



GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER  
Clinical Services Division,  
Drug and Alcohol Branch

## **Request for Proposals**

### **GBHWC RFP 07-2019**

Guam Non-Profit Professional Services  
Residential Rehabilitation and Social Detoxification  
Substance Treatment for Adult Females  
(Substance Abuse Prevention & Treatment Block Grant,  
CFDA Number 93.959, 10 GCA § 86109)

Issue Date: August 12, 2019

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

## **TABLE OF CONTENTS**

GBHWC 07-2019

	Cover Page	<b>1</b>
	Table of Contents	<b>2-3</b>
	Public Notice	<b>5-15</b>
<b>SECTION I.</b>	<b>GENERAL INFORMATION</b>	<b>5</b>
A	Overview	<b>5</b>
B	Background	<b>6</b>
C	All Parties to Act in Good Faith	<b>6</b>
D	Liability for Costs to Prepare Proposal	<b>6</b>
E	Applicability of Guam Procurement Law	<b>7</b>
F	Licensing	<b>7</b>
G	Non-Resident Tax Withholding	<b>7</b>
H	Registration to be a Offeror	<b>7</b>
I	Debarment, Suspension and Ineligibility	<b>8</b>
J	Prohibition Against Employment of Sex Offenders	<b>8</b>
K	Affidavit re Disclosing Ownership and Commissions	<b>8</b>
L	Affidavit re Non-Collusion	<b>9</b>
M	Affidavit re No Gratuities or Kickbacks	<b>9</b>
N	Affidavit re Ethical Standards	<b>10</b>
O	Declaration re Compliance with US DOL Wage Determination	<b>11</b>
P	Affidavit re Contingent Fees	<b>11</b>
Q.1	Type of Contract	<b>12</b>
Q.2	Duration of Contract or Term of Service	
Q.3	Compensation	
R	Independent Contract Status	<b>12</b>
S	Confidential/Proprietary Information	<b>12</b>
T	Ownership of Proposal	<b>13</b>
U	Explanation to Offerors	<b>14</b>
V	Equal Employment Opportunity	<b>14</b>
W	Assignment	<b>14</b>
X	Amendments to Request for Proposals	<b>14</b>
Y	Proposal Selection	<b>15</b>
Z	Errors and Omissions	<b>16</b>
<b>SECTION II</b>	<b>SCOPE OF WORK</b>	<b>16-19</b>
<b>SECTION III</b>	<b>PROPOSED CONTENTS, REQUIREMENTS &amp; INSTRUCTIONS</b>	<b>20-22</b>
A	Contents of the Proposal	<b>20</b>
B	Requirements and Instruction	<b>22</b>

SECTION IV	GENERAL PROCEDURES	<b>23-27</b>
A	Questions, Receipt and Registration of Proposals	
	Opening of Proposal	
	Proposal Evaluation	
	Evaluation Criteria and Assigned Weights	
	Negotiation and Award of Contract	
	Right to Reject Offers and Cancel	
	Failure to Negotiate Contract with Offerors Initially Selected as Best Qualified	
	Retention and Access Requirements for Records	
	Special Reporting Requirements for Non-Profit Organizations	
SECTION V	CONTRACTUAL TERMS	<b>28</b>
FORMS		
GBHWC A	Proposal Registration (GBHWC RFP Form A)	<b>29</b>
GBHWC B	Proposal Signature Form (GBHWC RFP Form B)	<b>30</b>
GBHWC C	Submitting all Licenses (GBHWC Form C)	<b>31</b>
AG 002	Affidavit Disclosing Ownership and Commissions (AG 002)	<b>32</b>
AG 003	Affidavit re Non-Collusion (AG 003)	<b>33</b>
AG 004	Affidavit re No Gratuities or Kickbacks (AG 004)	<b>34</b>
AG 005	Affidavit re Ethical Standards 005)	<b>35</b>
AG 006	Declaration re Compliance with U.S. DOL Wage Determination (AG 006)	<b>36</b>
AG 007	Affidavit re Contingent Fees (AG 007)	<b>37</b>
GBHWC D	Sample Business Associate Agreement Provisions	<b>38</b>
GBHWC E	Sample Contractual Agreement	<b>46</b>
GBHWC F	Annual Program Cost (FY 2019 to FY 2021)	<b>70</b>



## PUBLIC NOTICE

REQUEST FOR PROPOSAL TO  
GUAM NON-PROFIT ORGANIZATIONS FOR PROFESSIONAL SERVICES  
TO PROVIDE RESIDENTIAL REHABILITATION AND SOCIAL DETOXIFICATION  
SUBSTANCE TREATMENT FOR ADULT FEMALES  
GBHWC RFP NO. 07-2019

The Guam Behavioral Health and Wellness Center (the GBHWC) is soliciting proposals for professional services from Guam non-profit organizations to provide residential rehabilitation and social detoxification substance treatment for adult 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.

