



GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER  
Clinical Services Division, Residential Treatment Programs

## **Request for Proposals**

**GBHWC RFP 2022-02**

Professional Services

Providing Twenty-Four (24) Hour Level II Residential,  
Therapeutic and Support Services for Adults  
With Serious/Severe Mental Illness  
with or without Co-occurring Intellectual Disabilities

Submission Deadline:

**4:30 P.M.**

**January 11, 2022**

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Issue Date: 12/16/2021

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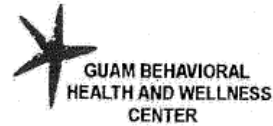
RFP 2022-02

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PUBLIC NOTICE

REQUEST FOR PROPOSAL FOR PROFESSIONAL SERVICES  
Providing 24-Hour Level II Residential, Therapeutic and Support Services  
For Adults with Serious/Severe Mental Illness with or without  
Co-occurring Intellectual Disabilities  
RFP 2022-02

Guam Behavioral Health and Wellness Center (GBHWC) is soliciting proposals from private,-public, for-profit or non-profit organizations, companies or individuals interested in providing professional services for a 24-Hour Level II residential, therapeutic and support services for adults with serious/severe mental illness with or without co-occurring intellectual disabilities.


Request for Proposal (RFP) packages are available for public inspection at [www.gbhwg.guam.gov](http://www.gbhwg.guam.gov) or by calling telephone number 671647-5397, 671647-5396, during the weekdays except holidays between 8:30 A.M. to 4:30 P.M. GBHWC requires that prospective Offerors register with GBHWC to ensure that they receive notices regarding any changes or updates to the RFP. Official communications, clarifications and/or amendments to the RFP will be sent to all registered Offerors and posted on [www.gbhwg.guam.gov](http://www.gbhwg.guam.gov).

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

Questions regarding this RFP should be written and addressed to GBHWC Director, and delivered by U.S. Mail, hand delivery, facsimile 671649-6948 or email to [marilyn.aflague@gbhwg.guam.gov](mailto:marilyn.aflague@gbhwg.guam.gov) by December 27, 2021.

The DEADLINE FOR RECEIPT OF PROPOSALS is no later than 4:30 P.M. Chamorro Standard Time, January 11, 2022. All proposals must be submitted by U.S. Mail, courier, or hand delivery and must be addressed to the Director, Guam Behavioral Health and Wellness Center. Facsimile or electronic mail (email) is not acceptable.

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

  
Theresa C. Arriola  
Director  
December 16, 2021

(Paid by Local Funds)

## SECTION I. GENERAL INFORMATION

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### A. INTRODUCTION

Title 10 of the Guam Code Annotated, Chapter 86, Sub-section 86109.1. Residential Treatment Program established within the Guam Behavioral Health and Wellness Center (GBHWC), formerly the Department of Mental Health and Substance Abuse, a program entitled Residential Treatment Program for the purpose of providing transitional living services for consumers with serious/severe mental illness and/or co-occurring intellectual or developmental disabilities through supervision, counseling, and awareness and assistance with various community support agencies and programs.

GBHWC currently operates through outsourcing to Guam based non-profit organizations, two separate Level II, residential, therapeutic and operational services programs, through two separate contracts.

GBHWC is seeking proposals from private, public, for profit or non-profit organizations, companies or individuals, to operate under one program/one contract (in a phased-in manner) GBHWC's 24-Hour Level II residential, therapeutic and support services for adults with serious/severe mental illness with or without co-occurring intellectual disabilities."

In Phase I, from the Effective Date of the Contract (the date last signed by the Governor, or March 31, 2022 whichever) through September 30, 2022, GBHWC is seeking services for up to five (5) adults with *SMI*.

In Phase II, from October 1, 2022 through September 30, 2023, with an option to renew the first of two, one year periods, the *serious/severe mental illness (SMI)* services will continue in Phase I **plus** the additional services for up to five (5) adults with serious/severe mental illness with occurring intellectual disabilities (*SMI/ID*).

The second and third year will have a total of ten (10) consumers (*SMI & SMI/ID*) in an appropriate and separate environments.

### A.1 DEFINITIONS AND ABBREVIATIONS

**Serious Mental Illness (SMI).** Serious mental illnesses (*SMIs*) are a small subset of the 300 mental illnesses that are in *DSM*. While the line between mental health and serious mental illness is debatable, the extremities are clear. Three separate efforts to define serious mental illness have come to similar conclusions and report similar numbers of people have it. The Center for Mental Health Services (CMHS) had to define *SMI* when it was created in order to

distribute mental health block grants to states proportional to the number of *SMI* in each state. They defined *SMI* as mental illnesses listed in *DSM* that “resulted in functional impairment which substantially interferes with or limits one or more major life activities.” (CMHS 1999, FN)

**Intellectual Disability (ID).** Intellectual disability (*ID*) according to the Diagnostic and Statistical Manual of Mental Disorders, 5<sup>th</sup> edition (*DSM 5*) is a type of neurodevelopmental disorder characterized by deficits in intellectual and adaptive functioning which are observed during childhood (before age 18). This was previously called “mental retardation” which is perceived as an extremely offensive term. The classifications of *ID* according to severity are mild, moderate, severe, and profound. Those with mild to moderate *ID* have mild deficits in the sense that they are slower to process information and have difficulties in learning daily living skills; however, they can still function with minimal support. Individuals with severe *ID* have major deficits and have limited communication skills. Hence, they need supervision when interacting with others. Those with profound *ID* are not able to live autonomously and need close supervision in various aspects of their lives.

Agency: Social Security Administration. Final Ruling in Federal Register is effective September 3, 2013 – change from mental retardation to intellectual disability.

**Developmental Disability (DD).** Developmental Disabilities (*DD*) are a diverse group of conditions characterized by impairments in various developmental dimensions. Such impairments appear during childhood and usually last throughout the person’s lifetime. Some of the most common developmental disabilities include Down Syndrome, Fetal Alcohol Syndrome, Cerebral Palsy, and Intellectual Disability. Particularly, the *DSM 5* sites the disorder, Global Developmental Delay for children who are younger than 5 years old with deficits in several areas. Though there is often no treatment for these disabilities, there are various treatments to ease the symptoms and modulate the severity.

Note: Physical Disabilities. Intellectual disability (*ID*) does not include physical disabilities in its criteria while developmental disability (*DD*) encompasses physical disabilities such as vision, hearing, speech, and motor disabilities.

#### **Abbreviations Pertinent to Mental Health and this RFP:**

DB = Disability

DD = Developmental Disability

ID = Intellectual Disability

I/DD = Intellectual/development Disability

DSM =Diagnostic and Statistical Manual for Mental Disorder

CMHS-The Center of Mental Health Services

B. APPLICABILITY OF GUAM PROCUREMENT LAW

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

C. ALL PARTIES TO ACT IN GOOD FAITH

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

D. LIABILITY FOR COSTS TO PREPARE PROPOSAL

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

E. REGISTRATION OF INTERESTED PARTIES (FORM A)

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

F. DESIGNATION OF REPRESENTATIVE (FORM B)

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

G. LICENSES (FORM C)

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

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

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

H. NON-RESIDENT TAX WITHHOLDING

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

I. DEBARMENT, SUSPENSION AND INELIGIBILITY

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

J. MANDATORY LOCAL DISCLOSURES

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

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

Disclosures of ownership, influence, commissions, gratuities, kickbacks, and conflicts of interest occurring during the 365 days preceding the publication of this solicitation and until award of any contract in this procurement by affidavit on the AG Procurement Form 002 is required by Offeror. The Offeror's duty to

disclose ownership, influence, commissions, gratuities, kickbacks, and conflicts of interest, and to update any prior disclosures promptly is a continuing duty, and material to this solicitation, and any contract awarded under this solicitation. The affidavit shall be open and available to the public for inspection and copying. (5 GCA §5233).

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

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

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

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

4. Affidavit Re Ethical Standards (AG Form 005)

The offeror shall submit an affidavit and represent that it has not knowingly influenced and promises that it will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Regulations.

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

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

6. Affidavit Re Contingent Fees (AG Form 007)

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

K. TYPE OF CONTRACT

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

**L. DURATION OF CONTRACT OR TERM OF SERVICE**

**1. Initial Term**

The initial term contract shall begin upon the date that the Governor approves the contract, as signified by her execution of the contract (the "Initial Term"). After the Governor has approved the contract, the government will issue a written notice to proceed notifying the vendor services are to begin. The initial term of the contract shall end September 30, 2022, subject to the appropriation, allocation and availability of funds.

**2. Renewal Term**

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

**3. Monthly Extension Periods**

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

**4. Multiple Term Contract Multiple Certification of Funds.**

The Initial Term and any subsequent term(s) of this contract are subject to the availability of funds. The funds for the first twelve (12) months (or pro-rated fiscal year if applicable) of the Initial Term of the contract are certified as part of the execution of the contract. In the event that funds are not allocated, appropriated or otherwise made available to support continuation of

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

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

#### M. COMPENSATION FOR SERVICES

The offeror and the GBHWC will negotiate an annual not to exceed budget during each year of the contract. However, the budget for Phase 2 in Fiscal Year 2023 and 2024 may be re-negotiated to adjust for economic conditions that may affect operational costs, salaries and benefits. Otherwise, object categories and staffing levels shall remain firm and place for all years of the contract, including any special monthly extension (on a pro-rata, monthly basis) for the professional services provided in keeping with this RFP.

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

##### 1. Invoices

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

All invoices shall indicate compliance to the Governor's Executive Order 2021-17 regarding mandatory vaccinations for the Coronavirus (COVID-19) or weekly tests as may be applicable during the term of the contract. Procedures are defined in Government of Guam Department of Administration Organizational Circular 2021-027, 2021-025A and 2021-025.



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

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

2. Final Payment and Release of Claims

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

N. **INDEPENDENT CONTRACTOR STATUS**

The offeror understands that its relationship with the GBHWC is as an independent contractor and not as an employee of the GBHWC. No employee benefits such as insurance coverage, participation in the government retirement system, or accumulation of vacation or sick leave shall accrue to the offeror or its individual employees, if any. No type of tax will be withheld from payments made to the awarded offeror.

O. **CONFIDENTIAL/PROPRIETARY INFORMATION**

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

confidentiality. In the event the GBHWC does not concur with the offeror's request for confidentiality, the written determination will be sent to the offeror.

**P. OWNERSHIP OF PROPOSAL**

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

**Q. EXPLANATION TO OFFERORS**

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

**R. EQUAL OPPORTUNITY - Nondiscrimination**

Offeror who is awarded the contract, warrants that no person in its employment has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry, shall provide services on behalf of the Offeror while on government of Guam property, with the exception of public highways. If any employee of the Offeror is providing services on government property and is convicted subsequent to an award of a contract, then the Offeror warrants that it will notify the government of the conviction within twenty-four hours of the conviction, and will immediately cease convicted persons from providing services on government property. If the Offeror is found to be in violation of any of the provisions of this paragraph, then the government will give notice to the Offeror to take corrective action. The Offeror shall take

corrective action within twenty-four hours of notice from the government, and the Offeror shall notify the government when action has been taken. If the Offeror fails to take corrective steps within twenty-four hours of notice from the government, then the government in its sole discretion may temporarily suspend any contract for services until corrective action has been taken.

GBHWC is an equal opportunity provider and employer and strictly adheres to a policy on nondiscrimination activities in compliance with all applicable Federal and Guam laws in its labor practices and carries out all government programs in such a manner that no person shall on the grounds of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status or political affiliation and retaliation be excluded from participating, be denied the benefits of, or be subject to discrimination with respect to any program or activities. See Title VI of the Civil Rights Act of 1964 as amended, and Presidential Executive Order 11246, as amended and other relevant Federal and Territorial requirements, and Governor Guam Executive Order 2006-16.

Service Provider shall assure that no person shall on the grounds of race, religion, color, sex including sexual harassment and orientation, national origin, age, physical or mental disability, marital status or political affiliation and retaliation be excluded from participation in, be denied benefit of, or otherwise be subjected to discrimination under any program or activity under this Agreement.

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

1. In the event it is receiving ten thousand dollars (\$10,000) or have more than fifty (50) or more employees, it shall develop an equal opportunity affirmative action plan, using standard guidelines established by the Guam Department of Labor, within sixty (60) days after the Effective Date of this contract. Furthermore, within ninety (90) days of the award and annually thereafter for the duration of the contract, Service Provider under this section shall submit affirmative action reports to the Guam Department of Labor.
2. In the event it is receiving less than ten thousand dollars (\$10,000) or has less than fifty (50) employees, it shall not be required to develop an equal opportunity affirmative action plan, except, however, Service Provider shall be strictly prohibited from discrimination on the basis of race, religion, color, sex, including sexual harassment and orientation, national origin, age, physical or mental disability, marital status or political affiliation and retaliation.
3. Service Provider shall flow through the requirement in this Section V Equal Opportunity Nondiscrimination to its subcontractors.

4. Service Provider shall comply with all Federal and Guam laws and regulations including the Guam Department of Labor laws and regulations and (new) P.L. 33-64 Guam Employment Nondiscrimination in Employment Act of 2015 codified as 22 GCA Chapter 5 Article 2, which additionally includes as unlawful employment practice or unlawful discrimination grounds race, sex (including gender identity or expression), age, religion, color, honorably discharged veteran and military status, sexual orientation, or ancestry. The definitions for “sexual orientation”, “gender identity or expression” and “veteran and military status” as set forth in 22 GCA §5202(h), (i) and (j). A Service Provider that is a “religious employer” in keeping with P.L. 33-64 §5(a) is exempt from the religious discrimination provisions of Title VII of the Civil Rights Act of 1964 as set forth in §5 in more detail. In the event Service Provider is part of Government of Guam (new) P.L. 33-64 is codified at 4 GCA Chapter 4, §4101(a) as amended.
5. If Service Provider is found not to be in compliance with the requirements in this Section V Equal Opportunity Nondiscrimination during the life of this Agreement, the Service Provider agrees to make appropriate steps to correct these deficiencies.

**S. MULTI OR ALTERNATE PROPOSALS**

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

**T. ASSIGNMENT**

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

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

**U. AMENDMENTS TO REQUEST FOR PROPOSAL**

The right is reserved as the interest of the GBHWC may require revising or amending the specifications prior to the date set for opening proposals. Such revisions and amendments, if any, will be announced by an amendment or amendments to this RFP and shall be identified as such and shall require that firms acknowledge receipt of all amendments issued. The amendment shall refer to the portions of the RFP it amends. The amendments shall be sent to all prospective offerors known to have received an RFP. The amendments shall be distributed

within a reasonable time to allow prospective firms to consider in preparing their proposals. If the time and date set for receipt of proposals will not permit such preparation, such time shall be increased to the extent possible in the amendment or, if necessary, by or telephone or email to [marilyn.aflague@gbhwc.guam.gov](mailto:marilyn.aflague@gbhwc.guam.gov) and confirmed in the amendment. **The amendment(s) must be attached to the proposal.**

**V. PROPOSAL SELECTION**

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

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

**W. ERRORS AND OMISSIONS**

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

## **II. SCOPE OF WORK, PHASE 1**

### **24-Hour Level II residential, therapeutic and support services for adults with serious/severe mental illness**

### **FISCAL YEARS 2022 (in part), 2023 & 2024**

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The scope of work utilizes the Residential Recovery Program (RRP) developed by the U.S. District Court-appointed Federal Management Team (FMT) in close collaboration with GBHWC staff. The current RRP manual can be viewed on-line at [www.gbhwg.guam.gov](http://www.gbhwg.guam.gov) and is currently under review for update and revision.

- A. Level II Criteria.
1. Consumers have a primary diagnosis of a severe mental illness (e.g., Schizophrenia, Schizoaffective Disorder, Bipolar Disorder, Major Depressive Disorder).
  2. Consumers require a moderately-structured environment, limited personal care and/or regular supervision, moderate assistance with activities of daily living.
  3. Consumers have minimal or moderate behavioral concerns.
- B. Scope of Services for five (5) consumers with serious/severe mental illness
1. Offeror will ensure appropriate housing options with 24-hour supervision for five (5) eligible consumers with severe/serious mental illness. Consumers referred to this program have been identified to be medically stable but unable to live independently in the community even with family supports and GBHWC intensive outpatient services.
  2. Offeror will provide rehabilitative and behavioral health care services with the goal of providing 24-hour care and supervision in a community base home.
  3. Behavioral health services shall be provided by Guam Behavioral Health and Wellness Center to include psychiatric, and psychological consultative services.
  4. The GBHWC psychological consultative services includes:
    - a) Annual Comprehensive Psychological Assessment/Evaluation Report;
    - b) Monthly and quarterly consultative services on behavioral strategies to improve consumers' rehabilitative goals, along with clinical recommendations, as needed.
  5. The offeror daily programming will focus on the assisting the consumer to improve the following:
    - a) Activities of daily living (ADLS);
    - b) Instrumental activities of daily living (IADLS);

- c) Social skills;
  - d) Vocational;
  - e) Management of psychiatric symptoms and family/community living skills.
- 6. The Offeror's program staff shall provide 24-hour monitoring, daily skill building programming, in-house support services for ADLS/IADLS, psychiatric symptoms management skills, assistance/training to access transportation, case management, supportive counseling, healthcare and medication management, recreational and/or leisure activities, guardian/family member training and supports, other transportation services, vocational and transitional planning services.
- 7. Offeror will assess each consumer's ADLS/IADLS, then develop a comprehensive annual rehabilitative treatment plan which will be reviewed monthly, quarterly and annually.
- 8. Offeror will provide to GBHWC staff a quarterly and annual report that includes the following items:
  - a) Health/medical to include medication changes;
  - b) Progress with ADLS/IADLS;
  - c) Progress in management of psychiatric or identified behaviors;
  - d) Recreational/leisure and family involvement;
  - e) Transitional and other recommendations.
- C. Minimum services to included, but limited to:
  - 1. Operational Services:
    - a) Facility to operate the residential home;
    - b) Supplies, food, filtered water, and first-aid kits;
    - c) Maintenance of the home, including electricity, water, telephone, cable television and internet services.
- D. Support Services:
  - 1. Daily programming and supports: Improve consumers' ability with activities of daily living (such as bathing dressing eating preparing basic meals dressing washing clothes and other grooming and hygiene activities).
  - 2. Nutritional services: Daily programming to assist consumer to select, purchase and prepare basic nutritious meals.
  - 3. Health medical and medication services: Daily programming to assist and support consumers to maintain healthy living lifestyle to include management of

healthcare/medical appointments. Staff will assist consumer to improve skills in medication management for behavioral health and medical conditions.

4. Symptom management: Daily programming to assist train and support consumer to improve skills and managing psychiatric and behavioral symptoms impacting functioning in the home with family/guardians and community.
5. Supportive counseling: Offeror will provide supportive counseling services which will include training consumer to use problem-solving skills and personal awareness skills to manage and resolve personal and interpersonal conflicts and issues.
6. Instrumental activities of daily living: Daily programming and supports to improve consumers' ability and skills with home management (e.g. house cleaning, room cleaning, laundry, yard maintenance and organization/care of personal items), time management, money management (e.g. budgeting and shopping for groceries and other supplies).
7. Vocational and educational development: Daily programming and staff support to assist consumers to identify and participate in educational, prevocational and vocational activities.
8. Recreation leisure and spiritual activities: Daily programming and staff support to assist consumers to identify and for dissipate in recreational and community based leisure activities to include spiritual activities in accordance with their individual and religious release and preferences.
9. Guardian/Family training supports and activities: Services and staff support to assist guardians and family members to improve their knowledge and skills in assisting consumer with independent and community living skills and supports.

#### E. Deliverables

Offeror will provide professional services to five (5) beds in the residential treatment facilities approved by GBHWC based on size, neatness, structure, age and suitability, with an array of services to adults with severe/serious mental illness. Currently there are five (5) consumers in the residential program.

