requirements allow agencies to provide recipients with expanded authorities, which waive certain cost-related and administrative prior approvals under certain conditions.</p> <p>Per <a href="#">45 CFR § 75.308 (d)(3)</a>, SAMHSA has extended expanded authority to recipients requesting carryover of unobligated balances (UOB) up to 25% or less of the current budget period (year when the funds are needed) provided that recipients are not on drawdown restriction.</p> <p>Recipients requesting a carryover greater than 25% of the current budget period award <b>cannot exercise this expanded authority</b>.</p> <p>Recipients who exercise expanded authority <b>MUST</b> include an Intent to Carryover statement in the Remarks section (box 12) of the annual Federal Financial Report (FFR).</p> <p>Expanded authority may be overridden by other special terms or conditions of the award. Recipients must carefully review the Notice of Award to determine if a particular authority is withheld for a specific award.</p> <p>Recipients must exercise proper stewardship over Federal funds and ensure that costs charged to awards are allowable, allocable, reasonable, necessary, and consistently applied regardless of the source of funds.</p> <p><i>Additional Guidance:</i> <a href="https://www.samhsa.gov/grants/grants-management/post-award-amendments#carryover">https://www.samhsa.gov/grants/grants-management/post-award-amendments#carryover</a></p>

Name	Language
11 <b>Marijuana Restriction</b>	SAMHSA grant funds may not be used to purchase, prescribe, or provide marijuana or treatment using marijuana. See, e.g., <a href="#">45 CFR § 75.300(a)</a> (requiring HHS to ensure that Federal funding is expended in full accordance with U.S. statutory and public policy requirements); 21 U.S.C. 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana).
12 <b>Prior Approval</b>	<p>SAMHSA anticipates that the recipient may need to modify the recipient's award budget or other aspects of its approved application during performance to accomplish the award's programmatic objectives. In general, recipients are allowed a certain degree of latitude to re-budget within and between budget categories to meet unanticipated needs and to make other types of post-award changes, provided that the changes still meet the statutory program requirements and the regulatory requirements under <a href="#">45 CFR § 75</a>, as applicable.</p> <p>Items that require prior approval (i.e. formal written approval) from the GMO, as indicated in either <a href="#">45 CFR § 75</a> or the <a href="#">HHS Grants Policy Statement</a>, must be submitted in writing to the GMO. Based on the nature, extent, and timing of the request, the SAMHSA GMO may approve, deny, or request additional material to further document and evaluate your request.</p> <p>Only an amended NoA signed by the GMO is considered valid. Verbal authorization is not approval and is not binding on SAMHSA. Recipients who proceed do so at their own risk.</p> <p>Prior approval is required for but is not limited to: Changes in Key Personnel and Level of Effort, Budget Revisions, Changes in Scope, Carryover Requests (that fall outside the term for the Expanded Authority for Carryover), and No Cost Extensions. A summary of activities that require prior approval is listed in the <a href="#">HHS Grants Policy Statement</a> under Exhibit 5, Page II-49.</p> <p>SAMHSA instructions regarding requests for prior approval are available at: <a href="https://www.samhsa.gov/grants/grants-management/post-award-amendments">https://www.samhsa.gov/grants/grants-management/post-award-amendments</a></p>
13 <b>Executive Pay</b>	<p>The Consolidated Appropriations Act, 2021 (Public Law 116-260), signed into law on December 27, 2020 restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale. Effective January 3, 2021, the salary limitation for Executive Level II is <b>\$199,300</b>.</p> <p>For awards issued prior to this change, if adequate funds are available in active awards, and if the salary cap increase is consistent with the institutional base salary, recipients may re-budget to accommodate the current Executive Level II salary level. However, no additional funds will be provided to these grant awards.</p>
14 <b>Promotional Items</b>	<p>SAMHSA grant funds may not be used for Promotional Items. Promotional items include but are not limited to clothing and commemorative items such as pens, mugs/cups, folders/folios, lanyards, and conference bags.</p> <p>HHS Policy on the Use of Appropriated Funds for Promotional Items: <a href="https://www.hhs.gov/grants/contracts/contract-policies-regulations/spending-on-promotional-items/index.html">https://www.hhs.gov/grants/contracts/contract-policies-regulations/spending-on-promotional-items/index.html</a></p>