The request for proposal (RFP) packages are available for public inspection on-line at [www.gbhwg.guam.gov](http://www.gbhwg.guam.gov) or hard copies at the GBHWC Director's Office located on the First Floor, 790 Governor Carlos G. Camacho Road, Tamuning, Guam during the weekdays except holidays between 8:30 A.M. to 4:30 P.M. It is recommended that all interested parties register with the Director's Office in order to receive any notice, amendment or relative correspondence regarding the RFP. The GBHWC will not be liable for failure to provide notice to any party who did not register contact information.

Questions regarding this RFP should be written and addressed to the GBHWC Director and submitted by U.S. Mail, courier, hand delivery or through facsimile at (671) 649-6948 no later than Friday, August 16, 2019. Electronic mail (email) is unacceptable.

The DEADLINE FOR RECEIPT OF PROPOSALS is no later than 4:30 P.M. Chamorro Standard Time, **MONDAY, AUGUST 26, 2019**. All proposals must be submitted only by U.S. Mail, courier, or hand delivery and must be addressed to the Director, Guam Behavioral Health and Wellness Center. Electronic mail (email) is unacceptable.

The 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 the GBHWC and/or for whatever reason allowed by law and/or regulation, and/or for whatever reason whatsoever.

Carissa E. Pangelinan  
Acting Director  
August 12, 2019

## SECTION I. GENERAL INFORMATION

---

### OVERVIEW:

Formerly Department of Mental Health and Substance Abuse (DMHSA), Guam Behavioral Health and Wellness Center (hereinafter known as GBHWC) is requesting Guam non-profit professional services providing residential and social detoxification substance treatment for adult females, federally and locally funded (Substance Abuse Prevention & Treatment Block Grant, CFDA No. 93.959, 10 GCA Section 86109).

Organizations interested in bidding for this project may submit proposals that are directed towards female adults. Applicants must be experienced with level III.5 Residential (24hrs) and level III.2-D Social Detoxification services as specified by the American Society of Addiction Medicine (ASAM) Patient Placement Criteria, 2<sup>nd</sup> Revision. This project puts into action 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 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:

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. 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).

One of the primary objectives of the Drug and Alcohol Branch of 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. 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.
- Make cultural adaptations to evidence-based models and practices for optimal use.

The GBHWC Drug and Alcohol New Beginnings Branch currently provides and supports an array of comprehensive outpatient and residential drug and alcohol treatment programs and services for adults. The Branch chose the American Society of Addiction Medicine Patient Placement Model-2R (ASAM PPC-2R) 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>; 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, Level I Outpatient, and Level II.1 Intensive Outpatient (ASAM Patient Placement 3rd Revision Model); other community and faith-based organizations provide Residential ASAM Level III.5 and III.2-D Treatment. The Guam Memorial 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 and social detoxification services, 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 meetings, and the Guam Homeless Coalition, have provided opportunities to bring the community partners together.

Therefore, GBHWC is committed and in support of providing expanded treatment capacity for rehabilitation and social detoxification services in the Territory of Guam. **The services must address adult 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), US Department of Health & Human Services, a block grant funder for C. All Parties to Act in Good Faith

This Request for Proposal (RFP) is issued subject to all the provisions of the Guam Procurement Law and the Guam Procurement Regulations (copies are available for inspection at the General Services Agency). 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

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. 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 on-line at the [www.guamcourts.org/justicedocs/index.html](http://www.guamcourts.org/justicedocs/index.html). This RFP is issued by GBHWC, a line department of the 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”.

F. Licensing (License to conduct business in Guam GBHWC RFP Form C)

An Offeror who has not complied with the Guam Licensing Law is cautioned that 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) 635-7621 or by mail at P.O. Box 23607, GMF, Guam 96921 or on-line at <https://www.guamtax.com>.

G. 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 71114.

H. Registration Required To Be a Potential Offeror

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.1) and either delivering it GBHWC in person, or by U.S. Mail, email, or facsimile. Only potential Offerors who have registered with GBHWC are assured of receiving any amendments to the RFP, responses to inquiries and other related matters. Acknowledgment of receipt to all amendments and responses to inquiries is required as part of any proposal, and only registered Offerors will be considered as “potential Offerors”. GBHWC maintains a procurement registration log as to those potential Offerors who pick up copies of the RFP at GBHWC. 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.

All parties shall identify an official or authorized representative to act on its behalf during negotiations and/or execution of contractual agreements. (GBHWC RFP Form A)

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. (2 GAR Div 4 Sec 9102) Only Offerors who are not suspended by local and/or federal government(s) are qualified to submit proposals.

J. Prohibition Against Employment of Sex Offenders

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.