Offeror must ensure appropriate fiscal accountability. In order to be eligible for services, a person must be an adult GBHWC consumer with severe/serious mental illness, as referred by GBHWC service providers. Consumers who progress to a level exceeding the services as evaluated and referred by GBHWC/MDDT, will be processed in a manner agreed to by GBHWC and Offeror to move to a less restrictive environment.

1. Housing
  - a. Offeror is to provide five (5) beds in an adequate, safe, stable, and appropriately supervised residential treatment facility for GBHWC adult consumers with severe/serious mental illness.
2. Administrative



- a. Offeror must be a residential treatment home services provider at the effective date of the contract and must meet all licensing requirements;
- b. Offeror must implement a 24-hour crisis service;
- c. Offeror must have cooperative agreements with medical and mental health facilities to provide emergency and ongoing medical/mental health services;
- d. Offeror must negotiate linkages with community resources for needed services and evaluations, and as required, develop formal affiliation agreements with other community agencies to provide essential services;
- e. Offeror shall implement a GBHWC Transition Plan that describes how consumers, already receiving mental health services, will be transitioned smoothly into new programs/services, with minimal disruption;
- f. Offeror shall meet on a quarterly basis with GBHWC clinical staff to provide information regarding consumers served. At these meetings, review of services provided will help evaluate the progress of services and lead to the modification of service plans as needed;
- g. The Administrative/Management office of Offeror should be located in Guam;
- h. Offeror shall coordinate all efforts closely with all GBHWC mental health programs;
- i. Offeror shall ensure that programs meet all applicable licensing and certification requirements of Guam;
- j. Offeror will provide to GBHWC staff a quarterly and annual report that includes the following items:
  - 1) Health/medical issues, concerns, appointments to include documentation of medication changes;
  - 2) Progress with ADLS/IADLS;
  - 3) Progress in management of psychiatric or identified behaviors;
  - 4) Recreational/leisure activities and family involvement;
  - 5) Transitional planning; and
  - 6) Other recommendations.

Additionally, Offeror will provide monthly invoice of services rendered.

**F. Population to be Served**

Offeror will work collaboratively and cooperatively with GBHWC to serve adult consumers with severe/serious mental illness referred by GBHWC clinical team and who meets the following criteria:

1. Age: Adults 18 years and older.
  - a. General Admission Criteria;
  - b. The consumer demonstrates symptomatology (the study of symptoms or the combined symptoms of a particular disease) consistent with the current Diagnostic and Statistical Manual of Mental Disorders;
  - c. The consumer does not require the services of a psychiatric hospital;
  - d. The consumer is not sufficiently stable to be treated outside of residential therapeutic environment;
  - e. The consumer lacks skills sufficient to maintain him/her living in the community with treatment at a lower level of care;
  - f. The consumer does not constitute a direct threat to the health and/or safety of himself/herself and others.

The specific program level of care admission criteria will be based on the program description of each home. Exception to the admission criteria will only be made with discussion and agreement amongst the consumers' treatment team (comprising of staff from GBHWC and Offeror) and the GBHWC residential admission team and only in rare and unusual circumstances.

2. Program Specific Criteria.
  - a. Level II;
  - b. Consumers require a moderately structured environment;
  - c. Consumers require limited personal care and/or regular supervision;
  - d. Consumers require moderate assistance with activities of daily living;
  - e. Consumers have moderate behavioral concerns;
  - f. Consumers may have developmental/emotional challenges.

3. Exclusion Criteria.

Any of the following criteria is sufficient for exclusion from this level of care:

- a. Suicidal/assaultive/destructive ideas, threats, plans or attempts as evidenced by degree of intent, lethality of plan, means, hopelessness or impulsiveness; or acute behavioral, cognitive, or affective loss of control that could result in danger to self or others and cannot be controlled in this setting;
- b. The consumer has medical conditions or impairments that would prevent beneficial utilization of services; medical conditions are primary and

mental health issues are secondary; the consumer is not adequately stabilized on medications, or medical conditions require ongoing care that cannot be provided within the Residential Recovery Program (RRP);

- c. The consumer requires a level of structure and supervision beyond the scope of the program;
- d. The consumer can be safely maintained and effectively treated at a less intensive level of care;
- e. The primary presenting problem is social, legal, economic (i.e., housing, family, conflict, etc.), or one of physical health without a concurrent major psychiatric episode, meeting criteria for this level of care, or admission is being used as an alternative to incarceration.

F. Mental Health Services

1. Offeror will:

- a. Develop clinical evaluation methods and maintain on a monthly basis, specific and measurable markers of progress for each consumer based on the assessment tool recommended by GBHWC clinical teams.

Services provision shall involve a collative process between Offeror and GBHWC clinical team and, most importantly the consumer and his/her family, with a goal of helping the consumer identify, access, and utilize those resources needed to assist in their rehabilitation;

- b. Assist the consumers' active involvement in all services, as well as the coordination of services;
- c. Provide or assure the precision of support services necessary to enable the consumer to maintain and succeed in community living, including but not limited to:
  - 1) Supportive counseling;
  - 2) Transportation to community services;
  - 3) Learning and performing basic living skills;
  - 4) Building a personal social network;
  - 5) Support services needed for the consumer to attain vocational goals;
  - 6) Assisting consumer in obtaining benefits for which he/she may be eligible;
  - 7) Linking consumer with other community services;
  - 8) Providing prevocational training and accompany with vocational assessments;

- 9) Parenting skills, collaboration with families, communities, and inpatient facilities;
- 10) Social, leisure time access to parks, movies, restaurants, etc., utilizing natural supports whenever feasible;
- 11) Utilizing/ developing a social support system;
- 12) Assisting the consumer in the integration of therapeutic principles and psychosocial skills into his/her natural environment and daily routine; and
- 13) When appropriate, other assessments will be provided for occupational therapy, physical therapy, and speech therapy.

2. GBHWC will:

- a. Complete a comprehensive evaluation (MDTT) which identifies the consumer's strengths and weaknesses in relation to the skill demands and support required in the particular environment in which the consumer wants to or needs to function;
- b. Provide an appropriate mix of professional services, to include when appropriate, psychiatric services, psychological services (individual therapy, group therapy, family therapy, assessments of emotional functioning, adaptive functioning, diagnostic evaluation, and behavioral assessment), and counseling. When appropriate, other assessments will be provided for occupational therapy, physical therapy, and speech therapy. Offeror will collaborate with the responsible party for dental services needed by the consumer. In the event that the consumer does not have the resources for dental service, GBHWC will cover one annual dental exam and cleaning;
- c. Upon referral to offeror program, GBHWC staff member will provide a baseline psychological assessment and evaluation report to assist offeror and staff in the development of a comprehensive rehabilitative treatment plan;
- d. GBHWC staff member will provide consultative services to assist offeror with additional behavioral strategies to improve consumers' rehabilitative progress, if warranted;
- e. GBHWC will participate in offeror's quarterly and annual review meetings. In offeror's meeting, group home staff will review consumers' progress and achievement of the rehabilitative treatment goals; and
- f. GBHWC will provide psychiatric and medication management services, if warranted.

#### G. Crisis Services

1. Crisis intervention and support services shall be provided twenty-four (24) hours per day, seven (7) days per week. Crisis services are necessary to assist consumers in controlling and resolving critical or dangerous problems that threaten personal safety or wellbeing. The focus of crisis intervention is on problems or barriers to rehabilitation that threaten the person's life or functional abilities.
2. A crisis assistance plan shall be developed within the first thirty (30) days of awarded contract describing twenty-four (24) hours accessibility of staff. In addition, each consumer shall have an individualized crisis contingency plan.

#### H. Outcome measures. (Programmatic)

All services provided must be individualized, appropriate, and aimed at improving the functioning of the consumer. The following outcome measures will be employed to determine the value of the programs and their success in achieving established goals using methods recommended by the consumer's clinical team.

1. Evidence of compliance with requirements of the program.
2. Results indicating a more social integrated person (social relations).
3. Increase of natural supports and social integration and activities with family, friends, co-workers, and neighbors; increased sense of individualism and increased sense of self-respect/indignity, as indicated by a consumer satisfaction report.
4. Increased capacity for independent functioning at a greater capacity for independent community living.
5. Increased movement toward financial stability.
6. Decrease in legal problems that may threaten or jeopardize the rehabilitative process.

In addition to the measures outlined above, a consumer satisfaction survey may be utilized to determine the satisfaction with services provided.

#### I. Consumer Rights Protection

Offeror will identify barriers and disadvantages that threaten the exercise of equal rights and equal opportunities of persons with severe/serious mental illness in the areas of housing, education and employment and will identify and when possible implement the means of eliminating those barriers for the consumers served through this contract.

Offeror will use a systematic approach to ensure the protection of rights, and equal opportunity of this population. Offeror shall provide education in personal advocacy to consumers served through the contract and their families to aid them in understanding their rights, and make them aware of the availability of external resources to assist in upholding these rights.

Offeror shall assist consumers in efforts to ensure that consumers receive appropriate housing and education services and employment consideration, support the goal of the Americans with Disabilities Act of 1990 as well as the 1973 Vocational rehabilitation Act and subsequent

amendments. Offeror shall assist consumer to eliminate unfair treatment and discrimination against the qualified workers with disabilities, to improve access to mainstream resources and to obtain consideration of disabled applicants' qualifications taking into account reasonable accommodations and support services.

Under no circumstances shall Offeror provide legal counsel or representation of consumers through this contract.

Offeror shall at all times be compliant with all laws and regulations that govern the protection of persons with disabilities and /or age.

J. Staffing Requirements

1. The GBHWC also requires offerors to present satisfactory evidence that the personnel have sufficient experience and are qualified to provide these services. Entities submitting proposal must be able to demonstrate in detail their stability in the community to provide Level II residential and support services to adults with severe/serious mental illness. The proposal must include current resumes of staff with experience providing services to adults with severe/serious mental illness, and must identify a lead staff that would be responsible for the development of the comprehensive rehabilitative treatment plans and treatment outcomes.

The following lists the minimum qualification for treatment staff with at least one member as the lead clinical staff:

- a. Social work, counseling or related fields; and
  - b. Care worker staff must have high school diploma (or GED), valid driver's license and training in rehabilitative models, behavioral health, etc. will commence upon hire).
2. Training.
    - a. Offeror shall implement and maintain, on an ongoing basis, an in- service training program for the staff, with training sessions in keeping with licensing requirements; and
    - b. Provide for intensive initial training of staff relevant to their program component, including behavioral crisis management training.
  3. Written job evaluations are to be completed annually on each staff member.

K. Programmatic Record Keeping

1. Each consumer will have a case record which will have at a minimum, the following information:
  - a. Identifying information – Gender/race/ address of the consumer; birth date and birthplace of the consumer; name and address of the consumer's current place of employment or school; court and/or legal status and name of person authorized to give consent, if applicable; the names, addresses

- and phone numbers of other persons or providers involved with the consumer case/plan; the consumer's physician's address and phone number;
- b. Health record – Must include any serious or life-threatening medical condition of the consumer, including a description of any current treatment or medication necessary for the treatment of serious or life-threatening condition(s) and /or any known allergies;
  - c. Complete history of the consumer including, where applicable: family data; employment record; prior medical history; medications; known allergies; as well as any other such pertinent information;
  - d. The Consumer assessments, evaluations and individualized plan(s), and progress measured in accordance with recommendations of GBHWC clinical team;
  - e. Any incident reports involving the consumer; and
  - f. Any other record keeping requested or mandated by Local and Federal laws.
2. Consumer records shall be stored (secured) in such a manner as to be accessible to all staff involved with the consumer and still protect the consumer's confidentiality. Closed consumer records will be retained for the period prescribed by law.
  3. Written comprehensive evaluations, service, agreements, financial assets, public housing, and nourishment stipends statements information, and quarterly summaries are to be maintained on each consumer. Quarterly summaries are to provide documentation of services provided, including outcomes achieved and/or barriers with plans to address them and personal financial information. Copies of quarterly summaries and financial information are to be provided to referring GBHWC clinical team and contract monitor.

**L. Required Documentation**

1. Offeror will employ record-keeping procedures which will provide an audit trail for expenditures and income received. Appropriate financial documentation for reimbursement must be submitted monthly to GBHWC. Failure to establish and retain adequate documentation of all expenditures represents a contractual breach and will result in disallowance of such expenditures.
2. All work under the contract shall be monitored by GBHWC. Program review of contract conditions of the statement of work will be conducted by GBHWC on a semi-annual basis, and more frequently as necessary. Offeror shall respond to issues of concern raised by GBHWC clinicians within fifteen (15) days of receipt. GBHWC will be responsible for conducting site visits as a means for conducting any program reviews of the contract.
3. Results of program evaluations will be made available for periodic surveys by GBHWC.

4. GBHWC is responsible for the technical direction of the contract, which includes reviewing and accepting all reports relative to consumer services, financial documentation and verification, and other reports as requested. Notwithstanding any other terms of the contract, failure of Offeror to submit required reports when due, perform services, or deliver required work will result in the withholding of payments under the contract.
5. Offeror will document each consumer's financial information on a GBHWC form that describes a consumer's availability of funds from any source that may provide for housing, nourishment, and money to be spent for the consumer's needs. This completed form will be submitted monthly as an attachment to the monthly invoices for payment of services.

M. Admission and Discharge

1. Admission/Referrals for Admission:

All referrals for admission will come from GBHWC. Treatment Team will be sent to Offeror for review. All appropriate consumers shall be accepted, or discussion of denial shall be held, with GBHWC clinical team.

2. Discharges:

Discharge Planning is a dynamic process which shall be developed with active participation of the consumer, and is initiated when discharge criteria (i.e., the conditions under which services are no longer clinically necessary). Discharge Plans shall include a written summary of the consumer's program, progress, date and reason for discharge and recommendations and referrals for further treatment and services. Discharge Plans must be completed within 30 days of discharge by the residential clinical staff, the guardian (if applicable) and/or consumer, and a copy forwarded to the referring GBHWC clinician.

- a. PLANNED – The consumer is discharged from the program according to time frames established in the service agreement with consensus of the consumer and/or their guardian, Offeror and treatment personnel.
- b. UNPLANNED – If a consumer elopes or voluntarily leaves, Offeror must make every effort to find the consumer and assist in finding appropriate alternative housing if recommended. Efforts could include (but are not limited to) contacting law enforcement and family.
- c. EMERGENCY – Offeror shall have an emergency management plan in place which covers event to include: elopement, criminal behavioral, medical and psychiatric emergencies and natural and manmade disasters. The plan shall include the mitigation, preparedness, staff orientation of the plan, response and rehabilitation. A consumer may be removed from the program by Offeror when the consumer's continued presence poses a danger to self and other consumers, staff or members of the community.

Formal notice for the emergency discharge must be provided to treatment personnel and GBHWC within twenty-four (24) hours after discharge.



N. Fraud and Abuse

1. Offeror shall have internal controls and policies and procedures in place that are designed to prevent, detect, and report known or suspected fraud and abuse activities.
2. Such policies and procedures must be in accordance with local and federal regulations. Offeror shall have adequate staffing and resources to investigate unusual incidents and develop and implement corrective action plans to assist Offeror in preventing and detection potential fraud and abuse activities.

O. Designated Point of Contact. Offeror shall have an assigned staff member who will be responsible for primary oversight of the contract. This individual will schedule meetings to discuss progress of activities and problems identified.

### **III. SCOPE OF WORK, PHASE II**

#### **Residential, therapeutic and support services for adults with serious/severe mental illness with co-occurring intellectual disabilities FISCAL YEAR 2023 & 2024**

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In PHASE II, Offerors will continue to do the full scope of Work set forth in PHASE I, but additionally also then provide Level II residential, therapeutic and support services for a combined total of up to ten (10) adults with serious/severe mental illness, with or without co-occurring intellectual disabilities (up to 5 adults with SMI in Phase I and an additional transition of up to five (5) more SMI/ID adults, in keeping with Phase II).

- A. Level II Criteria. Residential program with the following criteria:
  - 1. Consumers have a primary diagnosis of a severe mental illness (e.g., Schizophrenia, Schizoaffective Disorder, Bipolar Disorder, Major Depressive Disorder) and have mild-to-moderate intellectual disability.
  - 2. Consumers require a moderately-structured environment, limited personal care and/or regular supervision, moderate assistance with activities of daily living.
  - 3. Consumers have minimal or moderate behavioral concerns.
- B. Scope of Work. Potential offerors are required to submit a written plan that describes how they will lead in efforts to develop and implement the following scope of work:
  - 1. To oversee the residential, therapeutic, and operational services to the home providing best efforts to the performance of professional services as outlined below in accordance with laws, rules, regulations, and policies of the Government.
  - 2. To provide services for five (5) individuals with co-occurring intellectual disabilities.
    - a. The residential management and operations of the home shall be in a safe and secure house that shall adequately accommodate the clients and located within walking distance to public recreation facilities, educational facilities, public health center, convenience stores and food establishments; all within a community/residential setting and accessible to public transportation.
  - 3. To provide operational services but shall not be limited to:
    - a. Purchase of supplies and other amenities needed for the operational services; and
    - b. Direct payment for all utilities to include power, water, telephone, cable, and internet services.
  - 4. To provide care worker services shall include assistance to the residents to achieve great self-determination utilizing a recovery-oriented model and providing the following supportive services:

- a. Personal Management: Perform appropriate individual grooming/hygiene activities (bathing, dressing up in appropriate and clean clothes) with minimal supervision;
  - b. Nutritional Management: Able to identify, purchase and prepare nutritional food items with moderate supervision;
  - c. Money Management: Able to develop and maintain a personal budget with moderate supervision;
  - d. Home Management: Able to clean their bedroom as well as the communal rooms with minimal supervision. Able to appropriately perform household chores, yard maintenance and laundry with minimal supervision;
  - e. Medication Management: Able to identify prescribed medication(s) and understand the purpose and importance of its use as well as side effects. Able to identify and know the time of medication intake as well as the prescribed dosage;
  - f. Daily Time Management: Able to wake up at an appropriate time. Able to participate in the scheduling of their day with program staff. Able to utilize and maintain their day's schedule with minimal supervision;
  - g. Problem Solving: Able to identify and discuss problems in a timely and appropriate manner;
  - h. Personal Safety Awareness: Able to recognize the proper use and storage of kitchen utensils, electrical appliances and household cleaners. Able to recite emergency numbers and recognize the report personal dangerous situations;
  - i. Participation in Community-based and home-based activities;
  - j. Vocational Skills: Participate in vocational programs (e.g. Vocational Rehabilitation, Department of Labor-Adult Program, etc.) and/or GBHWC Day Treatment Program;
  - k. Activities in Daily Living (ADL) Program: Daily activities (personal, nutritional, money, home, medication, time management, problem solving and personal safety);
  - l. Supportive Counseling: Learn appropriate and acceptable behaviors;
5. To provide adequate living and sleeping accommodations meeting reasonable accessibility requirements of the Americans with Disabilities Act (ADA), as amended, and ensure the facility is secure and safe from any potential hazards.
  6. To provide a safe and humane environment for each consumer and shall commit to zero tolerance for abuse or neglect of each consumer.
  7. To ensure program staff complete required Cardiopulmonary Resuscitation (CPR) and Non-violent Crisis Intervention (NCI) training, and Health Information Portability and Accountability Act (HIPAA) Awareness in-service on a regular basis.
  8. To ensure the custody, care, control and storage of consumer records, reports and support plans are maintained with strict confidentiality and made accessible to the GBHWC and its authorized representatives and must be subject to audit,

- monitoring and evaluation. Program staff must maintain a service record in each consumer file, charting progress, program updates and other concerns.
9. To ensure any and all medications prescribed or non-prescribed are secured in a safe and locked cabinet. Provision of care over any controlled substance must also be maintained.
  10. To provide transportation and supervision of all consumers activities and appointments including but not limited to psychiatric, medical, dental and vocational when necessary and/or indicated in consumer's service/behavioral plans.
  11. To provide services to the aforementioned site 24 hours a day, seven days a week, Monday through Sunday, including holidays.
  12. To include the administrative activities associated with the home.
  13. To collaborate with the GBHWC program supervisor on rules and regulations of the home including utilization of established forms for reporting.
    - a. To document daily consumer activities and services in daily logs, and to make available upon request to the GBHWC Director or his designee;
    - b. To develop and to post bulletin of calendaring quarterly events;
    - c. To provide monthly detailed programmatic and financial reports on program activities on the 10<sup>th</sup> day preceding the month the activities were performed; and
    - d. To submit invoices monthly on the 10<sup>th</sup> day proceeding the month costs were incurred.
  14. To use program policies and procedures when responding to emergency/crisis intervention or to any related emergency that arises. These policies and procedures shall incorporate the GBHWC policies and procedures when applicable. To utilize emergency assistance from public service providers, as it deems necessary.
  15. To provide complete monthly reports of home activities for the daily operations of services that are provided including all incident reports documenting patterns and trends of incidents and injuries and provide recommendations for reducing incidents and injuries in the future. The GBHWC's program manager will collaborate with the Contractor on the reporting requirement format and make available the format for information to the contract and receive monthly-completed information.
  16. To ensure that all activities adhere to standards set by the Government and the departmental policies and procedures or will approximate these as much as possible in the event of personnel shortage or resource unavailability.
  17. To ensure that the environment is adequately hazard free, is clean and in good repair. The GBHWC's safety officer and/or staff will have access to the facility at any time. Violations cited by the GBHWC's safety officer and/or staff will be corrected within the time frame set for compliance. The GBHWC has the option to reduce the monthly payment to the service provider by 10% until compliance is verified. Contractor will be provided a copy of the Housing Safety Inspection

Checklist (HSIC) that will be used by the safety officer and/or staff to be familiar with the requirements of the safety inspection.