Name	Language
<b>15 Universal Identifier and SAM Requirements</b>	<p>This award is subject to requirements as set forth in <a href="#">2 CFR § 25</a> – Universal Identifier and System of Award Management (SAM) Requirements.</p> <p>A. Requirement for System of Award Management</p> <p>Unless you are exempted from this requirement under <a href="#">2 CFR § 25.110</a>, you, as the recipient, must maintain the currency of your information in the SAM, until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.</p> <p>B. Requirement for unique entity identifier if you are authorized (reference project description) to make subawards under this award, you:</p> <ol style="list-style-type: none"> <li>1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you, unless the entity has provided its unique entity identifier to you; and</li> <li>2. May not make a subaward to an entity, unless the entity has provided its unique entity identifier to you.</li> </ol> <p>C. Definitions. For purposes of this award term:</p> <ol style="list-style-type: none"> <li>1. System of Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information on SAM registration procedures may be found at: <a href="https://www.sam.gov">https://www.sam.gov</a>.</li> <li>2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.</li> <li>3. Entity, as it is used in this award term, means all of the following, as defined at <a href="#">2 CFR § 25, subpart D</a>: <ol style="list-style-type: none"> <li>a. A governmental organization, which is a state, local government, or Indian Tribe;</li> <li>b. A foreign public entity; c. A domestic or foreign nonprofit organization; d. A domestic or foreign for-profit organization; and e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.</li> </ol> </li> <li>4. Subaward: <ol style="list-style-type: none"> <li>a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient;</li> <li>b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see <a href="#">2 CFR § 200.1</a> and <a href="#">2 CFR § 200.331</a>).</li> <li>c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.</li> </ol> </li> <li>5. Subrecipient means an entity that: <ol style="list-style-type: none"> <li>a. receives a subaward from you under this award; and</li> <li>b. is accountable to you for the use of the Federal funds provided by the subaward.</li> </ol> </li> </ol>



Name	Language
<b>16 Federal Financial Accountability and Transparency Act (FFATA)</b>	<p>Reporting Subawards and Executive Compensation, <a href="#">2 CFR, Appendix A to Part 170</a></p> <ol style="list-style-type: none"> <li>Reporting of first-tier subawards. <ol style="list-style-type: none"> <li>Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).</li> <li>Where and when to report. <ol style="list-style-type: none"> <li>You must report each obligating action described in paragraph a. 1. of this award term to <a href="http://www.fsrs.gov">http://www.fsrs.gov</a>.</li> <li>For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)</li> </ol> </li> <li>What to report. You must report the information about each obligating action that the submission instructions posted at <a href="http://www.fsrs.gov">http://www.fsrs.gov</a> specify.</li> </ol> </li> <li>Reporting Total Compensation of Recipient Executives. <ol style="list-style-type: none"> <li>Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if— <ol style="list-style-type: none"> <li>the total Federal funding authorized to date under this award is \$25,000 or more;</li> <li>in the preceding fiscal year, you received— <ol style="list-style-type: none"> <li>80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at <a href="#">2 CFR §170.320</a> (and subawards); and</li> <li>\$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at <a href="#">2 CFR §170.320</a> (and subawards); and</li> </ol> </li> <li>The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <a href="https://www.sec.gov/fast-answers/answers-execomphm.html">https://www.sec.gov/fast-answers/answers-execomphm.html</a></li> </ol> </li> <li>Where and when to report. You must report executive total compensation described in paragraph b. 1. of this award term: <ol style="list-style-type: none"> <li>As part of your registration profile at <a href="https://www.sam.gov">https://www.sam.gov</a></li> <li>By the end of the month following the month in which this award is made, and annually thereafter.</li> </ol> </li> </ol> </li> <li>Reporting of Total Compensation of Subrecipient Executives. <ol style="list-style-type: none"> <li>Applicability and what to report. Unless you are exempt as provided in paragraph c. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—</li> </ol> </li> </ol>