K. Mandatory Local Disclosures

1. Affidavit Re Disclosing Ownership and Commissions

Offeror shall submit an affidavit and represent its list of names and addresses of any person holding more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship or corporation at any time during the twelve (12) month period immediately preceding submission of proposal. The affidavit shall contain the number of shares or the percentage of assets of such partnership, sole partnership or corporation which have been held by each person during the twelve (12) month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid for the bidder, and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying. (5 GCA §5233) (AG Procurement Form 002)

2. Affidavit Re Non-collusion

Offeror shall submit an affidavit and represent that it certifies that the price submitted was independently decided without collusion and has not intentionally



committed anti-competitive practices. (2 GAR §3126.b) (AG Procurement Form 003)

3. Affidavit Re Gratuities or Kickbacks

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 2 GAR Div 4 Sec 11107 Gratuities and Kickbacks of the Guam Procurement Regulations. (AG Procurement Form 004)

4. Affidavit Re Ethical Standards

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. (AG Procurement Form 005)

5. Declaration Re Compliance with U.S. Department (DOL) Wage Determination

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 contract. (AG Procurement Form 006)

6. Affidavit Re Contingent Fees

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 the contract and represent that it is not in violation of 2 GAR Div 4 Sec 11108(a)(1) as failure to do so, constitutes a breach of ethical standards. (AG Procurement Form 007)

L. Type of Contract

This is a cost reimbursement, multi-year contract. The price is set per month for professional services to the agreed range of clients, i.e. adult females (2 GAR, Div. 4, §3119 (e).

M. Duration of Contract or Term of Service

a. The initial term contract shall begin upon the date that the Governor approves the contract, as signified by his 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, 2020, 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, and as agreed-to by Offeror, the contract may be extended after the final renewal term on a month-to-month basis (each being a “Monthly Extension Period”), to begin immediately after the expiration of the final Renewal Term, provided that in no event may the parties agree to more than six Monthly Extension Periods. The Monthly Extension Periods may be agreed-to by the parties only if the government is unable to continue the services uninterrupted under a new contract after a new solicitation and procurement undertaken by the Government.

d. Multiple Term Contract Multiple Certification of Funds.

The Initial Term and subsequent terms of the 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 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 GBHWC’s rights or Offeror’s rights under any termination clause of the contract. The GBHWC shall notify the Offeror 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 the cancellation of this multi-term contract as provided above the vendor will be reimbursed its unamortized, reasonably incurred, non-recurring costs.

N. Compensation

The offeror and the GBHWC will negotiate an annual budget, inclusive of object categories and staffing levels.

1. Invoices and Payments

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 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 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 Offeror to 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 GBHWC.

2. Payment and Release of Claims.

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

O. Independent Contractor Status

Offeror understands that its relationship with GBHWC is as an independent contractor and not as an employee of 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.

P. Confidential/Proprietary Information

Any restrictions of the use or inspection of material within the proposal shall be clearly stated in the proposal itself. Offeror must state specifically, which elements of the proposal are to be considered confidential/proprietary. 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 (Annual Program Cost, Form F) 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 GBHWC as being non-compliant/non-responsive with the RFP.** Any information that will be included in any resulting contract cannot be considered confidential. GBHWC will make a written determination as to the apparent validity of any request for confidentiality. In the event GBHWC does not concur with Offeror's request for confidentiality, the written determination will be sent to Offeror.

Q. Ownership of Proposal

GBHWC has the right to retain the original proposal and other RFP response materials for its files. As such, GBHWC may retain or dispose of copies as is lawfully deemed appropriate. Proposal materials of the successful Offeror may be reviewed by any person after the award is made. 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. Offeror expressly agrees that 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 with the provisions of Guam laws and regulations. Selection or rejection of the offer will not affect this right.

R. 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 GBHWC Director. **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/scope of work,** which will be forwarded to all registered Offerors, and its **receipt by the Offeror should be acknowledged on the proposal form or as otherwise stated in this proposal.**

S. Equal Opportunity – Nondiscrimination

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 original, 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 original, 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.

**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.

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

U. Amendments to Request for Proposal

The right is reserved as the interest of 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 request for proposals, 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 request for proposal it amends. Amendments shall be sent to all Offerors known to have received a request for proposal. Amendments shall be distributed within a reasonable time to allow Offerors 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 facsimile or telephone and confirmed in the amendment.

V. Proposal Selection

GBHWC will be responsible for final selection of an acceptable proposal. GBHWC will endeavor to notify all respondents on or about 30 days after the deadline for receipt of proposals. 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", 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.

W. Errors and Omissions

GBHWC reserves the right to make corrections due to minor errors of the Offeror identified in proposals by GBHWC or Offeror. GBHWC, at its option, has the right to request clarification or additional information from Offeror during the evaluation or negotiation phases.

X. Community-based Non-Profit Organization Professional Services

Additionally, the offeror agrees to adhere to the Guam public policy with regard to GBHWC "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)

Y. Federal Grant Fund Certifications and Assurances

The offeror shall certify that the organization has received a copy of the grant award mentioned herein and shall comply with all applicable requirements of the grant and other federal laws, executive orders, regulations and policies governing the program.