18. To be subjected to placement, treatment and discharge decisions made by the GBHWC.
19. To discuss and advise the GBHWC Director or his designee on areas or issues of concern that is directly related to the services, operations, resources, and facilities of the GBHWC. The GBHWC Director or his designee will respond to these concerns in writing within ten (10) days from being notified by the Contractor and shall make every effort to expediently resolve such concerns with the Contractor.
20. To ensure that treatment staff consists of
  - a. At least one lead treatment specialist or clinical supervisor with a master's degree in psychology, social work, counseling, or related fields.
  - b. Care workers with a high school grade degree and a valid driver's license.
21. To adhere to the Grievance and Appeals Policy and Procedures as stipulated in the court decision in Civil Case 01-00041 and 04-00005. Notice of the right to file a complaint as well as the right to appeal decisions on services rendered will be given to the consumer or official representative.
22. To report and be responsible to GBHWC Director or designee.

## IV. PROPOSED CONTENTS, REQUIREMENTS, AND INSTRUCTIONS

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### A. GENERAL INSTRUCTIONS

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

1. Written Proposals

All proposals must be type-written using a 12-point font preferably but no smaller than 10-point font with all pages numbered consecutively. The GBHWC will not accept handwritten proposals.

2. Title Page

The title page must have the name of the offeror, the location of the offeror's principal place of business, telephone and facsimile numbers, and email address.

3. Table of Contents.

The proposal must be organized with headings/titles, references or subjects and page numbers listed in the table of contents.

4. Designations of Contact Person.

A responsible official must be identified by name, title and contact information if different from the offeror's. The designated official must be able to answer any questions regarding the offeror's proposal and must be able to negotiate the fee and other contract terms. (FORM B)

5. Licenses, certifications, financial statements.

A business license, the offeror's federal employer identification number (EIN), or tax identification number (TIN), if any. Current financial statement or audit of the past five years of operation. (FORM C)

6. Statement of understanding.

A statement of understanding and willingness expressing the offeror's understanding of the work to be accomplished as specified in Section II scope of services, and a statement of positive commitment and willingness to perform the services.

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

14. Mandatory Forms

- a. Proposal Registration (Form A).
- b. Proposal Signature (Form B).
- c. Submitting Licenses (Form C).
- d. Affidavit re Disclosing Ownership and Commission – AG Form 002.
- e. Affidavit re Non-Collusion – AG Form 003.
- f. No Gratuities or Kickbacks Affidavit – AG Form 004.
- g. Ethical Standards Affidavit – AG Form 005.
- h. Wage Determination and Benefit – AG Form 006.
- i. Contingent Fees – AG Form 007.
- j. Acknowledgment of Sample Business Associate Agreement Form D.
- k. Cost Proposal (Annual Budget) – Form F.
- l. Governor’s Executive Order 2021-17 and Pertinent and relative Department of Administration Organizational Circulars 2021-027, 2021-025A and 2021-025 . Form G.

Note: Form E is part of this proposal, but only as a sample contract that does not have to be submitted with the proposal offer.

B. REQUIREMENTS AND INSTRUCTIONS

1. All proposals shall be submitted in writing. It should include a listing of current and former business clients and a description of the type of work performed or being performed. If the offeror is a firm, the proposal should include a resume of the firm’s principal(s).
2. The offeror is required to read each page of the proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein except as noted elsewhere. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening. The proposals shall be filled out in ink or typewritten and signed in ink. The erasures or other changes in a proposal must be explained or noted over the signature of the offeror. The erasures, strikeouts, or other types of changes that are evident on their face made to a proposal must be explained or noted over the signature of the offeror. The proposals containing any conditions, omissions, unexplained erasures or alterations or items not called for in the proposal or irregularities of any kind shall be rejected by GBHWC as being incomplete.
3. The GBHWC also requires respondents to present satisfactory evidence that the consultancy and personnel have sufficient experience and are qualified to provide these services. Entities submitting proposal must be able to demonstrate in detail their stability in the community to provide the scopes of work stated in Section II Phase I and Section III Phase II. The proposal must include current resumes of treatment staff with experience and expertise in treatment, certification as



substance treatment counselors, and **must identify a lead current treatment specialist or clinical supervisor** that would be responsible for treatment outcomes and contractual performance. The following lists the minimum qualifications for treatment staff with at least one member as the Lead Treatment Specialist.

- a. Lead treatment specialist or clinical supervisor must have a master's degree in any psychology, social work, counseling, or related fields.
- b. Care worker staff must have high school diploma (or GED), valid driver's license and training in recovery models, behavioral health, etc. (will commence upon hire).

## V. GENERAL PROCEDURES

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### A. QUESTIONS

On or before 4:30 P.M. on **December 17, 2021**, questions concerning this request for proposal may be asked in writing and written answers will be given as soon as possible or before the deadline. Hard or electronic copies of the question(s) and answer(s) will be sent only to interested parties who have registered.

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

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

### B. PROPOSALS

1. All proposals and modifications will be time-stamped upon receipt and held in a secure place until the established due date below. Proposals and modifications received after the due date and time will not be considered. It is the sole responsibility of each offeror to assure that its proposal is delivered at the specified location prior to the deadline. Proposals which, for any reason, are not so delivered will not be considered. The deadline for **receipt** of proposals by the GBHWC is **no later than 4:30 P.M. Chamorro Standard Time, January 11, 2022.**

2. All proposals must be submitted via U.S. mail, courier, or hand delivery to the attention of the Director, GBHWC. Proposals will not be accepted via facsimile (fax) or electronic mail (e-mail) as these two mediums do not allow proposals to be sealed or submitted in an original form with multiple copies.

**Mailing & Delivery Address:**

Theresa C. Arriola, Director

Guam Behavioral Health and Wellness Center

790 Governor Carlos G. Camacho Road

Tamuning, Guam 96913

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

- a. One (1) original, one (1) electronic copy (flash drive) and four (4) hard copies of the **technical part** of the proposal and
  - b. One (1) original and four (4) hard copies of the **cost/budget** proposal.
3. Envelopes **must be sealed** and marked on the face with the name and address of the offeror, the proposal number and the time and date of submission.

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

#### C. OPENING OF PROPOSALS

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

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

#### D. PROPOSAL EVALUATION AND ASSIGNED WEIGHTS

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

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

7. Evaluation Criteria and Assigned Weights:

| EVALUATION CRITERIA  | ASSIGNED WEIGHTS |
|--|------------------|
| <b>Introduction/Understanding of RFP:</b> – The organization’s familiarity with the needs of the consumers and knowledge of overall services and support required.   | 10               |
| <b>Work Plan/Project Execution:</b> The organization’s description of how they will provide services detailed in Section II & Section III Scope of Work.   | 35               |
| <b>Corporate Experience:</b> Experience in successfully managing projects, inclusive of similar projects accomplished or underway. Demonstrated ability to meet schedules, deadlines or reporting requirements or a history of work with the GBHWC to include cooperativeness, openness, and collegial relationship. | 15               |
| <b>Qualification of Personnel:</b> The qualifications and abilities of key personnel proposed to be assigned to perform the services as reflected by technical training and education, developmental disabilities experience, and other specific experience.   | 20               |
| <b>Financial Information:</b> Current Financial Statement(s) or audit within the last five years that demonstrates offeror’s financial ability to sustain first year’s operations without the revenue from this proposal’s contract.   | 10               |
| <b>Equipment, Facilities and Software:</b> The equipment, computer systems; accounting software, and facilities to perform the required services that are available or will be made readily available at the time of contracting.  | 10               |
| <b>Total</b>   | <b>100</b>       |

E. NEGOTIATION AND AWARD OF CONTRACT

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

1. Making certain that the offeror has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services.
2. Determining that the offeror will make available the necessary personnel to perform the services within the required time.

3. Agreeing upon compensation which is fair and reasonable within the local market, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

F. RIGHT TO REJECT OFFERS AND CANCEL THE PROCUREMENT

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

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

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

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

## VI. CONTRACTUAL TERMS

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### A. GENERAL REQUIREMENTS

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

### B. SAMPLE CONTRACT

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

## PROPOSAL FORMS CHECKLIST

| Form No. | Forms to Be Completed and Submitted (except E)   | Page No. |
|----------|--|----------|
| A        | Proposal Registration  | 44       |
| B        | Proposal Signature Form  | 45       |
| C        | Form for Submitting All Licenses   | 46       |
| 002      | Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest           | 47-50    |
| 003      | Affidavit Re Non-Collusion   | 51       |
| 004      | Affidavit Re Gratuities or Kickbacks   | 52       |
| 005      | Affidavit Re Ethical Standards   | 53       |
| 006      | Declaration Re Compliance with U.S. DOL Wage Determination                                 | 54-67    |
| 007      | Affidavit RE Contingent Fees   | 68       |
| D        | Sample of Business Associate Agreement Provisions (must acknowledge last page)             | 69-76    |
| E        | Sample Contract ( <b>Sample only; do not submit</b> )                                      | 77-100   |
| F        | Cost/Budget Proposal, Phase 1, Phase 2 and combined (Must be in separate, sealed envelope) | 101-106  |
| G        | Executive Order 2021-017 and DOA Organizational Circular 2021-027, 2021-025A and 2021-025  | 107-142  |

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



## GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER

### GBHWC RFP 2022-02

Professional Services Providing 24-Hour Level II Residential, Therapeutic  
And Support Services For Adults with Serious/Severe Mental Illness  
With or without Co-occurring Intellectual Disabilities

### **PROPOSAL REGISTRATION (FORM A)**

The individual, firm, entity or organization identified below is an interested party and/or “Offeror” to GBHWC RFP 2022-02 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 (FORM B)**

**For GBHWC RFP 2022-02**

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 01-2020**

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

**[    ] Business License**

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

**[    ] Fictitious Name Registration**

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

**[    ] Certificate of Incorporation**

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

**[    ] Federal I.D.#\_\_\_\_\_****[    ] Other Attachments. Please indicate:\_\_\_\_\_****[    ] Please check here if there are no attachments to this form.**

Authorized Signature:\_\_\_\_\_Date:\_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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

|  |
|--|
|  |
|--|

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

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

|  |
|--|
|  |
|--|

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

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

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

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

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

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

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

| Name | Principal Place of Business Street Address | Amount of Compensation |
|------|--|------------------------|
|      |  |                        |
|      |  |                        |

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

| Name | Principal Place of Business Street Address |
|------|--|
|      |  |
|      |  |

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

| Name | Principal Place of Business Street Address |
|------|--|
|      |  |
|      |  |

///

///

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

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

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

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

Subscribed and sworn to before me

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

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

## AFFIDAVIT RE NON-COLLUSION

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

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

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

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

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

Signature of one of the following:

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

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

## AFFIDAVIT RE GRATUITIES OR KICKBACKS

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

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

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

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

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

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

---

Signature of one of the following:

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

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

AG Procurement Form 004 (Jul. 12, 2010)



## **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 \_\_\_\_\_

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

Wage Determination No.: 2015-5693  
Daniel W. Simms Division of | Revision No.: 14  
Director Wage Determinations | Date Of Last Revision: 10/20/2021

Note: Under Executive Order (EO) 13658 an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2015. If this contract is covered by the EO the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination if it is higher) for all hours spent performing on the contract in calendar year 2021. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

States: Guam Northern Marianas Wake Island

Area: Guam Statewide

Northern Marianas Statewide

Wake Island Statewide

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

| OCCUPATION CODE - TITLE                                 | FOOTNOTE | RATE  |
|---|----------|-------|
| 01000 - Administrative Support And Clerical Occupations |          |       |
| 01011 - Accounting Clerk I                              |          | 13.57 |
| 01012 - Accounting Clerk II                             |          | 15.23 |
| 01013 - Accounting Clerk III                            |          | 17.04 |
| 01020 - Administrative Assistant                        |          | 21.43 |
| 01035 - Court Reporter                                  |          | 17.40 |
| 01041 - Customer Service Representative I               |          | 11.51 |
| 01042 - Customer Service Representative II              |          | 12.94 |
| 01043 - Customer Service Representative III             |          | 14.12 |
| 01051 - Data Entry Operator I                           |          | 12.15 |
| 01052 - Data Entry Operator II                          |          | 13.25 |
| 01060 - Dispatcher Motor Vehicle                        |          | 17.39 |
| 01070 - Document Preparation Clerk                      |          | 13.85 |
| 01090 - Duplicating Machine Operator                    |          | 13.85 |
| 01111 - General Clerk I                                 |          | 10.35 |
| 01112 - General Clerk II                                |          | 11.29 |
| 01113 - General Clerk III                               |          | 12.68 |
| 01120 - Housing Referral Assistant                      |          | 19.39 |
| 01141 - Messenger Courier                               |          | 11.37 |
| 01191 - Order Clerk I                                   |          | 12.57 |
| 01192 - Order Clerk II                                  |          | 13.71 |

|  |       |
|--|-------|
| 01261 - Personnel Assistant (Employment) I           | 15.95 |
| 01262 - Personnel Assistant (Employment) II          | 17.85 |
| 01263 - Personnel Assistant (Employment) III         | 19.89 |
| 01270 - Production Control Clerk                     | 21.78 |
| 01290 - Rental Clerk                                 | 11.10 |
| 01300 - Scheduler Maintenance                        | 15.55 |
| 01311 - Secretary I                                  | 15.55 |
| 01312 - Secretary II                                 | 17.40 |
| 01313 - Secretary III                                | 19.39 |
| 01320 - Service Order Dispatcher                     | 15.40 |
| 01410 - Supply Technician                            | 21.43 |
| 01420 - Survey Worker                                | 16.96 |
| 01460 - Switchboard Operator/Receptionist            | 10.36 |
| 01531 - Travel Clerk I                               | 13.01 |
| 01532 - Travel Clerk II                              | 14.12 |
| 01533 - Travel Clerk III                             | 15.09 |
| 01611 - Word Processor I                             | 14.53 |
| 01612 - Word Processor II                            | 16.31 |
| 01613 - Word Processor III                           | 18.26 |
| 05000 - Automotive Service Occupations               |       |
| 05005 - Automobile Body Repairer Fiberglass          | 15.46 |
| 05010 - Automotive Electrician                       | 14.52 |
| 05040 - Automotive Glass Installer                   | 13.58 |
| 05070 - Automotive Worker                            | 13.58 |
| 05110 - Mobile Equipment Servicer                    | 11.65 |
| 05130 - Motor Equipment Metal Mechanic               | 15.46 |
| 05160 - Motor Equipment Metal Worker                 | 13.58 |
| 05190 - Motor Vehicle Mechanic                       | 15.46 |
| 05220 - Motor Vehicle Mechanic Helper                | 10.66 |
| 05250 - Motor Vehicle Upholstery Worker              | 12.64 |
| 05280 - Motor Vehicle Wrecker                        | 13.58 |
| 05310 - Painter Automotive                           | 14.52 |
| 05340 - Radiator Repair Specialist                   | 13.58 |
| 05370 - Tire Repairer                                | 12.67 |
| 05400 - Transmission Repair Specialist               | 15.46 |
| 07000 - Food Preparation And Service Occupations     |       |
| 07010 - Baker  | 10.47 |
| 07041 - Cook I                                       | 13.26 |
| 07042 - Cook II                                      | 15.46 |
| 07070 - Dishwasher                                   | 9.31  |
| 07130 - Food Service Worker                          | 9.45  |
| 07210 - Meat Cutter                                  | 12.13 |
| 07260 - Waiter/Waitress                              | 9.27  |
| 09000 - Furniture Maintenance And Repair Occupations |       |
| 09010 - Electrostatic Spray Painter                  | 18.04 |
| 09040 - Furniture Handler                            | 10.95 |
| 09080 - Furniture Refinisher                         | 18.04 |
| 09090 - Furniture Refinisher Helper                  | 13.27 |
| 09110 - Furniture Repairer Minor                     | 15.70 |
| 09130 - Upholsterer                                  | 18.04 |
| 11000 - General Services And Support Occupations     |       |
| 11030 - Cleaner Vehicles                             | 9.35  |
| 11060 - Elevator Operator                            | 9.54  |
| 11090 - Gardener                                     | 13.00 |
| 11122 - Housekeeping Aide                            | 9.54  |
| 11150 - Janitor                                      | 9.54  |
| 11210 - Laborer Grounds Maintenance                  | 9.82  |
| 11240 - Maid or Houseman                             | 9.32  |
| 11260 - Pruner                                       | 8.79  |

|  |       |
|--|-------|
| 11270 - Tractor Operator                                     | 11.90 |
| 11330 - Trail Maintenance Worker                             | 9.82  |
| 11360 - Window Cleaner                                       | 10.66 |
| 12000 - Health Occupations                                   |       |
| 12010 - Ambulance Driver                                     | 18.23 |
| 12011 - Breath Alcohol Technician                            | 18.23 |
| 12012 - Certified Occupational Therapist Assistant           | 25.01 |
| 12015 - Certified Physical Therapist Assistant               | 25.01 |
| 12020 - Dental Assistant                                     | 16.32 |
| 12025 - Dental Hygienist                                     | 36.12 |
| 12030 - EKG Technician                                       | 25.99 |
| 12035 - Electroneurodiagnostic Technologist                  | 25.99 |
| 12040 - Emergency Medical Technician                         | 18.23 |
| 12071 - Licensed Practical Nurse I                           | 16.30 |
| 12072 - Licensed Practical Nurse II                          | 18.23 |
| 12073 - Licensed Practical Nurse III                         | 20.32 |
| 12100 - Medical Assistant                                    | 12.26 |
| 12130 - Medical Laboratory Technician                        | 18.82 |
| 12160 - Medical Record Clerk                                 | 13.61 |
| 12190 - Medical Record Technician                            | 17.77 |
| 12195 - Medical Transcriptionist                             | 16.30 |
| 12210 - Nuclear Medicine Technologist                        | 40.06 |
| 12221 - Nursing Assistant I                                  | 11.34 |
| 12222 - Nursing Assistant II                                 | 12.75 |
| 12223 - Nursing Assistant III                                | 13.91 |
| 12224 - Nursing Assistant IV                                 | 15.61 |
| 12235 - Optical Dispenser                                    | 18.23 |
| 12236 - Optical Technician                                   | 16.30 |
| 12250 - Pharmacy Technician                                  | 15.49 |
| 12280 - Phlebotomist   | 16.30 |
| 12305 - Radiologic Technologist                              | 25.33 |
| 12311 - Registered Nurse I                                   | 23.18 |
| 12312 - Registered Nurse II                                  | 28.36 |
| 12313 - Registered Nurse II Specialist                       | 28.36 |
| 12314 - Registered Nurse III                                 | 34.32 |
| 12315 - Registered Nurse III Anesthetist                     | 34.32 |
| 12316 - Registered Nurse IV                                  | 41.13 |
| 12317 - Scheduler (Drug and Alcohol Testing)                 | 22.58 |
| 12320 - Substance Abuse Treatment Counselor                  | 22.58 |
| 13000 - Information And Arts Occupations                     |       |
| 13011 - Exhibits Specialist I                                | 21.20 |
| 13012 - Exhibits Specialist II                               | 26.27 |
| 13013 - Exhibits Specialist III                              | 32.13 |
| 13041 - Illustrator I  | 21.20 |
| 13042 - Illustrator II                                       | 26.27 |
| 13043 - Illustrator III                                      | 32.13 |
| 13047 - Librarian  | 29.09 |
| 13050 - Library Aide/Clerk                                   | 16.88 |
| 13054 - Library Information Technology Systems Administrator | 26.27 |
| 13058 - Library Technician                                   | 16.64 |
| 13061 - Media Specialist I                                   | 18.96 |
| 13062 - Media Specialist II                                  | 21.20 |
| 13063 - Media Specialist III                                 | 23.63 |
| 13071 - Photographer I                                       | 18.96 |
| 13072 - Photographer II                                      | 21.20 |
| 13073 - Photographer III                                     | 26.27 |
| 13074 - Photographer IV                                      | 32.13 |
| 13075 - Photographer V                                       | 38.88 |