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Name	Language
	<p>i. in the subrecipient's preceding fiscal year, the subrecipient received—  (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at <a href="#">2 CFR §170.320</a> (and subawards); and  (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and</p> <p>ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <a href="http://www.sec.gov/answers/execomp.htm">http://www.sec.gov/answers/execomp.htm</a>.)</p> <p>2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c. 1. of this award term:</p> <p>i. To the recipient.</p> <p>ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.</p> <p>d. Exemptions if, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:</p> <p>i. Subawards, and</p> <p>ii. The total compensation of the five most highly compensated executives of any subrecipient.</p> <p>e. Definitions. For purposes of this award term:</p> <p>1. Entity means all of the following, as defined in <a href="#">2 CFR § 25, subpart D</a></p> <p>i. A Governmental organization, which is a State, local government, or Indian tribe;</p> <p>ii. A foreign public entity;</p> <p>iii. A domestic or foreign nonprofit organization;</p> <p>iv. A domestic or foreign for-profit organization;</p> <p>v. A Federal agency, but only as a subrecipient under an award or sub-award to a non-Federal entity.</p> <p>2. Executive means officers, managing partners, or any other employees in management positions.</p> <p>3. Subaward:</p> <p>i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.</p> <p>ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see <a href="#">2 CFR § 200.1</a> and <a href="#">2 CFR § 200.331</a>).</p> <p>iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.</p>

Name	Language
	<p>4. Subrecipient means an entity that:</p> <ul style="list-style-type: none"> <li>i. Receives a subaward from you (the recipient) under this award; and</li> <li>ii. Is accountable to you for the use of the Federal funds provided by the subaward.</li> </ul> <p>5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see <a href="#">17 CFR § 229.402(c)(2)</a>:</p> <ul style="list-style-type: none"> <li>i. Salary and bonus.</li> <li>ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.</li> <li>iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.</li> <li>iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.</li> <li>v. Above-market earnings on deferred compensation which is not tax-qualified.</li> <li>vi. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.</li> </ul>
<p>17 <b>FAPIS – Recipient Integrity and Performance</b></p>	<p>A. Reporting of Matters Related to Recipient Integrity and Performance</p> <p>1. General Reporting Requirement</p> <p>If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (<a href="#">FAPIS</a>)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of <a href="#">Public Law 110-417</a>, as amended (<a href="#">41 U.S.C. 2313</a>). As required by section 3010 of <a href="#">Public Law 111-212</a>, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.</p> <p>2. Proceedings About Which You Must Report</p> <p>Submit the information required about each proceeding that:</p> <ul style="list-style-type: none"> <li>a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;</li> <li>b. Reached its final disposition during the most recent five-year period; and</li> <li>c. If one of the following: <ul style="list-style-type: none"> <li>(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;</li> <li>(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;</li> </ul> </li> </ul>

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Name	Language
	<p>(3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or</p> <p>(4) Any other criminal, civil, or administrative proceeding if:</p> <ul style="list-style-type: none"> <li>i. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;</li> <li>ii. It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and</li> <li>iii. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.</li> </ul> <p>3. Reporting Procedures</p> <p>Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.</p> <p>4. Reporting Frequency</p> <p>During any period of time when you are subject to this requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.</p> <p>5. Definitions</p> <p>For purposes of this award term and condition:</p> <ul style="list-style-type: none"> <li>a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.</li> <li>b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.</li> <li>c. Total value of currently active grants, cooperative agreements, and procurement contracts includes— <ul style="list-style-type: none"> <li>(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and</li> <li>(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised</li> </ul> </li> </ul> <p><a href="#">[2 CFR Appendix XII to Part 200 - Award Term and Condition for Recipient Integrity and Performance Matters]</a></p>