## SECTION II. SCOPE OF WORK

---

The following specifications outline the requirements for the proposed residential rehabilitation substance treatment for adolescent males and females, which the Guam Behavioral Health and Wellness Center (GBHWC), Drug and Alcohol Branch expect to be adhered to and implemented when the contract is awarded.

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.

1. The service provider must work with the GBHWC and its partners to establish a system of care for substance abuse treatment that is culturally competent.
2. The service provider will meet regularly 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 will identify evidenced-based models (i.e., Matrix Model, Motivational Interviewing, Driving with Care, Trauma Informed Care, etc.) and practices to implement that focuses on core treatment.
5. The service provider will identify and justify any adaptations or modifications to the proposed models and/or practices.
6. The service provider will describe in detail how the project will address issues of age, race, ethnicity, culture and other similar issues.
7. The service provider must be able to evaluate the psychological, social, and physiological signs and symptoms of alcohol and other drug abuse.
8. The service provider must be able to determine the client's appropriateness and eligibility for admission or referral.
9. The service provider must be experienced with the American Society of Addiction Medicine (ASAM) 3rd Revision for Level III.5 Residential and Level III.2-D Social Detoxification Services.
10. The service provider must be able to determine any co-existing conditions (medical, psychiatric, physical, etc.) that indicate the need for additional professional assessment and/or services.
11. The service provider will need to adhere to applicable Territory and Federal laws, regulations, and agency policies governing alcohol and other drug abuse services.
12. 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.
13. The service provider must chart pertinent on-going information pertaining to the client.
14. The service provider will need to utilize relevant information from written documents for client care.



15. 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 with a third party, then a Business Associate Agreement must also be established.
16. The service provider must provide peer recovery support services and implement fulltime, part time, and/or volunteer Certified Peer Support Specialists into their program.
17. The service provider must have certified clinical staff supervise Peer Recovery Specialists Regularly.

#### **B. ASAM Level of Care III.2-D Social Detoxification Services**

1. The service provider will maintain treatment capacity in ASAM Level III.2-D Social Detoxification services with a capacity of two (2) female adults served at any given time by performing and completing the following tasks;
2. Have availability of Standard Operating Procedures (SOP) geared for an ASAM Level III.2-D to include definitions, admission and continued stay criteria, referral to acute care criteria, criteria to determine social detoxification is not necessary, medication management and other mechanisms essential to support optimal operations.
3. Ensure presence of trained and knowledgeable staffs about research techniques to gain further insight into critical factors, such as complications associated with alcohol and other drug use and the admission assessment process. In addition, at least one staff member being a licensed psychologist or psychiatrist or registered nurse or a certified substance abuse treatment counselor available for clinical consultation.
4. Ensure presence of a trained staff member familiar with complications associated with alcohol and other drug use and with community resources awake 24-hours a day to monitor clients' conditions.
5. Conduct assessments using American Society of Addiction Medicine's (ASAM) Six Problem Dimensions Assessment Tool, establish preliminary individualized treatment plans and administer a range of cognitive, behavioral and mental health therapies on an individual or group basis to enhance understanding of addiction, the completion of the detoxification process, and to prepare clients for the next level of care.
6. Provide specifically detailed mechanism that will be instituted to give clients an introduction to self-help support groups and disease concepts.
7. Implement the use of evidenced-based models and practices appropriate for social detoxification treatment modality.
8. Identify and justify any adaptations or modifications to the proposed evidenced-based models and/or practices, especially when addressing cultural competency.
9. Describe in detail how the project will address issues of age, race, ethnicity, culture and other similar issues.
10. Have services including close observation, supportive staff-client interaction, provision for proper fluid and nutritional components, and provision for client space that offers low to moderate sensory stimulation.
11. Have clearly written protocols to determine the client's appropriateness and eligibility for admission or referral.
12. Demonstrate how to determine any co-existing conditions (medical, psychiatric, physical, etc.) that indicate the need for additional professional assessment and/or services.

13. Ensure a quiet, safe, comfortable, and positive atmosphere in a residential setting.
14. Use clients' detoxification time as preparation for the next level of care
15. Have staff trained annually in admission, 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. Have documents available at any time to support that these trainings were completed upon site visit by the GBHWC staff.
16. Have an agreement with the Guam Memorial Hospital (GMH), Guam Regional Medical City Hospital (GRMCH) and/or U.S. Naval Hospital Guam (USNHG) to include a linkage component that describes how clients have access to an acute care facility (GMH, or USNHG Emergency Room) on a 24-hour basis when clients are experiencing medical complications that need immediate medical attention.

### **C. 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, up to twelve (12) beds for female adults.
2. The service provider must retain a 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 female adults.
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 days, a written approval from the GBHWC is required for reimbursement.
9. The service provider must utilize the Matrix Model (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 female adults.
10. The service provider must provide client centered or individualized substance abuse treatment services for female adults needing ASAM Level III.5 Rehabilitation Services.