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|---|-------|
| 13090 - Technical Order Library Clerk                         | 21.20 |
| 13110 - Video Teleconference Technician                       | 18.96 |
| 14000 - Information Technology Occupations                    |       |
| 14041 - Computer Operator I                                   | 15.71 |
| 14042 - Computer Operator II                                  | 17.22 |
| 14043 - Computer Operator III                                 | 19.19 |
| 14044 - Computer Operator IV                                  | 21.33 |
| 14045 - Computer Operator V                                   | 23.62 |
| 14071 - Computer Programmer I (see 1)                         | 15.73 |
| 14072 - Computer Programmer II (see 1)                        | 19.50 |
| 14073 - Computer Programmer III (see 1)                       | 23.84 |
| 14074 - Computer Programmer IV (see 1)                        |       |
| 14101 - Computer Systems Analyst I (see 1)                    | 24.23 |
| 14102 - Computer Systems Analyst II (see 1)                   |       |
| 14103 - Computer Systems Analyst III (see 1)                  |       |
| 14150 - Peripheral Equipment Operator                         | 15.71 |
| 14160 - Personal Computer Support Technician                  | 21.33 |
| 14170 - System Support Specialist                             | 21.24 |
| 15000 - Instructional Occupations                             |       |
| 15010 - Aircrew Training Devices Instructor (Non-Rated)       | 24.23 |
| 15020 - Aircrew Training Devices Instructor (Rated)           | 29.32 |
| 15030 - Air Crew Training Devices Instructor (Pilot)          | 34.91 |
| 15050 - Computer Based Training Specialist / Instructor       | 24.23 |
| 15060 - Educational Technologist                              | 27.61 |
| 15070 - Flight Instructor (Pilot)                             | 34.91 |
| 15080 - Graphic Artist  | 20.47 |
| 15085 - Maintenance Test Pilot Fixed Jet/Prop                 | 34.91 |
| 15086 - Maintenance Test Pilot Rotary Wing                    | 34.91 |
| 15088 - Non-Maintenance Test/Co-Pilot                         | 34.91 |
| 15090 - Technical Instructor                                  | 17.67 |
| 15095 - Technical Instructor/Course Developer                 | 23.78 |
| 15110 - Test Proctor  | 15.70 |
| 15120 - Tutor   | 15.70 |
| 16000 - Laundry Dry-Cleaning Pressing And Related Occupations |       |
| 16010 - Assembler   | 10.12 |
| 16030 - Counter Attendant                                     | 10.12 |
| 16040 - Dry Cleaner   | 11.56 |
| 16070 - Finisher Flatwork Machine                             | 10.12 |
| 16090 - Presser Hand  | 10.12 |
| 16110 - Presser Machine Drycleaning                           | 10.12 |
| 16130 - Presser Machine Shirts                                | 10.12 |
| 16160 - Presser Machine Wearing Apparel Laundry               | 10.12 |
| 16190 - Sewing Machine Operator                               | 12.04 |
| 16220 - Tailor  | 12.52 |
| 16250 - Washer Machine  | 10.60 |
| 19000 - Machine Tool Operation And Repair Occupations         |       |
| 19010 - Machine-Tool Operator (Tool Room)                     | 19.46 |
| 19040 - Tool And Die Maker                                    | 24.46 |
| 21000 - Materials Handling And Packing Occupations            |       |
| 21020 - Forklift Operator                                     | 13.96 |
| 21030 - Material Coordinator                                  | 21.78 |
| 21040 - Material Expediter                                    | 21.78 |
| 21050 - Material Handling Laborer                             | 11.37 |
| 21071 - Order Filler  | 9.76  |
| 21080 - Production Line Worker (Food Processing)              | 13.96 |
| 21110 - Shipping Packer                                       | 17.12 |
| 21130 - Shipping/Receiving Clerk                              | 17.12 |
| 21140 - Store Worker I  | 15.22 |
| 21150 - Stock Clerk   | 21.40 |

|   |       |
|---|-------|
| 21210 - Tools And Parts Attendant   | 13.96 |
| 21410 - Warehouse Specialist  | 13.96 |
| 23000 - Mechanics And Maintenance And Repair Occupations                      |       |
| 23010 - Aerospace Structural Welder   | 25.04 |
| 23019 - Aircraft Logs and Records Technician                                  | 19.47 |
| 23021 - Aircraft Mechanic I   | 23.84 |
| 23022 - Aircraft Mechanic II  | 25.04 |
| 23023 - Aircraft Mechanic III   | 26.30 |
| 23040 - Aircraft Mechanic Helper  | 16.58 |
| 23050 - Aircraft Painter  | 22.39 |
| 23060 - Aircraft Servicer   | 19.47 |
| 23070 - Aircraft Survival Flight Equipment Technician                         | 22.39 |
| 23080 - Aircraft Worker   | 21.03 |
| 23091 - Aircrew Life Support Equipment (ALSE) Mechanic I                      | 21.03 |
| 23092 - Aircrew Life Support Equipment (ALSE) Mechanic II                     | 23.84 |
| 23110 - Appliance Mechanic  | 19.46 |
| 23120 - Bicycle Repairer  | 15.61 |
| 23125 - Cable Splicer   | 19.59 |
| 23130 - Carpenter Maintenance   | 16.07 |
| 23140 - Carpet Layer  | 18.20 |
| 23160 - Electrician Maintenance   | 18.05 |
| 23181 - Electronics Technician Maintenance I                                  | 18.20 |
| 23182 - Electronics Technician Maintenance II                                 | 19.46 |
| 23183 - Electronics Technician Maintenance III                                | 20.72 |
| 23260 - Fabric Worker   | 16.94 |
| 23290 - Fire Alarm System Mechanic  | 16.77 |
| 23310 - Fire Extinguisher Repairer  | 15.61 |
| 23311 - Fuel Distribution System Mechanic                                     | 20.72 |
| 23312 - Fuel Distribution System Operator                                     | 15.61 |
| 23370 - General Maintenance Worker  | 12.01 |
| 23380 - Ground Support Equipment Mechanic                                     | 23.84 |
| 23381 - Ground Support Equipment Servicer                                     | 19.47 |
| 23382 - Ground Support Equipment Worker                                       | 21.03 |
| 23391 - Gunsmith I  | 15.61 |
| 23392 - Gunsmith II   | 18.20 |
| 23393 - Gunsmith III  | 20.72 |
| 23410 - Heating Ventilation And Air-Conditioning Mechanic                     | 17.50 |
| 23411 - Heating Ventilation And Air Contidioning Mechanic (Research Facility) | 18.61 |
| 23430 - Heavy Equipment Mechanic  | 19.27 |
| 23440 - Heavy Equipment Operator  | 17.76 |
| 23460 - Instrument Mechanic   | 20.72 |
| 23465 - Laboratory/Shelter Mechanic   | 19.46 |
| 23470 - Laborer   | 11.37 |
| 23510 - Locksmith   | 19.46 |
| 23530 - Machinery Maintenance Mechanic  | 23.13 |
| 23550 - Machinist Maintenance   | 20.72 |
| 23580 - Maintenance Trades Helper   | 10.67 |
| 23591 - Metrology Technician I  | 20.72 |
| 23592 - Metrology Technician II   | 22.03 |
| 23593 - Metrology Technician III  | 23.33 |
| 23640 - Millwright  | 20.72 |
| 23710 - Office Appliance Repairer   | 19.46 |
| 23760 - Painter Maintenance   | 14.08 |
| 23790 - Pipefitter Maintenance  | 18.39 |
| 23810 - Plumber Maintenance   | 17.27 |

|   |       |
|---|-------|
| 23820 - Pneudraulic Systems Mechanic                          | 20.72 |
| 23850 - Rigger  | 20.72 |
| 23870 - Scale Mechanic  | 18.20 |
| 23890 - Sheet-Metal Worker Maintenance                        | 17.35 |
| 23910 - Small Engine Mechanic                                 | 18.20 |
| 23931 - Telecommunications Mechanic I                         | 19.76 |
| 23932 - Telecommunications Mechanic II                        | 21.01 |
| 23950 - Telephone Lineman                                     | 18.24 |
| 23960 - Welder Combination Maintenance                        | 18.31 |
| 23965 - Well Driller  | 21.13 |
| 23970 - Woodcraft Worker                                      | 20.71 |
| 23980 - Woodworker  | 15.61 |
| 24000 - Personal Needs Occupations                            |       |
| 24550 - Case Manager  | 15.01 |
| 24570 - Child Care Attendant                                  | 10.09 |
| 24580 - Child Care Center Clerk                               | 13.25 |
| 24610 - Chore Aide  | 12.78 |
| 24620 - Family Readiness And Support Services Coordinator     | 15.01 |
| 24630 - Homemaker   | 16.12 |
| 25000 - Plant And System Operations Occupations               |       |
| 25010 - Boiler Tender   | 20.72 |
| 25040 - Sewage Plant Operator                                 | 21.59 |
| 25070 - Stationary Engineer                                   | 20.72 |
| 25190 - Ventilation Equipment Tender                          | 14.29 |
| 25210 - Water Treatment Plant Operator                        | 21.59 |
| 27000 - Protective Service Occupations                        |       |
| 27004 - Alarm Monitor   | 10.90 |
| 27007 - Baggage Inspector                                     | 9.48  |
| 27008 - Corrections Officer                                   | 12.05 |
| 27010 - Court Security Officer                                | 12.05 |
| 27030 - Detection Dog Handler                                 | 10.90 |
| 27040 - Detention Officer                                     | 12.05 |
| 27070 - Firefighter   | 12.05 |
| 27101 - Guard I   | 9.48  |
| 27102 - Guard II  | 10.90 |
| 27131 - Police Officer I                                      | 12.05 |
| 27132 - Police Officer II                                     | 13.40 |
| 28000 - Recreation Occupations                                |       |
| 28041 - Carnival Equipment Operator                           | 13.24 |
| 28042 - Carnival Equipment Repairer                           | 14.46 |
| 28043 - Carnival Worker                                       | 9.78  |
| 28210 - Gate Attendant/Gate Tender                            | 13.18 |
| 28310 - Lifeguard   | 11.01 |
| 28350 - Park Attendant (Aide)                                 | 14.74 |
| 28510 - Recreation Aide/Health Facility Attendant             | 11.84 |
| 28515 - Recreation Specialist                                 | 18.26 |
| 28630 - Sports Official                                       | 11.74 |
| 28690 - Swimming Pool Operator                                | 17.71 |
| 29000 - Stevedoring/Longshoremen Occupational Services        |       |
| 29010 - Blocker And Bracer                                    | 25.98 |
| 29020 - Hatch Tender  | 25.98 |
| 29030 - Line Handler  | 25.98 |
| 29041 - Stevedore I   | 24.18 |
| 29042 - Stevedore II  | 27.79 |
| 30000 - Technical Occupations                                 |       |
| 30010 - Air Traffic Control Specialist Center (HFO) (see 2)   | 40.29 |
| 30011 - Air Traffic Control Specialist Station (HFO) (see 2)  | 27.78 |
| 30012 - Air Traffic Control Specialist Terminal (HFO) (see 2) | 30.59 |



|   |       |
|---|-------|
| 30021 - Archeological Technician I                            | 17.49 |
| 30022 - Archeological Technician II                           | 19.56 |
| 30023 - Archeological Technician III                          | 24.21 |
| 30030 - Cartographic Technician                               | 23.18 |
| 30040 - Civil Engineering Technician                          | 23.08 |
| 30051 - Cryogenic Technician I                                | 25.57 |
| 30052 - Cryogenic Technician II                               | 28.24 |
| 30061 - Drafter/CAD Operator I                                | 17.49 |
| 30062 - Drafter/CAD Operator II                               | 19.56 |
| 30063 - Drafter/CAD Operator III                              | 20.77 |
| 30064 - Drafter/CAD Operator IV                               | 25.57 |
| 30081 - Engineering Technician I                              | 14.84 |
| 30082 - Engineering Technician II                             | 16.66 |
| 30083 - Engineering Technician III                            | 18.64 |
| 30084 - Engineering Technician IV                             | 23.08 |
| 30085 - Engineering Technician V                              | 28.24 |
| 30086 - Engineering Technician VI                             | 34.16 |
| 30090 - Environmental Technician                              | 23.08 |
| 30095 - Evidence Control Specialist                           | 23.08 |
| 30210 - Laboratory Technician                                 | 20.77 |
| 30221 - Latent Fingerprint Technician I                       | 25.57 |
| 30222 - Latent Fingerprint Technician II                      | 28.24 |
| 30240 - Mathematical Technician                               | 23.34 |
| 30361 - Paralegal/Legal Assistant I                           | 19.54 |
| 30362 - Paralegal/Legal Assistant II                          | 24.21 |
| 30363 - Paralegal/Legal Assistant III                         | 29.61 |
| 30364 - Paralegal/Legal Assistant IV                          | 35.83 |
| 30375 - Petroleum Supply Specialist                           | 28.24 |
| 30390 - Photo-Optics Technician                               | 21.93 |
| 30395 - Radiation Control Technician                          | 28.24 |
| 30461 - Technical Writer I                                    | 23.08 |
| 30462 - Technical Writer II                                   | 28.24 |
| 30463 - Technical Writer III                                  | 34.16 |
| 30491 - Unexploded Ordnance (UXO) Technician I                | 25.60 |
| 30492 - Unexploded Ordnance (UXO) Technician II               | 30.98 |
| 30493 - Unexploded Ordnance (UXO) Technician III              | 37.13 |
| 30494 - Unexploded (UXO) Safety Escort                        | 25.60 |
| 30495 - Unexploded (UXO) Sweep Personnel                      | 25.60 |
| 30501 - Weather Forecaster I                                  | 25.57 |
| 30502 - Weather Forecaster II                                 | 31.09 |
| 30620 - Weather Observer Combined Upper Air Or      (see 2)   | 20.77 |
| Surface Programs  |       |
| 30621 - Weather Observer Senior                      (see 2)  | 23.08 |
| 31000 - Transportation/Mobile Equipment Operation Occupations |       |
| 31010 - Airplane Pilot  | 30.98 |
| 31020 - Bus Aide  | 8.15  |
| 31030 - Bus Driver  | 10.66 |
| 31043 - Driver Courier  | 9.69  |
| 31260 - Parking and Lot Attendant                             | 9.91  |
| 31290 - Shuttle Bus Driver                                    | 11.65 |
| 31310 - Taxi Driver   | 11.41 |
| 31361 - Truckdriver Light                                     | 10.59 |
| 31362 - Truckdriver Medium                                    | 11.61 |
| 31363 - Truckdriver Heavy                                     | 14.64 |
| 31364 - Truckdriver Tractor-Trailer                           | 14.64 |
| 99000 - Miscellaneous Occupations                             |       |
| 99020 - Cabin Safety Specialist                               | 15.10 |
| 99030 - Cashier   | 9.63  |
| 99050 - Desk Clerk  | 9.70  |

|   |       |
|---|-------|
| 99095 - Embalmer                        | 25.60 |
| 99130 - Flight Follower                 | 25.60 |
| 99251 - Laboratory Animal Caretaker I   | 23.38 |
| 99252 - Laboratory Animal Caretaker II  | 25.54 |
| 99260 - Marketing Analyst               | 21.54 |
| 99310 - Mortician                       | 25.60 |
| 99410 - Pest Controller                 | 14.61 |
| 99510 - Photofinishing Worker           | 13.45 |
| 99710 - Recycling Laborer               | 17.32 |
| 99711 - Recycling Specialist            | 23.38 |
| 99730 - Refuse Collector                | 16.40 |
| 99810 - Sales Clerk                     | 9.87  |
| 99820 - School Crossing Guard           | 17.27 |
| 99830 - Survey Party Chief              | 23.01 |
| 99831 - Surveying Aide                  | 13.08 |
| 99832 - Surveying Technician            | 17.00 |
| 99840 - Vending Machine Attendant       | 23.38 |
| 99841 - Vending Machine Repairer        | 29.78 |
| 99842 - Vending Machine Repairer Helper | 23.38 |

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

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.60 per hour up to 40 hours per week or \$184.00 per week or \$797.33 per month

HEALTH & WELFARE EO 13706: \$4.23 per hour up to 40 hours per week or \$169.20 per week or \$733.20 per month\*

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

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

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

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

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

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

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

specifications;

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

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

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

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

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

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

An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance explosives and incendiary materials. This includes work such as screening blending dying mixing and pressing of sensitive ordnance explosives and pyrotechnic compositions such as lead azide black powder and photoflash powder.

All dry-house activities involving propellants or explosives. Demilitarization modification renovation demolition and maintenance operations on sensitive ordnance explosives and incendiary materials. All operations involving re-grading and cleaning of artillery ranges.

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

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

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

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

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

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

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

**Conformance Process:**

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e. the work to be performed is not performed by any classification listed in the wage determination) be classified by the contractor so as to provide a reasonable relationship (i.e. appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees (See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification wage rate and/or fringe benefits which shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure

to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). When multiple wage determinations are included in a contract a separate SF-1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award the contractor prepares a written report listing in order the proposed classification title(s) a Federal grade equivalency (FGE) for each proposed classification(s) job description(s) and rationale for proposed wage rate(s) including information regarding the agreement or disagreement of the authorized representative of the employees involved or where there is no authorized representative the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action together with the agency's recommendations and pertinent information including the position of the contractor and the employees to the U.S. Department of Labor Wage and Hour Division for review (See 29 CFR 4.6(b)(2)(ii)).
- 4) Within 30 days of receipt the Wage and Hour Division approves modifies or disapproves the action via transmittal to the agency contracting officer or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.
- 6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

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

When preparing a conformance request the ""Service Contract Act Directory of

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

## **AFFIDAVIT RE CONTINGENT FEES**

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

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

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

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

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

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

Signature of one of the following:

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

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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



## **Business Associate Contracts (FORM D)**

### **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.





CONTRACT SAMPLE (FORM E)

CONTRACTUAL AGREEMENT  
BETWEEN  
GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER  
CLINICAL SUPPORT DIVISION  
RESIDENTIAL TREATMENT PROGRAM  
  
AND  
SERVICE PROVIDER

---

GBHWC RFP 2022-02

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

WHEREAS; the GBHWC requested proposals from qualified Guam non-profit organizations for professional services providing 24-hour Level II residential, therapeutic and support services for adults with serious/severe mental illness with or without co-occurring intellectual disabilities; and

WHEREAS, the GBHWC has provided adequate public announcement of the need for such service through a request for proposal (GBHWC RFP 2022-02) describing the type of services required and specifying the type of information and data required of each offer and the relative importance of particular qualifications; and

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

WHEREAS, the award of this contract to the Service Provider has been made pursuant to a written finding by the GBHWC that the Service Provider is qualified based on the evaluation factors set forth in the request for proposal, and that negotiations of compensation have been determined to be fair and reasonable;

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

SECTION I.  
PURPOSE

Professional services providing 24-hour Level II residential, therapeutic and support services for adults with serious/severe mental illness with or without co-occurring intellectual disabilities.