Name	Language
18 <b>Acknowledgement of Federal Funding in communications and contracting.</b>	<p>For each publication that results from HHS grant-supported activities, recipients must include an acknowledgment of grant support using one of the following statements:</p> <p>“This publication was made possible by Grant Number _____ from _____.”</p> <p>“The project described was supported by Grant Number _____ from _____.”</p> <p>Recipients also must include a disclaimer stating the following:</p> <p>“Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the [SAMHSA].”</p> <p>If the recipient plans to issue a press release concerning the outcome of HHS grant-supported activities, it should notify SAMHSA in advance to allow for coordination. One copy of each publication resulting from work performed under an HHS grant-supported project must accompany the annual or final progress report submitted to SAMHSA.</p>
19 <b>Acknowledgement of Federal Funding at Conferences and Meetings</b>	<p>A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers’ fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The HHS awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also <a href="#">45 CFR §§75.438, 75.456, 75.474, and 75.475</a>.</p> <p><b>Disclaimer for Conference/Meeting/Seminar Materials:</b> If a conference/meeting/seminar is funded by a grant, cooperative agreement, sub-grant and/or a contract, the recipient must include the following statement on conference materials, including promotional materials, agenda, and internet sites:</p> <p><i>“Funding for this conference was made possible (in part) by SAMHSA. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does the mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government.”</i></p>
20 <b>Rights in Data and Publications</b>	<p>As applicable, recipients agree to the requirements for intellectual property, rights in data, access to research data, publications, and sharing research tools, and intangible property and copyrights as described in <a href="#">45 CFR § 75.322</a> and the <a href="#">HHS Grants Policy Statement</a>.</p> <p>Recipients may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. SAMHSA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.</p>

Name	Language
21 <b>Mandatory Disclosures</b>	<p>Consistent with <a href="#">45 CFR § 75.113</a>, applicants and recipients must disclose in a timely manner, in writing to the HHS Office of Inspector General (OIG), all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:</p> <p>U.S. Department of Health and Human Services Office of Inspector General ATTN: Mandatory Grant Disclosures, Intake Coordinator 330 Independence Avenue, SW, Cohen Building, Room 5527, Washington, DC 20201 Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or email: <a href="mailto:MandatoryGranteeDisclosures@oig.hhs.gov">MandatoryGranteeDisclosures@oig.hhs.gov</a></p> <p>Failure to make required disclosures can result in any of the remedies described in <a href="#">45 CFR § 75.371</a> – Remedies for noncompliance, including suspension or debarment (see <a href="#">2 CFR §§ 180 &amp; 376</a> and <a href="#">31 U.S.C. 3321</a>).</p>
22 <b>Lobbying Restrictions</b>	<p>Per <a href="#">45 CFR § 75.215</a>, Recipients are subject to the restrictions on lobbying as set forth in <a href="#">45 CFR § 93</a>.</p> <p>U.S.C. &gt; Title 18 &gt; Part I &gt; Chapter 93 &gt; Section 1913, No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his/her request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities.</p> <p>Violations of this section shall constitute as a violation of section 1352 (a) of Title 31.</p>
23 <b>Drug-Free Workplace</b>	<p>The Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of part 382, which adopts the Governmentwide implementation (<a href="#">2 CFR § 182</a>) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; <a href="#">41 U.S.C. 701-707</a>). By signing the application, the AOR agrees that the recipient will provide a drug-free workplace and will comply with the requirement to notify SAMHSA if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government wide requirements for Drug-Free Workplace for Financial Assistance are found in <a href="#">2 CFR § 182</a>; HHS implementing regulations are set forth in <a href="#">2 CFR § 382.400</a>.</p>