11. The service provider must give pregnant women and women 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. 300x-22(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 female clients on a weekly basis.
  13. The service provider must ensure that pregnant women are referred for pre-natal 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. (Please note that ASAM Patient Placement Criteria is now currently referred to as ASAM Criteria: Treatment, Criteria for Addictive, Substance-Related and Co-occurring Conditions.)
10. The service provider must implement and utilize Certified Peer Recovery Specialists.

The scope of work is written by Athena Duenas, Supervisor of the Drug and Alcohol Treatment Branch of the Clinical Services Division and Theresa C. Arriola, GBHWC Director.

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

---

#### A. Contents of Proposal

Offeror's response to the items mentioned in Section II Scope of Work (services) shall be considered Offeror's proposal. Proposals should be prepared simply and economically, providing a straightforward, concise description of Offeror's ability to fulfill the requirement 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 contain:**

1. Title Page - name of Offeror, the location of Offeror's principal place of business, telephone and facsimile numbers, and email address.
2. Table of Contents
3. Designations of contact person to include his/her address and contact numbers, including email address, if different from Offeror's. The designated person must be able to answer any questions regarding Offeror's proposal and must be able to negotiate the fee and other contract terms.
4. Current business license, Offeror's federal employer identification number (EIN), or tax identification number (TIN), if any. (Local business license is required before the contractual agreement is executed).
5. Statement of understanding and willingness, expressing Offeror's understanding of the work to be accomplished as specified in Section II Scope of Work (services), and a statement of positive commitment and willingness to perform the services.
6. Background Summary:
  - a. Description of Organization
  - b. History of the Organization (the number of years 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
7. Skills and Experience:
  - a. Proposed services (what Offeror will undertake to accomplish the objectives of this project and the work described in the scope of work);
  - b. Target Population.

8. 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
  - b. Staff position titles/description of work responsibilities
  - c. Community partners – organization/volunteers
9. Service Delivery:
  - a. Proposed services (a discussion of the program that Offeror 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 Offeror.
10. A list of other contracts or work performed for services similar in scope, size and discipline for the required services, which Offeror, 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 Scope of Work.
11. Letters, awards or other forms of recognition that demonstrate confidence in the work performed by Offeror, to include a current financial statement or audit.
12. Reporting System
  - a. Regular progress reporting mechanism;
  - b. Tracking of financial activity;
  - c. Tracking system to report project progress; and,
  - d. Performance measures on completion of services contained in Section IV.
13. Mandatory Forms and Assurances
  - a. Proposal Registration
  - b. Proposal Signature
  - c. Submitting Licenses
  - d. Affidavit re Disclosing Ownership – Form 002
  - e. Affidavit re Non-Collusion –Form 003
  - f. No Gratuities or Kickbacks Affidavit – Form 004
  - g. Ethical Standards Affidavit – Form 005
  - h. Wage Determination and Benefit – Form 006
  - i. Contingent Fees – Form 007
  - j. Annual Program Cost – (Separate, seal until negotiation)

## B. Requirements and Instructions

All Proposals must 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. At a minimum, if Offeror is an individual, the proposal should include a complete resume of the individual. If Offeror is a firm, the proposal should include a resume of the firm's principal(s).

Offeror is required to read each and every 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.

Proposals shall be filled out in ink or typewritten and signed in ink. Erasures or other changes in a proposal must be explained or noted over the signature of Offeror. 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 Offeror.

Proposals containing any conditions, omissions, unexplained erasures or alterations or items not called for in the proposal or irregularities of any kind may be rejected by GBHWC as being incomplete. Proposals **must follow the format of the RFP as outlined in the table of contents.**

GBHWC also requires respondents to present satisfactory evidence that the leadership/management and personnel have sufficient experience and are qualified to provide these services. Entities submitting proposals must be able to demonstrate in detail, their stability in the community to provide residential rehabilitation substance treatment for adolescent males and females..

The proposal must include resumes of treatment staff with experience, expertise, and certifications in treatment, and must identify a **lead treatment specialist** 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:

- Licensed individual, marriage and family therapists (IMFT)
- Certified substance abuse treatment counselors
- Peer recovery specialists
- Licensed addiction psychiatrists and psychologists

## IV. GENERAL PROCEDURES:

---

### A. Questions, Receipt, and Registration of Proposals

Questions regarding this RFP should be written and addressed to GBHWC Director through U.S. Mail, hand delivery, or facsimile (671) 649-6948 by **Friday, August 16, 2019**. All proposals and modifications shall 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 GBHWC is **4:30 P.M., Monday on August 26, 2019**.

All proposals must be submitted via U.S. mail, courier or hand delivery to the attention of the Director, GBHWC.

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 one (1) original hard copy, one (1) electronic copy (flash drive and three (3) hard copies of each proposal. The Cost Proposal (Form A.1) shall be submitted together with the technical proposal but in a separate, sealed envelope. The Cost Proposal shall be presented in the format as provided on GBHWC RFP Form F.

Envelopes/boxes containing proposals shall 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. **Please be aware that submissions without this information or unsealed will be considered non-responsive, will not be opened, and will be returned to Offeror (if address is known).**

No facsimile or emailed proposals will be accepted.