SECTION II.  
SCOPE OF WORK

SECTION II. SCOPE OF WORK

Service Provider shall provide the services set forth in GBHWC RFP 2020-02. A copy of GBHWC RFP 2020-02 Section II Scopes of Work for Phase I and Phase II are attached to this agreement as Exhibit A for easy reference purposes.

SECTION III.  
CONTRACT TERM

A. Initial Term

The initial term contract shall begin upon the date that the Governor approves the contract, as signified by her execution of the contract (the "Initial Term"). After the Governor has approved the contract, the government will issue a written notice to proceed notifying the service provider when the service shall begin. The initial term of the contract shall end September 30, 2022, subject to the appropriation, allocation and availability of funds.

B. Renewal Term

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

C. Monthly Extension Periods

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

D. Multiple Term Contract Multiple Certification of Funds.

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

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

SECTION IV.

SERVICE PROVIDER'S COMPENSATION FOR SERVICES

A. Compensation.

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

B. Invoicing and Payments.

All compensation is to the appropriation, allocation and availability of funds, upon completion of the services and receipt of any deliverables and a monthly invoice in the form agreed to by the parties. Payment shall be based upon actual costs, as defined in 2 GAR Division 4 § 7101 (1), submitted less disallowed costs and penalties, as applicable. Compensation based upon the aggregate of actual cost submitted may be less than the agreed upon compensation, but in no event shall it exceed the agreed upon compensation. The invoice should reflect only those service fees incurred for the current billing period. Each invoice should also include the total amount billed from the inception of the current year contract. All invoices are subject to review and approval by the GBHWC. The acceptance and payment of any invoice shall not be deemed a waiver of any of the GBHWC's rights under this Agreement.

The Service Provider shall indicate on each invoice submitted that all employees and volunteers paid or unpaid from this contract are fully vaccinated or tested against the Novel Coronavirus (COVID-19) in compliance with Governor's Executive Order 2021-17 made a part herein and attached as EXHIBIT G.

C. Final Payment.

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

D. Allowable Costs. (Cost Reimbursement)

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

1. Financial Records

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

2. Accounting Records

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

3. Internal Control.

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

4. Source Documentation.

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

5. Reimbursable Cost Principles.

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

6. Allowable Cost.

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

7. Applicable Credits.

Applicable credits are receipts or price reductions which reduce expenditures allocable to contracts as direct or indirect costs, as defined in 2 GAR Division 4 § 7101 (h). In the event the Service Provider receives discounts, rebates and or other applicable credits accruing to or received by the Service Provider or any subcontractor under the contract, to the extent those credits are allocable to the allowable portion of the cost billed to the GBHWC; allowable costs shall be paid to the Contactor, net of all discounts, rebates and other such applicable credits. The Service Provider shall separately identify for each cost submitted for payment to the GBHWC the amount of cost that is allowable; shall identify all unallowable costs; or the Service Provider shall exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification.

The Service Provider shall identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the GBHWC for payment and individually identify the amount as a discount, rebate or in case of other applicable credits, the nature of the credit. The GBHWC may permit the Service Provider to report this information on a less frequent basis than monthly, but no less frequently than annually. The Service Provider shall identify the method by which it shall report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract.

SECTION V.

THE GOVERNMENT IS NOT LIABLE

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

## SECTION VI.

### SPECIAL REPORTING REQUIREMENT FOR NON-PROFIT ORGANIZATIONS

- A. In the event that the Service Provider is a non-profit organization, the Service Provider shall comply with the reporting requirements set forth in P.L. 36-54 Chapter XIII Part II Section 6 and this clause, or any subsequent public report requirement law(s). In the event one of the Service Provider's subcontractors is a non-profit organization, the provisions of this clause shall also be deemed to apply to the Service Provider's subcontractor, and the Service Provider is obligated to submit its non-profit subcontractor's information in the same manner and time periods.
- B. The Service Provider shall maintain accurate financial records of all monies paid to it under this Agreement. The Service Provider shall provide to the GBHWC a budgetary breakdown by object category as to all services under this Agreement. An initial proposed budgetary breakdown is part of the request for proposal, and the agreed cost proposal, budget, staffing request and are incorporated into the scope of services of this Agreement as part of Attachment A.
- C. The Service Provider shall provide to the GBHWC a quarterly report describing its activities during the reporting period and the results it achieved no later than twenty (20) days after the end of each Quarter of the fiscal year.
- D. The Service Provider shall provide prior written notification to the GBHWC of all procurement of equipment and services of Five Thousand Dollars (\$5,000.00) or more as to its services related to this Agreement, or with regard to items to be invoices as part of the contract.
- E. The Service Provider shall provide access to duly authorized representative of the GBHWC, the Guam Public Auditor, or their authorized representatives, to any and all appropriate records for the purpose of audit and examination of books, documents, papers, and records of funds expended as part of the contract. The Service Provider shall upon written request by the GBHWC, the Guam Public Auditor or their authorized representatives provide source documentation, including but not limited to copies of checks or receipts, employee pay statement, inventory receipt, attendance records, utility bills.

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

#### SECTION VII.

##### GBHWC AGREES TO THE FOLLOWING

- A. To Maintain oversight of the Service Provider's performance in administering the GBHWC 24-hour Level II Residential, Therapeutic and Operational Services for Adults with Serious/Severe mental illness with or without Intellectual Disabilities.
- B. The use of selected equipment as negotiated with the Service Provider when providing direct therapeutic intervention and/or activities to consumers.

#### SECTION VIII.

##### RESPONSIBILITY OF SERVICE PROVIDER

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

performance, except as provided herein, and the Service Provider shall be, and remain liable, to the GBHWC for all direct costs which may be incurred by the GBHWC as result of the Service Provider's negligent performance of any of the services or work which are performed under the contract.

#### SECTION IX.

##### ACCESS TO RECORDS AND OTHER REVIEW

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

#### SECTION X.

##### OWNERSHIP OF DOCUMENTS

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

#### SECTION XI.

##### INDEMNITY

The Service Provider agrees to save and hold harmless the GBHWC, its officers, agents, representatives, successors and assigns, and other governmental agencies from any and all



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

## SECTION XII. CHANGES

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

## SECTION XIII. INSURANCE

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

## SECTION XIV. TERMINATION

### A. Termination for Defaults:

#### 1. Default.

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

or in part, the GBHWC may procure similar professional services in a manner and upon terms deemed appropriate by the GBHWC. The Service Provider shall continue performance of this Agreement to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar professional services, goods or services.

2. The Service Provider's Duties.

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

3. Compensation.

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

4. Erroneous Termination for Default.

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

5. Additional Rights and Remedies.

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

6. Non-Profit Organization Special Reporting Requirements.

The Service Provider, if a non-profit organization subject to Section VI Special Reporting Requirements of Non-Profit Organizations (P.L. 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's Services for professional services performed up to the date of termination.

4. Program Transition.

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

SECTION XV.  
PRODUCT OF SERVICE-COPYRIGHT

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

SECTION XVI.  
MANDATORY DISPUTE RESOLUTION CLAUSE

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

- A. Disputes - Contractual Controversies.  
The GBHWC and the Service Provider agree to attempt resolution of all controversies which arise under, or are by virtue of, this Agreement through mutual agreement. If the controversy is not resolved by mutual agreement, then the Service Provider shall request the Director of GBHWC or his designee, in writing to issue a final decision within sixty days after receipt of the written request in keeping with 5 GCA § 5427 (c). The Director of GBHWC or their designee shall immediately furnish a copy of the decision to the Service Provider, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.
- B. Absence of a Written Decision within Sixty Days.  
If the Director of GBHWC, or his designee does not issue a written decision within sixty days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Service Provider may proceed as though the Director of the GBHWC, or his designee had issued a decision adverse to the Service Provider.
- C. Appeals to the Office of Public Accountability.  
The Director of the GBHWC, or his designee’s decision shall be final and conclusive, unless fraudulent or unless the Service Provider appeals the decision administratively to the Public Auditor in accordance with 5 GCA § 5706.
- D. Disputes – Money Owed To or By the Government of Guam.  
This subsection applies to appeals of the GBHWC’s decision on a dispute. For money owed by or to the government of under this Agreement, the Service Provider shall appeal the decision in accordance with the “Government Claims Act”, 5 GCA § 6101 et. seq., by

initially filing a claim with the Office of the Attorney General no later than eighteen (18) months after the decision is rendered by the government of Guam or from the date when a decision should have been rendered. For all other claims by or against the GBHWC under this Agreement, the Office of the Public Auditor has jurisdiction over the appeal from the decision of the GBHWC. Appeals to the Office of the Public Auditor shall be made within sixty (60) days of the GBHWC's decision or from the date the decision should have been made.

E. Exhaustion of Administrative Remedies.

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

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

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

## SECTION XVII.

### MANDATORY REPRESENTATIONS BY SERVICE PROVIDER

A. Ethical Standards.

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

B. Prohibition Against Gratuities and Kickbacks.

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

C. Prohibition Against Contingent Fees.

The Service Provider represents that he has not retained any person or agency upon an agreement or understanding for a percentage, commission, brokerage, or other contingent

arrangement, except for retention of bona fide employees or bona fide established commercial selling agencies, to solicit or secure this contract or any other contract with the government of Guam.

D. Prohibition of Employment of Sex Offenders.

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

The Service Provider warrants (1) that no person providing services on behalf of the Service Provider has been convicted of a sex offense as set forth in the preceding subsection; and (2) that if any person providing services on behalf of the Service Provider is convicted of a sex offense under the provisions of 9 GCA Chapter 25 or 9 GCA Chapter 28 Article 2, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person shall be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

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

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

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

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

The Wage Determination promulgated by the U.S Department of Labor on a date most

recent to the renewal date shall apply to any renewal terms of this agreement.

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

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

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

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

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

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

**F. Privacy Rights.**

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

1. Health Insurance Portability and Accountability (HIPAA)  
The Service Provider will comply with the Health Insurance Portability and Accountability Act (HIPAA of 1996, P.L. 104-1991) 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. Client Confidentiality. The Service Provider will ensure information obtained directly or indirectly from a recipient client under this contract will be kept confidential and not released in a form that identifies the person without informed consent of the person, or of his or her legal representative, unless the disclosure is required by court order or for program monitoring by authorized Federal, or Guam monitoring agencies. (Ref. 45 CFR 1321.51 and 42 CFR Part II). Privacy Rule Standards for Privacy of Individually Identifiable Health Information, Ref. 45 CFR Part 160 and Part 164, Subparts A and E.

G. Technology Access For Blind or Visually Impaired.

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

H. Equal Opportunity Compliance.

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

I. Records Discrimination Against Status Offenders Prohibited.

The Service Provider acknowledges that no private entity that receives government of Guam funding, either local or federal funds, for any of its programs may, solely on the basis of conviction of a status offense, discriminate against any person who would



otherwise be eligible. P.L. 30-168 (effective 7/16/10) codified at § 20120 of Article 1, Chapter 20 of Title 19, Guam Code Annotated.

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

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

- K. Drug and Smoke-Free Workplace.

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

- L. Social Security Number Confidentiality Act.

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

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

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

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

Pursuant to 5 G.C.A. § 5233, P.L. 36-13 (effective 04/09/2021), the representations, affirmations and certifications that the Service Provider has made, as part Form AG 002 Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest, and all previous sworn disclosure by Service Provider in GBHWC RFP 2022-02, are incorporated

herein by reference. Pursuant to § 5233 (g) Service Provider shall promptly make any disclosures not previously made, required by § 5233 (c), (d) and (e), and update changes in the identities or other required information, interests, or conflicts of the person required to be disclosed as part of Form AG 002 Affidavit Disclosing Ownership, Influence, Commissions and Conflicts of Interest in GBHWC RFP 2022-02.

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

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

#### SECTION XVIII. ASSIGNMENT, SUCCESSORS AND ASSIGNS

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

#### SECTION XIX. SUBCONTRACTING

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

#### SECTION XX. STATUS OF SERVICE PROVIDER

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

#### SECTION XXI. GENERAL COMPLIANCE WITH LAWS

The professional services, deliverables and materials under this Agreement shall comply with all applicable Federal and Guam laws and regulations. The Service Provider shall maintain

all licenses and permits during all times pertinent to this Agreement. The Service Provider is responsible for payment of all taxes under this Agreement. In the event the contract sets forth key personnel positions of stated experiences and training, the Service Provider agrees to maintain those individuals and or positions at all times pertinent to the contract.

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

## SECTION XXII. FORCE MAJEURE

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

## SECTION XXIII. SEVERABILITY

The provisions of the contract shall be deemed severable, and the unenforceability of any one or more provisions shall not affect the enforceability of any other provisions. In addition, if

any provision of this contract is declared unenforceable, the parties shall substitute an enforceable provision that to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the parties.

SECTION XXIV.  
ENFORCEMENT OF AGREEMENT

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

SECTION XXV.  
NO WAIVER

No failure or delay by either party in exercising any right, power or remedy shall operate 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.  
INCORPORATION AND ORDER OF PRECEDENCE

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

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

SECTION XXX.  
PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INDEMNIFICATION

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

SECTION XXXI.  
APPROVAL OF SERVICE PROVIDER PERSONNEL

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

SECTION XXXII.  
SURVIVAL

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

SECTION 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.

#### SECTION XXXIV. TERMINATION FOR FINANCIAL EXIGENCY

The government of Guam shall have the right to terminate this contract for financial exigency by giving the Service Provider at least thirty (30) days prior written notice. For the purpose of this provision, a financial exigency shall be a determination made by the head of the purchasing agency based on the Guam legislature failure to fund this contract or in the event of

Federal funds, the Federal government fails to fund the government of Guam for this program. If notice of such termination is so given, this contract shall terminate on the expiration of the time period specified in the notice, and the liability of the parties hereunder for further performance of the terms of this contract shall hereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination. The Service Provider may submit a claim in the same manner as is set forth for the termination for convenience claim.

**SECTION XXXV   Program Fraud or False or Fraudulent Statements or Related Acts,**

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



# ANNUAL COST PROPOSAL RFP 2022-02 PHASE 1 (FORM F.1)

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

Page 1 of 2

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

| Category                                    | Hourly Rate (for A & B) | FY 2022<br>Year One | FY 2023<br>Year Two | FY 2024<br>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:

Phase 1

Page 2 of 2 (RFP 2022-02)

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

Comments: \_\_\_\_\_

# ANNUAL COST PROPOSAL RFP 2022-02 PHASE II (FORM F.2)

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

Page 1 of 2

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

| Category                                    | Hourly Rate (for A & B) | FY2023<br>Year One | FY2024<br>Year Two |  |
|---|-------------------------|--------------------|--------------------|--|
| <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:

Phase II

Page 2 of 2 (RFP 2022-02)

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

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

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

Offer Amount: \_\_\_\_\_

(Same Amount for each contract year subject to re-negotiation at the option of GBHWC)

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

Cost Proposal ☐ Accepted

Comments/Counter offer/Negotiation:

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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

# ANNUAL COST PROPOSAL RFP 2022-02 COMBINED (FORM F.3)

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

Page 1 of 2

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

| Category   | Hourly Rate (for A & B) | Phase 1<br>Year One | Phase 1 & 2<br>Year Two | Phase 1 & 2<br>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,<br/>Equipment, and<br/>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: Combined Phase I & II Page 2 of 2 (RFP 2022-02)

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

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

Cost Proposal ☐ Accepted

Comments/Counter offer/Negotiation:

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Accepted and agreed as negotiated by:

|                    |                    |
|--------------------|--------------------|
| <b>GBHWC:</b>      | <b>Offeror:</b>    |
| By: _____          | By: _____          |
| (Signature & Date) | (Signature & Date) |
| Name: _____        | Name: _____        |
| Title: _____       | Title: _____       |

### GBHWC DIRECTOR'S APPROVAL

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

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LI. GOVERNOR

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

FORM G

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

August 6, 2021

**HONORABLE THERESE M. TERLAJE**

*Speaker*

*I Mina'trentai Sais Na Liheslaturan Guåhan*

*36<sup>th</sup> Guam Legislature*

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

**RE: Executive Order No. 2021-17**

*Hafa Adai Madame Speaker:*

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

**EXECUTIVE ORDER NO. 2021-17:  
RELATIVE TO REQUIRING GOVERNMENT OF GUAM EXECUTIVE BRANCH  
WORKERS TO VACCINATE AGAINST COVID-19**

Thank you.

*Senseremente,*

**SOPHIA SANTOS DIAZ**

*Legal Counsel*

Enclosure: Executive Order No. 2021-17

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

RICARDO J. BORDALLO GOVERNOR'S COMPLEX  
513 W. Marine Corps Drive Hagåtña, Guam 96910  
governor.guam.gov | 1-671-472-8931

*Page 1 of 9*



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

**EXECUTIVE ORDER NO. 2021-17**

**RELATIVE TO REQUIRING GOVERNMENT OF GUAM EXECUTIVE  
BRANCH WORKERS TO VACCINATE AGAINST COVID-19**

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

**WHEREAS**, since declaring a public health emergency, Guam has suffered One Hundred Forty-Three (143) COVID-19 related deaths; and

**WHEREAS**, as of the time of this writing, over Eight Thousand Six Hundred (8,600) individuals have tested positive for COVID-19 in Guam; and

**WHEREAS**, at the peak of COVID-19 hospitalizations in Guam, One Hundred Two (102) individuals were hospitalized for conditions related to COVID-19; and

**WHEREAS**, since February 19, 2021, the island has been in Pandemic Condition of Readiness 3 ("PCOR 3"), during which most businesses and activities are permitted to operate with moderately restrictive conditions; and

**WHEREAS**, since June 2020, Guam has relied on the COVID Area Risk ("CAR") Score to assess the risk of COVID-19 spread, which is calculated using three main data points – effective retransmission value, test positivity rate, and new cases per 100,000 persons; and

**WHEREAS**, Guam's CAR Score has held below five (5) since late November 2020, and, until recently, held below 2.5 since the second week of December 2020; and

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

**WHEREAS**, as part of the vaccination plan, the Department of Public Health and Social Services ("DPHSS") and the Guam National Guard have led community vaccination clinics; and

**WHEREAS**, vaccinations have been proven highly effective in preventing individuals from contracting COVID-19 and from suffering severe symptoms if they do contract the disease, which reduces hospitalizations and deaths, and potentially reduces the risk of infection to others; and

**WHEREAS**, as a result of the dedicated efforts of DPHSS, the Guam National Guard, and our community and military partners, on July 29, 2021, our island achieved its goal of 80% of adult vaccinations, fortifying our island against widespread infection and severe symptoms, and, importantly, reducing the rate of hospitalizations, ensuring that our healthcare system has resources and personnel to treat COVID-19 cases resulting in hospitalizations; and

**WHEREAS**, having achieved our community goal of 80% adult vaccinations, with the concurrence of DPHSS, the Physicians Advisory Group and the Guam National Guard Surgeon Cell, in Executive Order No 2021-16, I ordered broad reopening of our island's economy, removing social gathering limitations and capacity limitations at local establishments, while maintaining our mask mandate; and

**WHEREAS**, notwithstanding the strong effort in our community to achieve this goal, tens of thousands of individuals remain unvaccinated, which renders them still vulnerable to infection, to suffering severe symptoms once infected, and to infecting others; and

**WHEREAS**, notwithstanding substantial vaccinations within our community, we have experienced a recent surge in positive cases on our island, with our daily new cases averaging 17.6 and our effective retransmission value at 2.0 as of the time of this writing; and

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

**WHEREAS**, due to the recent rise in positive cases and the effective retransmission value number, the CAR Score is calculated at 5.4 as of the time of this writing, the highest it has been in 2021; and