Name	Language
24 Civil Right Laws that prohibit discrimination	<p>You must administer your project in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes taking reasonable steps to provide meaningful access to persons with limited English proficiency and providing programs that are accessible to and usable by persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. See <a href="https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.htm">https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.htm</a> and <a href="https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html">https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html</a>.</p> <ul style="list-style-type: none"> <li>You must take reasonable steps to ensure that your project provides meaningful access to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficient individuals, see <a href="https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html">https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html</a> and <a href="https://www.lep.gov">https://www.lep.gov</a>.</li> <li>For information on your specific legal obligations for serving qualified individuals with disabilities, including providing program access, reasonable modifications, and taking appropriate steps to provide effective communication, see <a href="http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html">http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html</a>.</li> <li>HHS funded health and education programs must be administered in an environment free of sexual harassment, see <a href="https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html">https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html</a>.</li> <li>For guidance on administering your project in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience protection and associated anti-discrimination laws, see <a href="https://www.hhs.gov/conscience/conscience-protections/index.html">https://www.hhs.gov/conscience/conscience-protections/index.html</a> and <a href="https://www.hhs.gov/conscience/religious-freedom/index.html">https://www.hhs.gov/conscience/religious-freedom/index.html</a>.</li> </ul>
25 Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(G)), as amended, and 2 CFR § 175	<p>The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. SAMHSA may unilaterally terminate this award, without penalty, if a private entity recipient, or a private entity subrecipient, or their employees:</p> <ol style="list-style-type: none"> <li>Engage in severe forms of trafficking in persons during the period of time that the award is in effect;</li> <li>Procure a commercial sex act during the period of time that the award is in effect; or,</li> <li>Use forced labor in the performance of the award or subawards under the award.</li> </ol> <p>The text of the full award term is available at <a href="#">2 CFR § 175.15(b)</a>.</p>
26 Confidentiality of Alcohol and Drug Abuse Patient Records	<p>The regulations (<a href="#">42 CFR § 2</a>) are applicable to any information about alcohol and other drug abuse patients obtained by a "program" (<a href="#">42 CFR § 2.11</a>), if the program is federally assisted in any manner (<a href="#">42 CFR § 2.12b</a>). Accordingly, all project patient records are confidential and may be disclosed and used only in accordance with <a href="#">42 CFR § 2</a>. The recipient is responsible for assuring compliance with these regulations and principles, including responsibility for assuring the security and confidentiality of all electronically transmitted patient material.</p>
27 Healthy People 2020	<p>Healthy People 2020 is a national initiative led by HHS that set priorities for all SAMHSA programs. The initiative has two major goals: (1) increase the quality and years of a healthy life; and (2) eliminate our country's health disparities. The program consists of 28 focus areas and 467 objectives. SAMHSA has actively participated in the work groups of all the focus areas and is committed to the achievement of the Healthy People 2020 goals. Healthy People 2010 and the conceptual framework for the forthcoming Healthy People 2020 process can be found online at: <a href="http://www.healthypeople.gov/">http://www.healthypeople.gov/</a></p>



Name	Language
<b>28 Accessibility Provisions</b>	<p>Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency.</p> <p>The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see: <a href="http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html">http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html</a>. Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see- <a href="http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html">http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html</a>. Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under Federal civil rights laws at <a href="https://www.hhs.gov/civil-rights/index.html">https://www.hhs.gov/civil-rights/index.html</a> or call 1-800-368-1019 or TDD 1-800-537-7697.</p> <p>Also note that it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <a href="https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=1&amp;lvlid=6">https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=1&amp;lvlid=6</a>.</p>
<b>29 Data Collection and Performance Measurement:</b>	<p>All SAMHSA recipients are required to collect and report evaluation data to ensure the effectiveness and efficiency of its programs under the Government Performance and Results (GPRA) Modernization Act of 2010 (P.L. 102-62). Recipients must comply with the performance goals, milestones, and expected outcomes as reflected in the NOFO and are required to submit data via SAMHSA's data-entry and reporting system.</p> <p>Please contact your Government Program Official for additional submission information.</p>
<b>30 Legislative Mandates</b>	<p>Certain statutory provisions under P.L. 115-245, Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019, Division B, Title V, Title II, General Provisions limit the use of funds on SAMHSA grants, cooperative agreements, and contract awards. Such provisions are subject to change annually based on specific appropriation language that restricts the use of grant funds. The full text of P.L. 115-245 is available at <a href="https://www.congress.gov/bills/115th-congress/house-bill/6157/text?Format=txt">https://www.congress.gov/bills/115th-congress/house-bill/6157/text?Format=txt</a>.</p>
<b>31 Executive Order 13410: Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs</b>	<p>This EO promotes efficient delivery of quality health care through the use of health information technology, transparency regarding health care quality and price, and incentives to promote the widespread adoption of health information technology and quality of care. Accordingly, all recipients that electronically exchange patient level health information to external entities where national standards exist must:</p> <p>a) Use recognized health information interoperability standards at the time of any HIT system update, acquisition, or implementation, in all relevant information technology systems supported, in whole or in part, through this agreement/contract. Please consult <a href="http://www.healthit.gov">www.healthit.gov</a> for more information, and</p> <p>b) Use Electronic Health Record systems (EHRs) that are certified by agencies authorized by the Office of the National Coordinator for Health Information Technology (ONC), or that will be certified during the life of the grant.</p>