Proposals may be hand-carried and received at GBHWC on or before the deadline date and time. Proposals received through the mail will not be accepted if such mail is received at the address showing after the submission date and time.

Proposal submitted after 4:30 P.M. may not be accepted unless personal injury to or accident of the Offeror prevents submission on time, or otherwise, approved by the Director.

Proposals will be considered only from such Offerors who, in the opinion of 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.

## B. 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. A register of proposals shall be established which shall include all proposals, the name of each Offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals shall be opened to public inspection only after award of the contract. Proposals of Offerors who are not awarded the contract shall not be opened for public inspection. (2 GAR 3114.h.2)

## C. Proposal Evaluation

In determining the most qualified Offeror, the following criteria will be used to evaluate proposals and 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 personnel, equipment, financial audit report or latest, certified financial statement, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting, and
4. A record of past performance of similar work.

Evaluations will be conducted by an Evaluation Panel. Scoring will be based on a possible total of 100 points and no less than 70 points to be considered eligible. The most responsive and responsible proposal with the highest total score will be recommended for award.

### Evaluation Criteria and Assigned Weight

<b>Evaluation Criteria</b>	<b>Assigned Weight</b>
Introduction/Understanding of RFP – The organization’s familiarity with the needs of the consumers and knowledge of overall services and support required.	30
Work Plan/Project Execution – The organization’s description of how they will provide services detailed in Section II – Scope of Work.	20



Corporate/Organization Experience – 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 GBHWC to include cooperativeness, openness, and collegial relationship.	10
Qualification of Personnel – 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.	15
Current, certified financial statement or latest financial audit (within 1 to 3 years). Offeror must have sufficient working capital and not rely on the compensation for the first year of the contract.	10
Equipment, facilities and accounting software – The equipment, facilities and accounting software to perform the required services are available or will be made readily available at the time of contracting.	10
Ability to present and organize proposal according to instructions applicable in Section III and IV.	05
<b>Total Points</b>	<b>100</b>

#### D. Negotiation and Award of Contract

After an evaluation of responsive Offerors has been completed, Offerors will be ranked from highest to lowest according to the number of points received during the evaluation. The highest ranked responsive Offeror is the best qualified and will be invited to negotiate a contract. GBHWC will negotiate a contract with the best-responsive qualified Offeror for the required services at compensation determined in writing to be fair and reasonable. 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; and (3) agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

If the negotiations are successful, then GBHWC will award a contract to the highest ranked responsive and responsible Offeror.

E. Right to Reject Offers and Cancel the Procurement

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 GBHWC.

F. Failure to Negotiate Contract With Offerors Initially Selected as Best Qualified

If after the Offerors final Best Offer compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified Offeror, a written record stating the reasons therefore, shall be placed in the file and GBHWC will advise such Offeror of the termination of negotiations which shall be confirmed by written notice within three days or as soon as possible. Upon failure to negotiate a contract with the best-qualified Offeror, GBHWC will enter into negotiations with the next most qualified Offeror. If negotiations again fail, negotiations will be terminated as provided in this Section and commence with the next qualified Offeror.

Should GBHWC be unable to negotiate a contract with any Offerors that were initially selected as the best qualified Offerors, offers may be re-solicited 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.

G. Retention and Access Requirements For Records

Offeror shall retain all records pertinent to the contract for a period of no less than three (3) years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. Offeror shall provide access and the right to examine all records related to the contract to GBHWC, Guam Public Auditor or their authorized representatives.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for non-expendable property acquired in whole or in part, with funds from this contract funds, must be retained for three (3) years after its final disposition.

Offeror shall provide access to any project site(s) to the GBHWC, Guam Public Auditor or their authorized representatives. 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.

H. Special Reporting Requirements for Non-Profit Organizations

Offeror, if a non-profit organization, in addition to any other terms and conditions of the contract, shall comply with the reporting requirements set forth in P.L. 34 Chapter XIII § 6 and this clause or subsequent public law(s). In the event one of the contractor's subcontractors is a non-profit organization, the provisions of this clause shall also be deemed to apply to the contractor's

subcontractor, and the contractor is obligated to submit its non-profit subcontractor's information in the same manner and time periods.

Offeror shall maintain accurate financial records of all monies paid to it under the contract.

Offeror shall provide to the government of Guam a budgetary breakdown by object category as to all services under the contract. An initial proposed budgetary breakdown (GBHWC RFP Form F) is part of the request for proposal, and the agreed cost proposal, budget, staffing request are incorporated into the contract's scope of services.

Offeror shall provide to the Government of Guam, 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.

Offeror must provide prior written notification to the Government of Guam of all procurement of equipment and services of FIVE THOUSAND DOLLARS (\$5,000.00) or more as to its professional services related to this contract, or with regard to items to be invoices as part of the contract.