**WHEREAS**, as of the time of this writing, over Three Thousand (3,000) adults ages 60 and over, our most vulnerable population, remain unvaccinated; and

**WHEREAS**, unvaccinated individuals in Guam presently test positive for COVID-19 at a rate that is thirteen (13) times higher than fully vaccinated individuals; and

**WHEREAS**, COVID-19 cases in the United States have surged due to the prevalence of the highly infectious Delta variant, and while Guam had previously intercepted a single case of the Delta variant, it is anticipated that more cases of the Delta variant may already be present in Guam; and

**WHEREAS**, recent data suggests that the viral load is roughly One Thousand (1,000) times higher in people infected with the Delta variant than those infected with the original coronavirus strain; and

**WHEREAS**, while a period of increased positive cases is a natural and anticipated consequence of broader reopening, it is necessary that we take steps as a community to protect ourselves and each other from continued spread of this disease, particularly among our most vulnerable populations; and

**WHEREAS**, the risk posed to our community by exposure to the COVID-19 virus is demonstrably mitigated as the rate of vaccination in our community rises; and

**WHEREAS**, Title 10 Chapter 3 Section 3322(b) of the Guam Code Annotated provides that in case of an epidemic or to control a possible epidemic of a communicable disease, the Director of DPHSS may direct that the general population be vaccinated and immunized against said disease; and

**WHEREAS**, Title 10 Chapter 19 Section 19603 of the Guam Code Annotated provides further that during a state of public health emergency, DPHSS may exercise emergency powers over persons including vaccinating persons as protection against infectious disease and to prevent spread of contagious or possibly contagious disease; and

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

**WHEREAS**, on May 28, 2021, the U.S. Equal Employment Opportunity Commission ("EEOC") issued technical guidance clarifying that federal EEO laws do not prevent employers from requiring all employees physically entering the workplace to be vaccinated for COVID-19, subject to reasonable accommodations as provided in Title VII of the Americans with Disabilities Act and other federal employment discrimination laws, which may require an employer to provide reasonable accommodations for employees who do not get vaccinated for COVID-19 because of a disability or a sincerely held religious belief, practice or observance; and

**WHEREAS**, on July 26, 2021, the U.S. Department of Veterans Affairs announced mandatory vaccinations for all Title 38 VA health care personnel working in Veterans Health Administration facilities, who visit VHA facilities, or who provide direct care to VA patients; and

**WHEREAS**, on July 26, 2021, the U.S. Department of Justice issued a Memorandum Opinion concluding that Section 564 of the Federal Food, Drug and Cosmetic Act permits public and private employers alike to impose the COVID-19 vaccination as a condition of employment even when the vaccine is subject to Emergency Use Authorization; and

**WHEREAS**, in the seminal, oft-cited case *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), the United States Supreme Court, observing that a community has the right to protect itself against disease that threatens the safety of its members, upheld mandatory vaccinations as a valid exercise of a state's police powers, subject to specific exemptions; and

**WHEREAS**, the United States Supreme Court, in *Zucht v. King*, 260 U.S. 174, 176, 43 S. Ct. 24, 25, 67 L. Ed. 194 (1922), reiterated the principle stated in *Jacobson* that it is within the police power of a state to provide for compulsory vaccination; and

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

**WHEREAS**, in *Bridges v. Houston Methodist Hosp.*, No. CV H-21-1774, 2021 WL 2399994 (S.D. Tex. June 12, 2021), the United States District Court for the Southern District of Texas issued an order, dismissing an action for wrongful termination brought by employees of a public hospital subjected to mandatory vaccinations, finding that the employee could freely choose to accept a COVID-19 vaccine or refuse and simply work elsewhere; and

**WHEREAS**, every U.S. jurisdiction has laws requiring students to receive certain vaccinations to attend school, subject to certain exemptions; and

**WHEREAS**, in *Klaassen v. Trustees of Indiana Univ.*, No. 1:21-CV-238 DRL, 2021 WL 3073926 (N.D. Ind. July 18, 2021), the United States District Court for the Northern District of Indiana, in a 70-page decision, denied a preliminary injunction to students seeking to enjoin Indiana University from mandating vaccinations (subject to exemptions) as a condition of enrollment, finding that the students had not established a likelihood of success on the merits, and specifically recognizing that the policy did not force vaccinations given that the students had alternatives to taking the vaccine, including applying for an exemption or deferral or attending another university; and

**WHEREAS**, in *Klaassen v. Trustees of Indiana Univ.*, the court recognized that notwithstanding Emergency Use Authorization of the U.S. COVID-19 vaccines, the FDA, prior to issuing EUAs to U.S. COVID-19 vaccines, required manufacturers to go beyond statutory safety and efficacy requirements and to consult with the FDA on non-clinical components of vaccine distribution and development as clinical trials progressed in order to attain the same level of efficacy data as the FDA would receive for full approval, enough safety data to justify providing the vaccine to healthy individuals, and confirmation of technical procedures and verification steps necessary to support full approval; and

**WHEREAS**, in *Klaassen v. Trustees of Indiana Univ.*, the court further acknowledged that while the 2-month timeline for the safety follow-up to receive an EUA was indeed shorter than the data of 6-month monitoring of severe adverse events after clinical trials conclude necessary for full approval, the FDA's acceptance of the 2-month follow-up was made in light of its expert assessment and experience that significant latent negative outcomes associated with vaccinations typically occur within 6 weeks of receipt of a vaccination; and

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

**WHEREAS**, over one hundred sixty-five million Americans are fully vaccinated against COVID-19, including over one hundred thousand in Guam; and

**WHEREAS**, outside of anecdotal references, there is simply no substantial evidence that the COVID-19 vaccines are harmful, and to the contrary, it is beyond reasonable dispute that the vaccines reduce the risk of infection and death; and

**WHEREAS**, it is beyond reasonable dispute that these vaccines save lives; and

**WHEREAS**, employers are responsible for the safety of their employees in the workplace; and

**WHEREAS**, the government of Guam is the largest employer on the island; and

**WHEREAS**, with the concurrence and support of DPHSS, the Physicians Advisory Group, and the Guam National Guard Surgeon Cell, it is timely, necessary, and appropriate, given the availability of safe vaccines and the dangers COVID-19 continues to pose, particularly the Delta variant that is prevalent in U.S. jurisdictions, for the executive branch of the government of Guam to take the difficult but critical step of mandating COVID-19 vaccinations for its employees; and

**WHEREAS**, mandating vaccinations for executive branch employees will ensure the safety of our employees, particularly our frontline and front-facing employees who engage with the public; and

**WHEREAS**, it is important that we continue to be mindful of the reality that the COVID-19 pandemic remains a threat to our safety as a community, and that we all exercise personal judgment, and take steps as individuals towards protecting ourselves and our loved ones against this disease, including getting vaccinated; and

**WHEREAS**, we must encourage our friends and family, especially those with comorbidity factors, to get vaccinated, keep themselves and their loved ones safe, and do their part to help achieve herd immunity on our island; and

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

**WHEREAS**, as our community works to recover from this global pandemic's impact on our lives, it is important to recognize that the emergency has not yet ended and that we are now, and will continue to be for some time, engaged in emergency response; and

**WHEREAS**, with continued practice of the basic mitigation measures of washing hands and wearing masks, we will continue to make strides towards containing the spread of COVID-19 on our island, and keeping our community safe.

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

**1. MANDATORY COVID-19 VACCINATIONS FOR EXECUTIVE BRANCH WORKERS.** Effective Monday, August 9, 2021, all workers of the executive branch agencies of the government of Guam shall be required to receive one of the three authorized COVID-19 vaccines. Workers shall be fully vaccinated with either a single shot of the Johnson & Johnson or the two shot Pfizer or Moderna series no later than September 24, 2021.

In the event a worker declines to receive a COVID-19 vaccination or provide proof of such vaccination, they will be required to test for COVID-19 with a PCR or antigen test once weekly. Non-exempt workers are required to vaccinate or submit to weekly testing as provided herein, or they shall be subject to disciplinary procedures, which may include disciplinary action.

- a. **Applicability.** This Section shall apply to full-time or part-time employees and volunteers of executive branch line agencies, regardless of whether paid or unpaid.
- b. **Vaccination Clinics.** Executive Branch line agencies shall coordinate with DPHSS and the Guam National Guard for the scheduling of vaccination clinics at their respective agencies. Individual workers may make personal arrangements to get vaccinated, and provide proof of vaccination to their respective agencies according to the aforementioned deadlines.
- c. **Records.** Executive branch line agencies shall, consistent with applicable privacy laws and regulations, maintain records of workers' vaccination status, declination forms, and/or testing results as applicable and provide such records to DPHSS upon request.

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**ISLAND OF GUAM**  
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U.S.A.

2. **USE OF THE GUAM COVID ALERT APP ENCOURAGED.** All residents with smartphone capability are encouraged to download the Guam COVID Alert app, which will alert individuals who may have been exposed to another individual who has tested positive for COVID-19. The app is free, and available to download for Apple and Android devices.

3. **SEVERABILITY.** If any provision of this Executive Order or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Order that can be given effect without the invalid provision or application, and to this end, the provisions of this order are severable.

4. **PRIOR ORDERS REMAIN IN EFFECT.** All prior Executive Orders remain in full force and effect except to the extent they conflict with this Order.

**SIGNED AND PROMULGATED** at Hagatña, Guam, this 6th day of August, 2021.

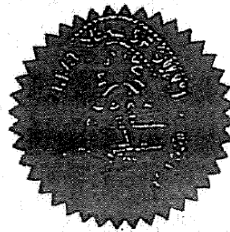
*Lou Ann Guerrero*

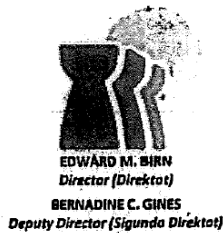
**LOURDES A. LEON GUERRERO**  
*Maga'lahan Guåhan*  
Governor of Guam

Attested by:

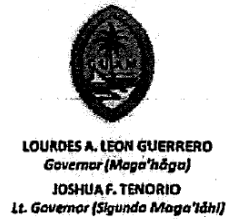
*Joshua F. Tenorio*

**JOSHUA F. TENORIO**  
*Sigundo Maga'lahen Guåhan*  
Lieutenant Governor of Guam





**DEPARTMENT OF  
ADMINISTRATION**  
DIPATTAMENTON ATMENESTRASION  
DIRECTOR'S OFFICE  
(Ufisinan Direktot)  
Telephone (Telifon): (671) 475-1101/1250



FORM G.1

September 10, 2021

**DEPARTMENT OF ADMINISTRATION ORGANIZATIONAL CIRCULAR NO.: 2021-027**

To: All Line Agency and Department Heads  
From: Director of Administration  
Subject: **Mandatory Vaccination – Executive Order 2021-17**

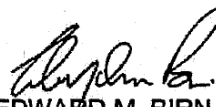
***Buenas yan Hafa Adai!***

Executive Order 2021-17 mandated vaccination or weekly testing for Executive Branch employees effective September 24, 2021.

Department of Administration reminds agencies that it is advisable to adopt similar precautions for contact personnel who visit, work or perform duties on Executive Branch premises or who may have contact with GovGuam employees.

Bid documentation and purchase orders issued after the date of this memorandum will contain this requirement for services rendered after September 24, 2021. Vendors which meet these specifications will be required to confirm compliance when submitting invoices for payment for services after September 24, 2021.

***Si Yu'os Ma'ase.***

  
EDWARD M. BIRN

*Page 1 of 1*

590 South Marine Corps Drive, ITC Building, Suite 224, Tamuning, Guam ♦ P. O. Box 884, Hagåtña, Guam 96932





EDWARD M. BIRN  
Director (Direktot)  
BERNADINE C. GINES  
Deputy Director (Sigundo Direktot)

## DEPARTMENT OF ADMINISTRATION

DIPATTAMENTON ATMENESTRASION

DIRECTOR'S OFFICE  
(Ufisinan Direktot)

Telephone (Telifon): (671) 475-1101/1250 • Fax (Faks): (671) 477-6788



LOURDES A. LEON GUERRERO  
Governor (Maga'håga)  
JOSHUA F. TENORIO  
Lt. Governor (Sigundo Maga'Idhi)

FORM G.2

September 8, 2021

67/08/21

### Department of Administration Organizational Circular: 2021-025A

#### MEMORANDUM

To: All Line Departments and Agency Heads  
From: Director, Department of Administration  
Subject: **Requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 Guidance-Technical Update**

*Buenas yan Hafa Adai!* This is issued to provide an update to DOA Organizational Circular: 2021-025 relative to the Department of Administration's (DOA) guidance on the requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 pursuant to Executive Order No. 2021-17 (attached).

The following updates our Circular and mainly applies to Government of Guam employees. Updates that apply to non-employees (e.g. Program Participants and volunteers) will be indicated in parentheses. Please provide the following information to all within your Department.

Please email Mr. Francis Flisco, Personnel Specialist IV at [francis.flisco@doa.guam.gov](mailto:francis.flisco@doa.guam.gov) if you have any questions. *Si Yu'us Ma'ase!*

  
EDWARD M. BIRN

#### Attachments:

DOA Organizational Circular 2021-025  
Government of Guam Employee Report to COVID-19 Testing Form  
Self-Attestation of COVID-19 Vaccination Form

Page 1 of 13

## Requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 Guidance-Technical Update

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**Government of Guam Employee Only Designated COVID-19 Testing Sites:**

The DPHSS will establish COVID-19 Testing Sites that are for Government of Guam employees who have declined to be vaccinated, or have not provided proof of vaccination, and are now required to undergo once weekly testing pursuant to Executive Order 2021-17. It is expected that these sites will be established beginning September 27, 2021, or soon thereafter. The Government of Guam should announce testing location, dates, and times in advance.

**Departments shall specifically instruct employees who have declined to be vaccinated, or have not provided proof of vaccination to report for testing at these Government of Guam Employee only testing sites. No substitution of testing sites is allowed. Supervisors shall work with their employees to identify the earliest date during the week of September 27, 2021 that their employees will report to testing. Supervisors will specifically instruct their employees as the date, time and location of the site they are to report for testing; then thereafter follow a specified schedule once weekly.**

**Supervisors shall use the attached Government of Guam Employee Report to COVID-19 Testing form to schedule their employee for testing. Employees shall bring their form to the testing site and request the COVID-19 Testing Official to complete the form as proof of being tested, and submit their completed form to their supervisor. The supervisor in turn shall forward the form to their Vaccination Status Coordinator who shall update any relevant information for their weekly reports.**

It is preferred that supervisor instruct their employees to report to their designated testing site before reporting to work to minimize exposure to co-workers in the event the employee tests positive.

For employees whose work schedule does not coincide with any Government of Guam Employee Only Designated Testing Site schedule (i.e. shift employee), Department Heads shall adjust the employee's work schedule accordingly to best allow the employee to report to testing.

Employees who are tested at the testing site specified by their Department will be allowed three (3) hours of administrative leave, or actual time taken, whichever is less to be tested.

In the event a non-vaccinated employee who has opted for once weekly testing wants to undergo an additional test outside of their once weekly testing, and is accomplished during working hours, the employee may do so with the permission of their supervisor, however they will be charged sick leave.

If the employee undergoes a test where the employee can receive test results in minutes, the employee must stay at the testing site until the employee receives their results. If the results are negative, the employee shall return to their work site, and inform their supervisor.

If the employee's test results are positive, then the employee must call their supervisor to inform them of the results. For safety reasons, the supervisor shall inform the administrator/manager, who in turn will notify their Department Head of the result. The supervisor shall take necessary steps to ensure the work area of their employee who tested positive is properly sanitized.

However, if the employee undergoes a test where it will take 24 hours, or more to receive the results, the employee must follow DPHSS guidelines, and further instructions. If the guidelines instruct the employee to quarantine or isolate at home while waiting for test results, the employee

shall immediately contact their supervisor over the phone and inform their supervisor of the quarantine or isolation requirement and provide proof as soon as possible. The employee shall secure for the day and then go home.

The supervisor shall determine if the employee can telework and if that is possible, the employee must be instructed to do so. However, if teleworking is not possible, then the employee shall be placed on administrative leave while waiting for test results.

**Status of Employee Who Does Not Get Tested as Instructed by Supervisor:**

Employees who do not get tested as instructed by their supervisor may have not been tested due to the following:

- Requested to be exempted and awaiting review and possible approval
- Reasons beyond the control of the Employee that are due to the Government's situation
- An excuse not covered under the previous two reasons

For employees that have requested to be exempted and awaiting review and possible approval, see applicable response under: "Requests for Exemptions from COVID-19 Testing" section.

For employees that were not able to be tested due reasons beyond the control of the employee, and due to the Government's situation, the acceptable reasons that will not subject the employee to progressive discipline are: designated testing site was postponed or cancelled, or designated testing site did not have a test available for the employee. Any other reasons that may occur that the employee believes was due to the Government's situation will be handled on a case-by-case basis by the employee's supervisor. Such excuses shall be immediately verified by the supervisor. Once verified and acceptable, these employees shall be rescheduled on the next available Government of Guam Employee Only Designated Testing Site, and required to report to work.

After testing is completed and assuming the employee is negative, the employee shall return to work.

For employees that provide an excuse not covered under the previous two reasons, supervisors must find out what their employees' reason for not being tested on their scheduled test date and notate the reason (e.g. flat tire, traffic, needed to take child to an appointment, etc...). Supervisors will then reschedule their employees on the next available Government of Guam Only Designated Testing Site, and send them home due to non-compliance, and inform them that they are not to report back to work until they have tested. Supervisors will also inform their employees that they will be charged annual leave, until they report to their rescheduled test. If annual leave is exhausted, the department shall place the employee on Leave Without Pay (LWOP) status, until they report to their rescheduled test.

**If the supervisor believes the reason provided by the employee as inexcusable, the supervisor shall discuss the matter with their administrator/manager and if the administrator/manager agrees that that the reason is inexcusable, then aside from rescheduling their employee, the supervisor must take progressive disciplinary action (see next Section).**

**Disciplinary Action:**

**Classified Permanent Employees**

For classified permanent employees who do not fully vaccinate, or show proof of being vaccinated, these employees must submit to, and be tested once weekly beginning September 27, 2021 as per Executive Order 2021-17, unless exempted from such requirements. These employees shall only be scheduled at the Government of Guam Employee Only Designated COVID-19 Testing Sites (see applicable Section above).

For employees that do not submit to, and be tested once weekly, or if they do, they do not do so on a consistent basis, AND the Department has determined that the employees' reason(s) are inexcusable, Departments must follow progressive discipline, and exclude them from the workplace and charge them charged annual leave, until they report to their rescheduled test. If annual leave is exhausted, the department shall place the employee on Leave Without Pay (LWOP) status, until they report to their rescheduled test.

As in the case of progressive discipline, supervisors are to document all information related to the event where due to an inexcusable reason, their employee did not submit to, and get tested to meet their once weekly requirement.