Name	Language
32 Audits	<p>Non-Federal recipients that expend \$750,000 or more in federal awards during the recipient's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of <a href="#">45 CFR § 75.501(a)</a>. Guidance on determining Federal awards expended is provided in <a href="#">45 CFR §75.502</a>.</p> <p>Recipients are responsible for submitting their Single Audit Reports and the Data Collections Forms (SF-FAC) electronically to the to the Federal Audit Clearinghouse Visit disclaimer page (FAC) within the earlier of 30 days after receipt or nine months after the FY's end of the audit period. The FAC operates on behalf of the OMB.</p> <p>For specific questions and information concerning the submission process:            •Visit the Federal Audit Clearinghouse at <a href="https://harvester.census.gov/facweb">https://harvester.census.gov/facweb</a>            •Call FAC at the toll-free number: (800) 253-0696</p>
33 Ad Hoc Submissions	<p>Throughout the project period, SAMHSA may determine that a grant requires submission of additional information beyond the standard deliverables. This information may include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Payroll</li> <li>• Purchase orders</li> <li>• Contract documentation</li> <li>• Proof of project implementation</li> </ul>
34 Submitting Responses to Conditions and Reporting Requirements	<p>Unless otherwise identified in the special terms and conditions of award and post award requests, all responses to special terms and conditions of award and post award requests must be submitted through the eRA Commons system.</p>
35 Risk Assessment	<p>SAMHSA's Office of Financial Advisory Services (OFAS) may perform an administrative review of your organization's financial management system. If the review discloses material weaknesses or other financial management concerns, grant funding may be restricted in accordance with <a href="#">45 CFR § 75/2 CFR § 200</a>, as applicable. The restriction will affect your organization's ability to withdraw funds from the Payment Management Services account, until the concerns are addressed.</p>
36 90-day Reconciliation and Liquidation Period	<p>In accordance with <a href="#">45 CFR § 75.309</a> and <a href="#">§ 75.381</a>, recipients must liquidate all obligations incurred under an award not later than ninety (90) days after the end of award's obligation and expenditure period (i.e., the project period. After ninety (90) days, letter of credit accounts are locked. SAMHSA does not approve extensions to the ninety (90) day post-award reconciliation/liquidation period. Therefore, recipients are expected to complete all work and reporting within the approved project period and the aforementioned 90-day post-award reconciliation/liquidation period. Recipients (late) withdrawal requests occurring after the aforementioned periods will be denied.</p>
37 Cancel Year:	<p><a href="#">31 U.S.C. 1552(a)</a> Procedure for Appropriation Accounts Available for Definite Periods states the following: On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balances (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.</p>

Name	Language
<b>38 Termination</b>	<p>Termination (<a href="#">45 CFR § 75.372</a>) applies to this award and states, in part, the following:</p> <p>(a) This award may be terminated in whole or in part:</p> <p>(1) By the HHS awarding agency (SAMHSA) or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;</p> <p>(2) By the HHS awarding agency (SAMHSA) or pass-through entity for cause;</p> <p>(3) By the HHS awarding agency (SAMHSA) or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;</p> <p>(4) By the non-Federal entity upon sending to the HHS awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the HHS awarding agency or pass-through entity may terminate the Federal award in its entirety.</p>
<b>39 Prohibition on certain telecommunications and video surveillance services or equipment</b>	<p>As described in <a href="#">2 CFR § 200.216</a>, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:</p> <ol style="list-style-type: none"> <li>1. Procure or obtain;</li> <li>2. Extend or renew a contract to procure or obtain; or</li> <li>3. Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115- 232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).</li> </ol> <ul style="list-style-type: none"> <li>• For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).</li> <li>• Telecommunications or video surveillance services provided by such entities or using such equipment.</li> <li>• Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.</li> </ul>

Civil Rights Requirements

**Form L**

Service Provider

Civil Rights Contact Person:

Title/Address:


Telephone Number:

Number of persons employed by the organizational unit:

**This form should be submitted in the Proposal Envelope.**

**Form M**

Guam Behavioral Health and Wellness Center  
U.S. Department of Health and Human Services  
Substance Abuse and Mental Health Services Administration  
Federal Grant Funds

Limited English Proficiency Certification

I certify that Limited English Proficiency persons have meaningful access to any services under any developed (if applicable) program(s). National origin discrimination includes discrimination on the basis of Limited English Proficiency (LEP). Meaningful access may entail providing language assistance services, including oral and written translation when necessary.