Offeror shall provide access to duly authorized representatives of the Government of Guam, 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 Offeror, upon written request by the Government of Guam, the Guam Public Auditor or their authorized representatives, shall provide source documentation, including but not limited to copies of checks or receipts, employee pay statement, inventory receipt, attendance records, utility bills.

Offeror is subject to the Single Audit Rules and shall provide annually to GBHWC, copies of its Audit Reports for all time periods covered as part of the contract. The Offeror shall provide certified detailed inventory listings of each Fiscal Year's purchases under the contract to the Government of Guam, as well as a Fiscal Year-End Report of all expenditures of funds under the contract, no later than November 15 of the initial contract year, and November 15 of each subsequent contract year.

In the event the Offeror fails to timely provide reports or items set forth in this section to the Government of Guam, after prior written reasonable notice by the Government of Guam to the Offeror, and Offeror's failure to cure the contract default, the Government of Guam 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 contract by the Offeror.

## V. CONTRACTUAL TERMS:

---

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 Compiler's website <http://www.guamcourts.org/compileroflaws>. The Guam Procurement Laws are available at the Office of Compiler's website as part of the 5 GCA Ch. 5. The Guam Procurement Regulations are available at the Office of Compiler's website 2 GAR Division 4. Additionally, the Guam Office of Public Accountability <http://www.guamopa.org/>, the Guam Office of Attorney General <http://www.guamag.org/> and the Department of Administration's General Service Agency [www.gsa.doa.guam.gov](http://www.gsa.doa.guam.gov), all have useful procurement information and forms.

A proposed contract is attached to this RFP as Sample Contract (GBHWC RFP Form E). Offerors understand that the Sample Contract complies with law and is the general form of contract that the Government expects the Offeror to enter into with the government. GBHWC reserves the right to amend or revise the Sample Contract form as may be deemed necessary to serve the Government's best interest.

If changes are made to the Sample Contract in Form E, prior to the conclusion of all evaluations, GBHWC will issue an amendment to this RFP. However, if changes are made to the Sample Contract during negotiations with the best qualified Offeror, then such changes are considered negotiated and no amendment to this RFP will be issued.

###

**GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER**

**GBHWC RFP 07-2019**

Residential Rehabilitation and Social Detoxification  
Substance Treatment for Adult Females

**PROPOSAL REGISTRATION (FORM A)**

The individual, firm, entity or organization identified below is an interested party and/or "Offeror" to GBHWC RFP 07-2019 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)

## PROPOSAL SIGNATURE FORM

For GBHWC RFP 07-2019

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 07-2019**

*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:\_\_\_\_\_

---

## **AFFIDAVIT DISCLOSING OWNERSHIP AND COMMISSIONS**

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

A. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the offeror and that *[please check only one]*:

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

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

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

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

<u><b>Name</b></u>	<u><b>Address</b></u>	<u><b>Compensation</b></u>
_____	_____	_____

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

\_\_\_\_\_  
Signature of one of the following:

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

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

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

AG Procurement **Form 002** (Rev. Nov. 17, 2005)



## AFFIDAVIT RE NON-COLLUSION

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

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

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

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

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

Signature of one of the following:

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

Subscribed and sworn to before me

this          day of          , 20          .

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

## **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 \_\_\_\_\_, \_\_\_\_\_.

## **AFFIDAVIT RE ETHICAL STANDARDS**

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

\_\_\_\_\_ [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

## **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 \_\_\_\_\_, \_\_\_\_\_.

## **Business Associate Contracts**

### **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).

---

Printed Name and Title of Official

---

Signature of Official Authorized

Date\_\_\_\_\_

## SAMPLE CONTRACT

This sample is provided only for reference, and shall not be considered a final document during negotiation of offers and proposals.

CONTRACTUAL AGREEMENT  
GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER  
Clinical Services Division, Drug and Alcohol Branch  
AND

---

GBHWC RFP 07- 2019

This AGREEMENT is made between the GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER, Children and Adolescent Services Branch, an agency of the government of Guam, (GBHWC), whose office address is 790 Governor Carlos G. Camacho Road, Tamuning, Guam 96913, and \_\_\_\_\_, (Service Provider) licensed on Guam, a \_\_\_\_\_, whose office address is \_\_\_\_\_.

WHEREAS, the GBHWC issued a request for proposals, GBHWC RFP 07-2019, to competitively seek Guam non-profit organizations for professional services to provide residential rehabilitation and social detoxification substance treatment for adult females; and

WHEREAS, GBHWC intends to engage professional services of the Service Provider for the purpose of providing its residential rehabilitation home; and

WHEREAS, GBHWC has provided adequate public announcement of the need for such service through a Request for Proposal (GBHWC RFP 07-2019) 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 award of this contract to the Service Provider has been made pursuant to a written finding by the GBHWC that the \_\_\_\_\_ 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; and

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

#### SECTION I. INCORPORATION AND ORDER OF PRECEDENCE

GBHWC RFP 07-2019 and Service Provider's proposal are incorporated by reference into this Agreement as if fully-rewritten herein. In the event of any conflict among these documents, the following order and precedence shall apply:

- A. Any contract amendment(s) in reverse chronological order
- B. This Agreement itself inclusive of attachments.
- C. GBHWC RFP 07-2019
- D. Contractor's Proposal, inclusive of all signed forms

#### SECTION II. SCOPE OF WORK

Service Provider shall provide the services set forth in GBHWC RFP 06-2019. A copy of GBHWC RFP 06-2019 Section II Scope of Work is attached to this agreement as Attachment B 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 "Effective Date" through September 30, 2020. (the "Initial Term"). After the Governor has approved the contract, GBHWC will issue a written notice to proceed notifying the Service Provider when performance of services is to begin.

- B. Renewal Term(s).

At the option of GBHWC, and satisfactory services in keeping with the with all the terms and conditions of the contract may be renewed for up to two (2) additional (1) year period(s); each being a renewal term ("Renewal Term") subject to appropriation, allocation and availability of funds.

- C. Multiple Term Contract/Multiple Certifications of Funds.

The Initial Term and any subsequent term(s) of this contract are subject to the availability of funds. The funds for the Initial Term of the contract may be pro-rated and certified as part of the execution of the contract. Each proceeding year of the contract will require a certification of funds by the Government of Guam. In the event that funds are not allocated, appropriated or otherwise made available to support continuation of performance in any period of time within the Initial Term, 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 invoice in the form agreed to by the parties. Payment shall be based upon actual costs, as defined in 2GAR 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. 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 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. 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: account statement submitted every year upon renewal of contract to include, but not limited to, expenditures, 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 2GAR 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 quarterly, 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. 33-66 Chapter XIII 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 proposal submission and negotiation, and the agreed cost proposal, budget, and staffing request are incorporated into the scope of services of this Agreement as part of Attachment 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 ten (10) days after the end of each quarter.
- 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 invoiced 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 each subsequent year.
- H. In the event the Service Provider fails to 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 fix the contract default, the GBHWC in addition to other contractual rights and remedies under this contract, may withhold payment 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 as the Service Provider.

## 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 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. The Service Provider is responsible for obtaining and maintaining the necessary coverage for the operation of this program.

- A. Workers Compensation Insurance in the form and amount required by the law or the government of Guam to cover all employees working in any capacity in executing this contract.
- B. Commercial General Liability on an “Occurrence Basis” with limits of liability not less than One Million Dollars (\$1,000,000) per occurrence and/or combined single-limit bodily injury and property damage. The Service Provider will ensure the insurance is issued by a company authorized to do business on Guam with minimum limits of not less than One Million Dollars (\$1,000,000) for bodily injuries or death per occurrence, and not less than Three Hundred Thousand Dollars (\$300,000) for damages to property. Such policy will insure the Government and their respective agents and employees with respect to liability as a result of the ownership, maintenance, use or operation of vehicles pursuant to the Agreement.
- C. Professional Liability Insurance in a form acceptable to the Government and with a limit of liability of not less than One Million dollars (1,000,000).

#### 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. 33-66 Chapter XIII 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 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 Provider 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 Provider 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 Provider 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.

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 Provider 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 (HIPA)  
The Service Provider will comply with the Health Insurance Portability and Accountability Act (HIPAA of 1996, P.L. 104-1991) 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. The Service Provider will ensure information obtained directly or directly 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. Client Confidentiality.**

The Service Provider shall ensure information obtained directly or directly from a recipient client under this contract shall 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.

H. Confidentiality.

Any information provided to or developed by the Service Provider in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Service Provider without the prior written approval of the GBHWC.

I. 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.

J. Equal Opportunity Nondiscrimination.

GBHWC is an equal opportunity employer and strictly adheres to a policy on non-discrimination activities in compliance with all applicable Federal and Guam laws in its labor practices and carries out all government programs and 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 participation in, and 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 of Guam Executive Order 2006-16.

The Service Provider shall assure that no person shall on the grounds of race, religion, color, sex, including sexual 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, the Service Provider shall meet the following contractual requirements:

1. In the event it is receiving then 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 Agreement. Furthermore, within ninety (90) days of the award and annually thereafter for the duration of the Agreement, 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 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 Non-discrimination 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.

If Service Provider is found not to be in compliance with the requirement in this Section V Equal Opportunity Non-discrimination during the life of this Agreement, this Service Provider agrees to make appropriate steps to correct these deficiencies.

5. 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.
6. 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
7. 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].

8. 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.

9. 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 is subject to review and inspection by the GBHWC.

#### 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 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.

#### 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 as 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. 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 XXX. 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 XXXI. 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 XXXII. 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 XXXIII. 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.

(Signature Page Follows

# ANNUAL COST PROPOSAL RFP 07-2019

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

Page 1 of 2

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

Category	Hourly Rate (for A & B)	Year One	Year Two	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:

Page 2 of 2 (RFP 07-2019)

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