**The following table below indicates in general, action that should be followed if an employee who must submit to and test once weekly AND does NOT do so based on inexcusable reasons four (4) times. This table is not absolute and there may be situations which may require Departments to discipline employees on a case-by-case basis.**

If there are any questions, please consult your department's administrative personnel who assist you with adverse action matters. Also, you may go to DOA's Human Resources Division web page at: [www.hr.doa.guam.gov/branches](http://www.hr.doa.guam.gov/branches) and click on the "Employee Management Relations" link located on the right-hand side, then scroll down and download the "Taking Adverse Action", and "Guide to Taking Adverse Action" documents. These documents describe the different corrective and formal actions and procedures to take adverse action. You may contact the supervisor of the Employee Management Relations Branch, Ms. Kathryn Diaz, at 475-1249 or via email at: [kathryn.diaz@doa.guam.gov](mailto:kathryn.diaz@doa.guam.gov) (with Mr. Francis Flisco, Personnel Specialist IV, copied on your email: [francis.flisco@doa.guam.gov](mailto:francis.flisco@doa.guam.gov) ) for further guidance.

| No. of Times Employee does not submit to and test once weekly based on inexcusable reason | Supervisor's Action  | Comment  |
|---|--|--|
| 1 <sup>st</sup> infraction – Date?  | Counsel (Informal Corrective Action - supervisor calls to the employee's attention the employee's infraction, encourages to improve & comply ) | Recommend to counsel employee on the day of but no later than the day after infraction. Document counseling session. |

|                                    |   |  |
|------------------------------------|---|--|
| 2 <sup>nd</sup> infraction – Date? | Letter of Warning (LOW)<br>(Informal Corrective Action-<br>In writing, supervisor calls<br>attention that employee<br>committed 2 <sup>nd</sup> infraction,<br>encourages to comply &<br>advises consequences may<br>occur such as a LOR if<br>commits infraction again)  | Recommend to prepare LOW<br>on the day of but no later than<br>the day after infraction and sit<br>down with employee to issue<br>LOW and discuss. Have<br>employee acknowledge<br>receiving & maintain copy.                        |
| 3 <sup>rd</sup> infraction – Date? | Letter of Reprimand (LOR) –<br>(Formal Disciplinary Action-In<br>writing, supervisor points out<br>the 3 <sup>rd</sup> infraction, mention<br>dates & content of previous<br>discussions, copy will be in<br>official Personnel File for 1<br>year, <b>LOR must include<br/>statement that any<br/>additional infraction of not<br/>submitting to and testing<br/>once weekly that is<br/>inexcusable will result in<br/>adverse action being<br/>pursued.)</b> | Recommend to prepare LOR<br>on the day of but no later than<br>the day after infraction and sit<br>down with employee to issue<br>and discuss. Have employee<br>acknowledge receiving &<br>maintain copy.                            |
| 4 <sup>th</sup> infraction – Date? | Supervisor recommends to<br>Management Adverse Action.<br>If approved, Department<br>prepares Notice of Proposed<br>Adverse Action (NOPAA)  | <b>90 days time limit begins<br/>the day after the 4<sup>th</sup><br/>infraction. This is when<br/>management knew or<br/>should have known the<br/>facts or events which form<br/>the alleged basis for the<br/>adverse action.</b> |
|                                    | Notice of Proposed Adverse<br>Action (NOPAA)  | Issue to employee on or<br>before the 70 <sup>th</sup> day of the<br>beginning of the 90 days time<br>limit.   |
|                                    | Employee's Answer to<br>NOPAA   | Employee given 10 calendar<br>days to respond.   |
|                                    | Department Head's Decision<br>and Issuance of Final Notice<br>of Adverse Action (FNOAA)   | FNOAA is issued to employee<br>within 10 calendar days after<br>Employee's time period to<br>answer has expired.   |

**Disciplinary Action For Probationary and Unclassified Employees:**

Probationary employees and Unclassified employees such as those under temporary, limited term, contractual, or serve at the pleasure of the appointing authority/Governor and do not attain permanent status are not subject to the Adverse Action Procedures in the DOA Personnel Rules and Regulations, and have no civil service protection.

For Probationary and Unclassified employees who do not comply with the Executive Order by not being fully vaccinated, or submit to once weekly testing and are not exempted from such requirements, Departments must counsel these employees and inform them that non-compliance may result in termination. In the event Department Heads wish to terminate these employees due to non-compliance, they should issue them a termination letter with an effective date of termination, and prepare the GG-1 and route through normal routing procedures.

**Requests for Exemptions from Vaccination:**

Inform employees (and non-employees) who want to request to be exempted from vaccination based on medical reasons, such as a disability to submit their request to the Department of Public Health & Social Services (DPHSS), instead of the Department of Administration.

These employees (and non-employees) must submit an official request with supporting documents to: [publichealth@dphss.guam.gov](mailto:publichealth@dphss.guam.gov), or deliver their request to the Immunization Program of DPHSS, located at Castle Mall, Unit #9, 130 University Drive, Mangilao, Guam 96913, from 8:00 a.m. to 12:00 p.m., Monday through Friday except on recognized Government of Guam holidays. Employees (and non-employees) may continue to work while waiting for issuance of DPHSS exemption; however, beginning September 27, 2021, if they are still waiting, or have submitted their request after this date, they must submit to once weekly COVID-19 testing.

Employees (and non-employees) shall provide a copy of DPHSS' decision on their request for exemption to their Department's Vaccination Status Coordinator (VSC). The VSC shall confidentially maintain the exemption. The VSC will inform the employee's (and non-employee's) supervisor of their approved/disapproved exemption. The VSC will not reveal any medically related information, unless authorized by the employee/non-employee.

Employees (and non-employees) who receive medical exemptions shall be required to undergo a COVID-19 PCR, or antigen test once weekly.

Employees (and non-employees) who are NOT approved by DPHSS for a medical exemption to being vaccinated shall be required to undergo a COVID-19 PCR, or antigen test once weekly.

Employees (and non-employees) who do not want to be vaccinated due to a sincerely held religious belief do not need to seek an exemption because their accommodation is to undergo a COVID-19 PCR, or antigen test once weekly.

**Requests for Exemptions from COVID-19 Testing:**

Inform employees that must submit to once weekly COVID-19 testing, and want to request to be exempted, are only able to do so based on medical reasons. These employees are to submit their official requests in writing directly to the DOA's Equal Employment Opportunity Specialist, Mr. Robert Taitano, or via email at: [robert.taitano@doa.guam.gov](mailto:robert.taitano@doa.guam.gov). As part of their requests, the employees are to inform Mr. Taitano of their Department's Vaccination Status Coordinator's name and contact information. The employees' requests will be reviewed by the DOA's Human Resources Division and Mr. Taitano will inform the employee and VSC of the decision.

Employees who have requested an exemption from DOA may continue to work prior to September 24, 2021. Department Heads must ensure that after September 24, 2021, employees who have not yet been granted exemptions from DOA for Testing remain at home until such exemption is approved. Employees shall be on annual leave or Leave Without Pay (for those employees who have exhausted their leave) status while at home.

Non-employees cannot request for an exemption from COVID-19 Testing since there is no requirement to accommodate them. Department Heads shall inform the non-employees that they cannot work/volunteer at their department, thank them for their assistance, and contact their responsible department/organization (if any), to inform them of the situation.

Employees shall provide a copy of DOA's decision on their request for exemption to their Department's Vaccination Status Coordinator (VSC). The VSC shall confidentially maintain the exemption. The VSC will inform the employee's supervisor of their employee's approved/disapproved exemption. The VSC will not reveal any medically related information, unless authorized by the Worker.

Employees whose request for exemption from COVID-19 testing are NOT approved shall be required to undergo a COVID-19 PCR, or antigen test once weekly.

Employees who receive an exemption from COVID-19 testing shall NOT be required to undergo a COVID-19 PCR test, antigen test, or other test utilized by DPHSS once weekly; in this instance, see next section, "Employees who are Exempted from Vaccination AND Testing for COVID-19 Testing".

**Employees who are Exempted from Vaccination AND Testing for COVID-19:**

For employees who are exempted from vaccination AND Testing for COVID-19, Department Heads must determine if these workers can telework (i.e. work from home). If they can, Department Heads must make the necessary arrangements to allow their employees and to instruct them to do so immediately.



For those employees who cannot telework based on their current duties, Department Heads are to determine if they can telework based on other duties that they are qualified for and if necessary, officially detail these employees to these other positions of the same pay grade within their departments.

During the time period that Department Heads are attempting to find other duties to accommodate their employees, Department Heads are to send these employees home on administrative leave with the understanding that they may be contacted to telework, or recalled back to their work site and to update their supervisor on a daily basis as to their status and any change in contact information. Department Heads are to advise these employees that failure to make contact with their supervisor daily will result in leave without pay for that particular day and subsequent days should the employee continue to not make contact with their supervisor. In addition, disciplinary action will be taken.

For employees that cannot be accommodated in any way, they are to be sent home on administrative leave until such time they are contacted by their supervisor in the event duties are identified that will allow teleworking, or recalled back to their work site.

Supervisors shall require these employees to contact them daily to update them on their status and any change in contact information. Supervisors are to advise these employees that failure to make contact with their supervisor daily will result in being charged annual leave for that particular day, and subsequent days should the employee continue to not make contact with their supervisor. In addition, disciplinary action may be taken.

**Reporting of Exemptions:**

Any exemptions that are approved either by the DPHSS, or DOA must now be included in the two reports required pursuant to the DOA Circular, under the heading of "Approved Exemptions".

**Acceptable Proof of Vaccination:**

For employees and non-employees that have vaccinated, providing one of the following which indicates either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series of vaccine are acceptable proof of vaccination:

1. Self-attestation that the employee signs stating that the employee has been fully vaccinated and acknowledges that falsification about being fully vaccinated are grounds for disciplinary action, up to and including dismissal/termination, and/or exclusion from the workplace (see attached Self-Attestation form);
2. Photo or copy of their COVID-19 Vaccination Record Card;
3. Vaccination document from their healthcare provider;
4. Printed WebIZ documentation of vaccination information;
5. Personal digital COVID-19 vaccine record or similar document issued by another State, local or foreign governmental jurisdiction;

6. Showing their vaccination card, or valid vaccination document from their healthcare provider to their Department's Vaccination Status Coordinator. The VSC shall write on the employee's Certification of Vaccination Status Form the type of document shown to the proving vaccination (i.e. COVID-19 Vaccination Record Card, etc...), the name of the vaccine taken by the employee, the date that the employee was inoculated with their final shot, and name of the site vaccinated. The VSC will sign and date next to the information; or
7. Other proof as approved by the DPHSS and provided to the VSC.

**Employees who have Reconsidered their Decision to be Vaccinated:**

For employees who either declined to be vaccinated, and/or declined to submit to once weekly COVID-19 testing, and now want to be vaccinated, may do so, however they must still submit to once weekly testing until they have completed their vaccination by having been inoculated by either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series, and have provided proof of being completely vaccinated to their VSC. The VSC shall in turn update the employee's supervisor of their employee's change in status. Once the employee has submitted proof of being completely vaccinated, they will no longer be required to submit to once weekly testing.

**Employees who are identified as Close Contacts and have been instructed by DPHSS to Quarantine:**

For employees that DPHSS has identified as not being positive for COVID-19, but as a close contact and quarantined, employees must immediately inform their supervisor and provide proof of being quarantined, and the date that their quarantine began.

Departments must immediately determine if their employees can telework (i.e. work from home) for the duration of their quarantine. If they can, Department Heads must make the necessary arrangements to allow their employees and to instruct them to do so immediately.

For employees who cannot telework based on their current duties, Department Heads are to determine if they can telework based on other duties that they are qualified for and temporarily assign these employees to these other duties within their departments.

For employees that Departments have identified as not being able to telework, administrative leave shall be authorized.

Supervisors must inform their employees that after five (5) days has elapsed from the first day of quarantine, employees must submit to a COVID-19 test at a GovGuam employee only designated testing site on the 6<sup>th</sup> day, or the closest day to the 6<sup>th</sup> day.

If the employee undergoes a test where the employee can receive test results in minutes, the employee must stay at the testing site until the employee receives their results. However, if the employee undergoes a test where it will take 24 hours or more to receive the results, then the employee must return home and shall continue to either telework, or continue to be on administrative leave if applicable while waiting for test results.

The employee must inform their supervisor of their result over the phone as soon as they obtain their test result. If the employee tests negative, then the employee must return to work by the next work day after receiving their negative test result.

If, however, an employee test results are positive, then the employee shall isolate at home. If the employee has symptoms, the employee shall be placed on sick leave status and charged leave accordingly. However, if the employee does not feel any symptoms (i.e. asymptomatic), the employee may request to telework if such work can be accomplished at home, rather than be charged sick leave. Once the employee develops symptoms, the employee must cease teleworking and be placed on sick leave status and charged leave accordingly. If the employee's sick leave is exhausted, then the department shall charge its employee annual leave. If annual leave is exhausted, the department shall place the employee on Leave Without Pay (LWOP) status.

**Employees who are identified as Positive for COVID-19 and have been instructed by DPHSS to Isolate:**

For an employee who tests positive for COVID-19, the employee shall isolate at home following DPHSS guidelines. If the employee develops symptoms, the employees shall be placed on sick leave status and charged leave accordingly. However, if the employee does not feel any symptoms (i.e. asymptomatic), the employee may request to telework if such work can be accomplished at home, rather than be charged sick leave. Once the employee develops symptoms, the employee must cease teleworking and be placed on sick leave status and charged leave accordingly. If the employees' sick leave is exhausted, then the department shall charge their employees' annual leave. If annual leave is exhausted, the department shall place their employees on Leave Without Pay (LWOP) status.

**Fully Vaccinated Employees who undergo a COVID-19 test based on testing on their own and not related to Executive Order 2021-17:**

The following applies to fully vaccinated employees. They are employees who are not under the requirement of the once weekly testing pursuant to the Executive Order 2021-17:

Fully vaccinated employees may on their own, undergo testing for COVID-19 because they believe that they were exposed to someone such as a family member, or they are sick and want to check if they have COVID-19. These employees must be encouraged to test outside of their normal work schedule. However, if there are no available testing sites, they may request their supervisor to be tested during their normal working hours, at their supervisor's discretion depending on workload. Employee's may be eligible for administrative leave, however, they must request and receive permission BEFORE being tested in order to be considered for administrative leave.

Vaccinated employees who are not currently on sick leave and want to be tested to check if they are infected with COVID-19, and have permission from their supervisor to do so during working hours, are authorized up to three (3) hours of administrative leave, or actual time taken, whichever is less to be tested, no more than once every two (2) weeks.

Vaccinated employees who are on sick leave status and want to be tested to check if they are infected with COVID-19, may be tested during normal working hours, if they request and receive approval from their supervisor before being tested. For those that are approved, they are authorized up to three (3) hours of administrative leave, or actual time taken, whichever is less to be tested, no more than once every two (2) weeks.

They may attempt to go to the Government of Guam Only Designated Testing Sites, however priority will be given to those employees who have opted for the once weekly testing pursuant to the executive order.

**New Employees Processing:**

DOA Circular 2021-025 advised Departments that their hiring coordinators are to inform all new hires of the requirements of the Executive Order upon selection. They are to provide proof of vaccination, or show a negative PCR, or antigen test result within seven (7) days of the effective date of hire to their hiring coordinators. This Circular updates this information specific to new employees as follows:

1. Hiring Coordinators will inform all applicants that are offered the job, that their job offer is contingent upon them FIRST, clearing their pre-employment drug test, AND SECOND, providing provide proof of being fully vaccinated with one of the three approved vaccines, OR a negative COVID-19 PCR, or antigen test result.
2. Fully vaccinated means either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series of vaccine.
3. **Inform the applicant that is offered the job and has cleared drug testing that the vaccination/test result information must be provided within five (5) days of being informed of the job offer. If it is not, then the hiring department shall rescind the job offer.**
4. The effective date of hire cannot be any earlier than six (6) days from the date the new hire was informed of the requirements to provide the above-mentioned proof.
5. If the new hire opts to test, the new hire may only undergo testing at the DPHSS testing site open to the public, or their healthcare provider (at their expense if any), and not a Government of Guam Employee Designated Testing Site, since they are not yet an employee.
6. The COVID-19 test must be taken no earlier than the day the new hire was informed of the requirements to provide the above-mentioned proof.
7. If the new hire is only partially vaccinated (meaning has had only one shot of either the two shot Pfizer or Moderna), at the time of being informed of the vaccination/test requirements, then the new hire may still be brought on board, however the new hire must undergo once weekly testing until the second shot has been administered.
8. The hiring coordinator shall forward the proof of full vaccination, or test results to the Vaccine Status Coordinator, and also inform the new hire's supervisor of their new employee's vaccine status, especially if the new hire needs to be scheduled for once weekly testing.

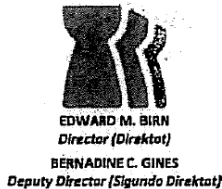
9. If the applicant who is offered the job wishes to officially request for a medical exemption to be vaccinated from DPHSS, or officially requests for a medical exemption from DOA to undergo testing, the applicant must be advised that they must do so within five (5) days of being offered the job and provide proof to the hiring department of their official request(s). If the hiring department receives such request(s) within the five (5) days, then the hiring department must hold their hiring in abeyance until the decision is made on both requests, and the applicant who is offered the job informs their hiring department of said decision(s), or until ten (10) days have elapsed, whichever comes first. **If ten (10) days has elapsed and the hiring department has not been informed by the applicant of the results of the medical exemption(s) request, then the job offer shall be rescinded.**

**If the applicant is denied by both departments, then the hiring department will rescind the job offer.**

If the applicant is approved to be exempted from vaccination, but not from testing, the applicant must submit proof of a negative PCR, or antigen test result within five (5) days of being informed of this requirement to their hiring coordinator.

If the applicant is approved by both departments for medical exemptions, then the hiring department must determine if the applicant can telework for the job hired. If the applicant can telework, then the hiring department shall proceed with the process of onboarding the applicant as a new employee, and allow the new employee to telework.

**If however, the hiring department determines that the applicant CANNOT telework, then the job offer shall be rescinded.**



## DEPARTMENT OF ADMINISTRATION

DIPATTAMENTON ATMENESTRASION

DIRECTOR'S OFFICE  
(Ufisinan Direktot)

Telephone (Telifon): (671) 475-1101/1250 • Fax (Faks): (671) 477-6788



LOURDES A. LEON GUERRERO  
Governor (Maga'håga)

JOSHUA F. TENORIO  
Lt. Governor (Sigunda Maga'håhi)

FORM G.3

August 13, 2021

### Department of Administration Organizational Circular: 2021-025

#### MEMORANDUM

To: All Line Departments and Agency Heads  
From: Director, Department of Administration  
Subject: Requirement of Government of Guam Executive Branch Workers to Vaccinate Against COVID-19 Guidance  
RE: Executive Order No. 2021-17

*Buenas yan Hafa Adai!* On August 6, 2021, the Governor of Guam issued Executive Order No. 2021-17, relative to requiring Government of Guam Executive Branch workers to vaccinate against COVID-19, effective August 9, 2021 (attached). All full-time and part-time employees and volunteers (herein referred to as "workers") of the executive branch line agencies, regardless of whether paid or unpaid, shall be required to be fully vaccinated with either a single shot of the Johnson & Johnson vaccine, or the two shot Pfizer, or Moderna series **no later than September 24, 2021**.

Workers who decline to receive a COVID-19 vaccination, or do not provide proof of such vaccination, are required to undergo a COVID-19 PCR or antigen test once weekly. Workers who do not get vaccinated due to medical reasons, such as a disability, or a sincerely held religious belief shall also be accommodated by undergoing a COVID-19 PCR or antigen test once weekly.

In limited circumstances, there may be workers who can neither be vaccinated nor tested on a regular basis due to medical reasons, such as a disability. In accordance with applicable law, these individuals may be asked to submit supporting documentation for any such claim of exemption. If any worker seeks to be exempted on this basis, please take note of their request and refer their request directly to the Department of Administration's Equal Employment Opportunity Specialist, Mr. Robert Taitano at 475-1123, or via email at: [robert.taitano@doa.guam.gov](mailto:robert.taitano@doa.guam.gov). Please inform Mr. Taitano of your department's point of contact regarding vaccination status matters so he can coordinate his review and advise accordingly.

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590 South Marine Corps Drive, ITC Building, Suite 224, Tamuning, Guam • P. O. Box 884, Hagåtña, Guam 96932

Employees are allowed three (3) hours of administrative leave or actual time taken, whichever is less, with pay to get their vaccine shot. Employees must provide proof of their vaccination, or testing, to their supervisor or authorizing official upon return to work.

Please inform your department/agency staff of the above-mentioned requirements and the deadline to comply. Inform them that workers who do not comply with the vaccination mandate or submit to testing, or are not otherwise exempt from the requirement to vaccinate or submit to weekly testing shall be subject to disciplinary procedures, which may include progressive disciplinary action and/or involuntary exclusion from the workplace. Be advised that disciplinary action may be taken after September 24, 2021.