SUBMITTED BY:

Signature:	Date:
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Name:	Title:
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Agency:

**This form should be submitted in the Proposal Envelope**

Guam Behavioral Health and Wellness Center  
 U.S. Department of Health and Human Services  
 Substance Abuse and Mental Health Services Administration  
 Federal Grant Funds

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**  
**PROJECT INFORMATION:**

**Project Name:** \_\_\_\_\_  
**Project Number:** \_\_\_\_\_  
**Principal Contact:** \_\_\_\_\_  
                                     *Firm Name / Contact Name / Title*  
                                     \_\_\_\_\_  
                                     *Firm Address/ Phone Number/ Email Address*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

**Contractor-**

- (1) The undersigned certifies, by submission of this proposal, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal agencies;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the undersigned is unable to certify to any of the statements in this certification, such Subrecipient/ Sub Grantee offeror shall attach an explanation to this proposal'.

\*Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate to whom it applies, initiating agency, dates of action, and the type of violation.

I, the official named below, hereby swear that I am duly authorized to legally bind the prospective contractor to the above described certification. I am fully aware that this certification is made under penalty of perjury under the laws of Guam.

\_\_\_\_\_  
 Signature/Authorized Certifying Official      Typed Name and Title

\_\_\_\_\_  
 Prospective Contractor/Organization      Date Signed

\_\_\_\_\_  
 Contractor License No. (if any)      Telephone No. \_\_\_\_\_ Email \_\_\_\_\_

Guam Behavioral Health and Wellness Center  
U.S. Department of Health and Human Services  
Substance Abuse and Mental Health Services Administration  
Federal Grant Funds

FORM O

Procurement Standards – Uniform Guidance 2 CFR Part 200 & HHS Uniform Guidance 45 CFR Part 75

Partner/Subrecipient/ Sub Grantee by signing below acknowledge that they have been advised of the Uniform Guidance and HHS Uniform Guidance for Federal Awards apply as applicable. Partner/Subrecipient/ Sub Grantee shall comply with applicable provision in their own procurements. Partner/Subrecipient/ Sub Grantees shall flow through the requirements as applicable in any subcontracts.

2 CFR Part 2 Appendix II

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

"Contract Provisions for Non-Federal Entity Contracts Under Federal Awards – Uniform Guidance Appendix II B of the Uniform Guidance- 2-CFR Part 200 Contract Provision, to flow through and include the following in all contracts, as applicable.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

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

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

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

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

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic

and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

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

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

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

(J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]"

#### **Domestic preference for procurements.**

##### § 200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**Prohibition on certain telecommunications and video surveillance services or equipment.**

200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

**Procurement of recovered materials.**

§ 200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.





**(New) Buy American Preference – effective May 14, 2022**

Offerors/Service Providers/Contractors/Subrecipients – are advised that this clause will be updated in the future as more information becomes available from the Federal Grantors.

**References:**

**Build America, Buy America Act (BABAA)**, section 70914 of P.L. 117-58, §§ 70901-52 also known as the Infrastructure Investment and Jobs Act.

**OMB Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Assistance Programs for Infrastructure.**

A copy of OMB M-22-11 is available at:

<https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>.

The Notice of Award(s) for Federal Funds is/and will be provided as part of the Request for Proposals, and/or Agreement, and any updates to it provided to GBHWC will be provided, (if the solicitation is still open to the potential Partner/Subrecipient/ Sub Grantee, and to the awarded party if a contract is in effect, as GBHWC is updated by the Federal Grantor.

Partner/Subrecipient/ Sub Grantee may view the complete Uniform Guidance and HHS Uniform Guidance via the Code of Federal Regulations at [eCFR :: Home](https://www.ecfr.gov/), <https://www.ecfr.gov/>.

**SUBMITTED BY:**

Signature of Authorized Official:	Date:
Name of Authorized Official:	
Name of Organization:	