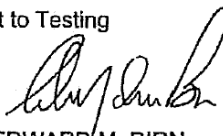
Regarding new hires, have your hiring coordinator within your department inform all new hires of requirements of the Executive Order upon selection. New hires must provide proof of vaccination, or show a negative PCR, or antigen test result within seven (7) days of the effective date of hire to your hiring coordinator.

As part of the process of complying with the Executive Order, please begin to identify workers within your department/agency of their vaccination status, and maintain your list of employees and their position titles. Please use the attached form to survey your workers. Be advised that the identification process and information collected is confidential and the vaccination status of your employees is not to be released, except upon request by competent authorities on a case-by-case basis.

**In order to monitor compliance with the Executive Order, please have your Vaccination Status Coordinator submit a report of the vaccination status of your workers to our Department every Tuesday before 5:00 p.m. beginning August 24, 2021.** Provide two (2) reports, one that indicates actual employees of your department and the other non-employees such as participants from work programs (i.e. Department of Labor program participants) and volunteers. Please submit your report to Administrative Officer, Ms. Carmen Astorga, via email at [carmen.astorga@doa.guam.gov](mailto:carmen.astorga@doa.guam.gov).

Both reports must indicate the number of workers under the following categories; do not indicate names:

1. Total number of Employees (Second report – Total number of Non-Employees)
2. Number of Fully Vaccinated
3. Number Not Yet Fully Vaccinated
4. Number that Choose to Submit to Testing
5. Number that Decline to be Vaccinated/Submit to Testing

  
EDWARD M. BIRN

Attachments

cc: Chief of Staff

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590 South Marine Corps Drive, ITC Building, Suite 224, Tamuning, Guam • P. O. Box 884, Hagåtña, Guam 96932

**GOVERNMENT OF GUAM**

**Certification of Vaccination Status**

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

Department: \_\_\_\_\_ Position Title: \_\_\_\_\_

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

Phone No.: \_\_\_\_\_ Email: \_\_\_\_\_

**Instructions:**

Please fill out the information above and checkmark your vaccination status and submit directly to your department's Vaccination Status Coordinator, \_\_\_\_\_ no later than \_\_\_\_\_. Your coordinator may be contacted at: \_\_\_\_\_, or via email at: \_\_\_\_\_. The information you provide is confidential. If you can neither be vaccinated nor tested on a regular basis due to medical reasons, such as a disability, please checkmark, "I decline to be vaccinated" and contact your coordinator to request to be considered for exemption. Your request will be forwarded to the Department of Administration's Equal Employment Opportunity Specialist for review.

If you are not fully vaccinated at the time of filling out this form, please be advised that the Coordinator will be contacting you on a weekly basis to inquire if your vaccination status has changed. We appreciate your cooperation.

\_\_\_ **I am fully vaccinated.**

Employees are considered "fully vaccinated" when they have received either a single shot of the Johnson & Johnson, or the two shot Pfizer or Moderna series. Please provide proof of vaccination such as a copy of your CDC Card or from your medical provider to our department appointed Vaccination Status Coordinator: \_\_\_\_\_. Your information will be confidentially maintained.

\_\_\_ **I am not yet fully vaccinated.**

I received my first dose of Pfizer or Moderna and am still pending my second dose. I am responsible for coordinating this with my supervisor and may be granted administrative leave, up to three (3) hours, for this purpose if done during working hours.

\_\_\_ **I have not been vaccinated and opt to submit to PCR or antigen testing once weekly.**

I am aware that if I opt to submit to PCR or antigen testing once weekly, that I am responsible for coordinating this with my supervisor and I must utilize sick or annual leave if done during working hours.

\_\_\_ **I decline to be vaccinated and decline to be tested for COVID-19 once weekly.**

I am aware that I may request to be exempted as indicated in the instructions; however, if I do not intend to seek exemption, or I am not approved for exemption and no accommodations may be made for me, I will be subject to disciplinary procedures, which may include disciplinary action.

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

**EXECUTIVE ORDER NO. 2021-17**

**RELATIVE TO REQUIRING GOVERNMENT OF GUAM EXECUTIVE  
BRANCH WORKERS TO VACCINATE AGAINST COVID-19**

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

**WHEREAS**, since declaring a public health emergency, Guam has suffered One Hundred Forty-Three (143) COVID-19 related deaths; and

**WHEREAS**, as of the time of this writing, over Eight Thousand Six Hundred (8,600) individuals have tested positive for COVID-19 in Guam; and

**WHEREAS**, at the peak of COVID-19 hospitalizations in Guam, One Hundred Two (102) individuals were hospitalized for conditions related to COVID-19; and

**WHEREAS**, since February 19, 2021, the island has been in Pandemic Condition of Readiness 3 ("PCOR 3"), during which most businesses and activities are permitted to operate with moderately restrictive conditions; and

**WHEREAS**, since June 2020, Guam has relied on the COVID Area Risk ("CAR") Score to assess the risk of COVID-19 spread, which is calculated using three main data points – effective retransmission value, test positivity rate, and new cases per 100,000 persons; and

**WHEREAS**, Guam's CAR Score has held below five (5) since late November 2020, and, until recently, held below 2.5 since the second week of December 2020; and

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U.S.A.

**WHEREAS**, as part of the vaccination plan, the Department of Public Health and Social Services ("DPHSS") and the Guam National Guard have led community vaccination clinics; and

**WHEREAS**, vaccinations have been proven highly effective in preventing individuals from contracting COVID-19 and from suffering severe symptoms if they do contract the disease, which reduces hospitalizations and deaths, and potentially reduces the risk of infection to others; and

**WHEREAS**, as a result of the dedicated efforts of DPHSS, the Guam National Guard, and our community and military partners, on July 29, 2021, our island achieved its goal of 80% of adult vaccinations, fortifying our island against widespread infection and severe symptoms, and, importantly, reducing the rate of hospitalizations, ensuring that our healthcare system has resources and personnel to treat COVID-19 cases resulting in hospitalizations; and

**WHEREAS**, having achieved our community goal of 80% adult vaccinations, with the concurrence of DPHSS, the Physicians Advisory Group and the Guam National Guard Surgeon Cell, in Executive Order No 2021-16, I ordered broad reopening of our island's economy, removing social gathering limitations and capacity limitations at local establishments, while maintaining our mask mandate; and

**WHEREAS**, notwithstanding the strong effort in our community to achieve this goal, tens of thousands of individuals remain unvaccinated, which renders them still vulnerable to infection, to suffering severe symptoms once infected, and to infecting others; and

**WHEREAS**, notwithstanding substantial vaccinations within our community, we have experienced a recent surge in positive cases on our island, with our daily new cases averaging 17.6 and our effective retransmission value at 2.0 as of the time of this writing; and

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**WHEREAS**, due to the recent rise in positive cases and the effective retransmission value number, the CAR Score is calculated at 5.4 as of the time of this writing, the highest it has been in 2021; and

**WHEREAS**, as of the time of this writing, over Three Thousand (3,000) adults ages 60 and over, our most vulnerable population, remain unvaccinated; and

**WHEREAS**, unvaccinated individuals in Guam presently test positive for COVID-19 at a rate that is thirteen (13) times higher than fully vaccinated individuals; and

**WHEREAS**, COVID-19 cases in the United States have surged due to the prevalence of the highly infectious Delta variant, and while Guam had previously intercepted a single case of the Delta variant, it is anticipated that more cases of the Delta variant may already be present in Guam; and

**WHEREAS**, recent data suggests that the viral load is roughly One Thousand (1,000) times higher in people infected with the Delta variant than those infected with the original coronavirus strain; and

**WHEREAS**, while a period of increased positive cases is a natural and anticipated consequence of broader reopening, it is necessary that we take steps as a community to protect ourselves and each other from continued spread of this disease, particularly among our most vulnerable populations; and

**WHEREAS**, the risk posed to our community by exposure to the COVID-19 virus is demonstrably mitigated as the rate of vaccination in our community rises; and

**WHEREAS**, Title 10 Chapter 3 Section 3322(b) of the Guam Code Annotated provides that in case of an epidemic or to control a possible epidemic of a communicable disease, the Director of DPHSS may direct that the general population be vaccinated and immunized against said disease; and

**WHEREAS**, Title 10 Chapter 19 Section 19603 of the Guam Code Annotated provides further that during a state of public health emergency, DPHSS may exercise emergency powers over persons including vaccinating persons as protection against infectious disease and to prevent spread of contagious or possibly contagious disease; and

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**WHEREAS**, on May 28, 2021, the U.S. Equal Employment Opportunity Commission ("EEOC") issued technical guidance clarifying that federal EEO laws do not prevent employers from requiring all employees physically entering the workplace to be vaccinated for COVID-19, subject to reasonable accommodations as provided in Title VII of the Americans with Disabilities Act and other federal employment discrimination laws, which may require an employer to provide reasonable accommodations for employees who do not get vaccinated for COVID-19 because of a disability or a sincerely held religious belief, practice or observance; and

**WHEREAS**, on July 26, 2021, the U.S. Department of Veterans Affairs announced mandatory vaccinations for all Title 38 VA health care personnel working in Veterans Health Administration facilities, who visit VHA facilities, or who provide direct care to VA patients; and

**WHEREAS**, on July 26, 2021, the U.S. Department of Justice issued a Memorandum Opinion concluding that Section 564 of the Federal Food, Drug and Cosmetic Act permits public and private employers alike to impose the COVID-19 vaccination as a condition of employment even when the vaccine is subject to Emergency Use Authorization; and

**WHEREAS**, in the seminal, oft-cited case *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), the United States Supreme Court, observing that a community has the right to protect itself against disease that threatens the safety of its members, upheld mandatory vaccinations as a valid exercise of a state's police powers, subject to specific exemptions; and

**WHEREAS**, the United States Supreme Court, in *Zucht v. King*, 260 U.S. 174, 176, 43 S. Ct. 24, 25, 67 L. Ed. 194 (1922), reiterated the principle stated in *Jacobson* that it is within the police power of a state to provide for compulsory vaccination; and

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HAGATRA, GUAM 96932  
U.S.A.

**WHEREAS**, in *Bridges v. Houston Methodist Hosp.*, No. CV H-21-1774, 2021 WL 2399994 (S.D. Tex. June 12, 2021), the United States District Court for the Southern District of Texas issued an order, dismissing an action for wrongful termination brought by employees of a public hospital subjected to mandatory vaccinations, finding that the employee could freely choose to accept a COVID-19 vaccine or refuse and simply work elsewhere; and

**WHEREAS**, every U.S. jurisdiction has laws requiring students to receive certain vaccinations to attend school, subject to certain exemptions; and

**WHEREAS**, in *Klaassen v. Trustees of Indiana Univ.*, No. 1:21-CV-238 DRL, 2021 WL 3073926 (N.D. Ind. July 18, 2021), the United States District Court for the Northern District of Indiana, in a 70-page decision, denied a preliminary injunction to students seeking to enjoin Indiana University from mandating vaccinations (subject to exemptions) as a condition of enrollment, finding that the students had not established a likelihood of success on the merits, and specifically recognizing that the policy did not force vaccinations given that the students had alternatives to taking the vaccine, including applying for an exemption or deferral or attending another university; and

**WHEREAS**, in *Klaassen v. Trustees of Indiana Univ.*, the court recognized that notwithstanding Emergency Use Authorization of the U.S. COVID-19 vaccines, the FDA, prior to issuing EUAs to U.S. COVID-19 vaccines, required manufacturers to go beyond statutory safety and efficacy requirements and to consult with the FDA on non-clinical components of vaccine distribution and development as clinical trials progressed in order to attain the same level of efficacy data as the FDA would receive for full approval, enough safety data to justify providing the vaccine to healthy individuals, and confirmation of technical procedures and verification steps necessary to support full approval; and

**WHEREAS**, in *Klaassen v. Trustees of Indiana Univ.*, the court further acknowledged that while the 2-month timeline for the safety follow-up to receive an EUA was indeed shorter than the data of 6-month monitoring of severe adverse events after clinical trials conclude necessary for full approval, the FDA's acceptance of the 2-month follow-up was made in light of its expert assessment and experience that significant latent negative outcomes associated with vaccinations typically occur within 6 weeks of receipt of a vaccination; and

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**WHEREAS**, over one hundred sixty-five million Americans are fully vaccinated against COVID-19, including over one hundred thousand in Guam; and

**WHEREAS**, outside of anecdotal references, there is simply no substantial evidence that the COVID-19 vaccines are harmful, and to the contrary, it is beyond reasonable dispute that the vaccines reduce the risk of infection and death; and

**WHEREAS**, it is beyond reasonable dispute that these vaccines save lives; and

**WHEREAS**, employers are responsible for the safety of their employees in the workplace; and

**WHEREAS**, the government of Guam is the largest employer on the island; and

**WHEREAS**, with the concurrence and support of DPHSS, the Physicians Advisory Group, and the Guam National Guard Surgeon Cell, it is timely, necessary, and appropriate, given the availability of safe vaccines and the dangers COVID-19 continues to pose, particularly the Delta variant that is prevalent in U.S. jurisdictions, for the executive branch of the government of Guam to take the difficult but critical step of mandating COVID-19 vaccinations for its employees; and

**WHEREAS**, mandating vaccinations for executive branch employees will ensure the safety of our employees, particularly our frontline and front-facing employees who engage with the public; and

**WHEREAS**, it is important that we continue to be mindful of the reality that the COVID-19 pandemic remains a threat to our safety as a community, and that we all exercise personal judgment, and take steps as individuals towards protecting ourselves and our loved ones against this disease, including getting vaccinated; and

**WHEREAS**, we must encourage our friends and family, especially those with comorbidity factors, to get vaccinated, keep themselves and their loved ones safe, and do their part to help achieve herd immunity on our island; and

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

**WHEREAS**, as our community works to recover from this global pandemic's impact on our lives, it is important to recognize that the emergency has not yet ended and that we are now, and will continue to be for some time, engaged in emergency response; and

**WHEREAS**, with continued practice of the basic mitigation measures of washing hands and wearing masks, we will continue to make strides towards containing the spread of COVID-19 on our island, and keeping our community safe.

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

- 1. MANDATORY COVID-19 VACCINATIONS FOR EXECUTIVE BRANCH WORKERS.** Effective Monday, August 9, 2021, all workers of the executive branch agencies of the government of Guam shall be required to receive one of the three authorized COVID-19 vaccines. Workers shall be fully vaccinated with either a single shot of the Johnson & Johnson or the two shot Pfizer or Moderna series no later than September 24, 2021.

In the event a worker declines to receive a COVID-19 vaccination or provide proof of such vaccination, they will be required to test for COVID-19 with a PCR or antigen test once weekly. Non-exempt workers are required to vaccinate or submit to weekly testing as provided herein, or they shall be subject to disciplinary procedures, which may include disciplinary action.

- a. **Applicability.** This Section shall apply to full-time or part-time employees and volunteers of executive branch line agencies, regardless of whether paid or unpaid.
- b. **Vaccination Clinics.** Executive Branch line agencies shall coordinate with DPHSS and the Guam National Guard for the scheduling of vaccination clinics at their respective agencies. Individual workers may make personal arrangements to get vaccinated, and provide proof of vaccination to their respective agencies according to the aforementioned deadlines.
- c. **Records.** Executive branch line agencies shall, consistent with applicable privacy laws and regulations, maintain records of workers' vaccination status, declination forms, and/or testing results as applicable and provide such records to DPHSS upon request.

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

2. **USE OF THE GUAM COVID ALERT APP ENCOURAGED.** All residents with smartphone capability are encouraged to download the Guam COVID Alert app, which will alert individuals who may have been exposed to another individual who has tested positive for COVID-19. The app is free, and available to download for Apple and Android devices.

3. **SEVERABILITY.** If any provision of this Executive Order or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Order that can be given effect without the invalid provision or application, and to this end, the provisions of this order are severable.

4. **PRIOR ORDERS REMAIN IN EFFECT.** All prior Executive Orders remain in full force and effect except to the extent they conflict with this Order.

**SIGNED AND PROMULGATED** at Hagatña, Guam, this 6th day of August, 2021.

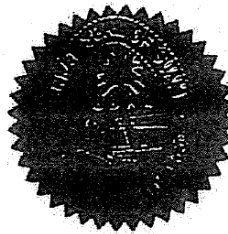
*Lou Ann Guerrero*

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

Attested by:

*Joshua F. Tenorio*

**JOSHUA F. TENORIO**  
*Sigundo Maga'håhen Guåhan*  
Lieutenant Governor of Guam





## Government of Guam Employee Report to COVID-19 Testing Form

### Supervisor Instructions:

Pursuant to Executive Order 2021-17, employees who decline to be vaccinated, or do not provide proof of such vaccination, must undergo once weekly COVID-19 testing, unless medically exempted. For employees that must undergo once weekly testing, supervisors MUST schedule their employees for COVID-19 testing at one of the Government of Guam Employee Only Designated Testing Sites; no substitution of sites are allowed. These employees must begin their testing during the week of September 27, 2021, and test once weekly thereafter. Supervisors are encouraged to discuss this matter and schedule their employees accordingly by assigning and completing this form. Employees must return the completed form to their supervisors after testing. Supervisors must then submit the form to their Vaccination Status Coordinator (VSC) in order to update the employees' status. Other than the VSC, the testing information on the form may only be shared on a need-to-know basis with your Department's management, the DOA's HR Division, and DPHSS Officials.

### Employee Instructions:

After completing this form with your supervisor, bring the form to your assigned Government of Guam Employee Only Designated Testing Site and request a COVID-19 Testing Official to complete their portion of the form and return to you. If you are administered the fast antigen test, you must remain at the site until you receive your results. Contact your supervisor if you must Quarantine, or Isolate. Your supervisor will give you further instructions. Submit your completed form to your supervisor after testing.

Department / Division / Section: \_\_\_\_\_

Employee Name & Position Title: \_\_\_\_\_

Supervisor's Name & Position Title: \_\_\_\_\_

Assigned COVID-19 Testing Site: \_\_\_\_\_

Assigned Test Date: \_\_\_\_\_ Assigned Test Time: \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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### COVID-19 Testing Official Use Only:

#### COVID-19 Test Official Instructions:

Please complete the information below, and immediately return to employee. Thank you.

I, as a COVID-19 Test Official (Print Name & Position Title): \_\_\_\_\_  
hereby verifies the above-named Government of Guam Employee was administered a COVID-19 test at the assigned location, and on the assigned date and time as indicated above.

Circle the appropriate response:

Test Administered: Antigen Test PCR Test

Test Result (if known): Negative Positive

Employee able to Immediately Return to Work?: Yes No

If Employee cannot return to work, Employee Must: Quarantine Isolate

COVID-19 Test Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_

COVID-19 Test Official/Organization Contact Nos.: \_\_\_\_\_

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PLEASE RETURN TO GOVERNMENT OF GUAM EMPLOYEE UPON COMPLETION.  
THANK YOU

**GOVERNMENT OF GUAM**

**SELF-ATTESTATION OF COVID-19 VACCINATION FORM**

This self-attestation of being fully vaccinated with one of the three authorized COVID-19 vaccines will meet the requirements of providing proof of vaccination for the "I am fully vaccinated" choice on the **Government of Guam Certification of Vaccination Status form** which was distributed based on Department of Administration Organizational Circular: 2021-025. After completion, please submit to your Vaccination Status Coordinator, and inform your supervisor.

I, \_\_\_\_\_, Position Title: \_\_\_\_\_

from Department of: \_\_\_\_\_, hereby self-attest and declare that I have been fully vaccinated with one of the following COVID-19 vaccines: Pfizer-BioNTech, Moderna, or Johnson & Johnson.

I received my second dose (Pfizer-BioNTech/Moderna), or single dose of Johnson & Johnson Vaccine on the date of: \_\_\_\_\_, at the location of: \_\_\_\_\_.

I understand and acknowledge that, if any fact stated in this Self-Attestation is false, I may be subject to disciplinary action, up to and including dismissal/termination, and/or involuntary exclusion from the workplace.

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

Phone No.: \_\_\_\_\_ Email: \_\_\_\_\_

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