



**GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER**  
(Formerly Department of Mental Health and Substance Abuse)  
**Healing Hearts Crisis Center**

## **Request for Proposals**

**NO: RFP #GBHWC-05-2014**

**Medical Consultant for Healing Hearts Crisis Center**  
(Edward Byrne Memorial Justice Assistance Grant  
#2010-DJ-BX-0030; #2011-DJ-BX-2166)

Issue Date: May 29, 2014

## **PUBLIC NOTICE**

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### **REQUEST FOR PROPOSALS**

#### **NO. RFP #GBHWC-05-2014**

The Guam Behavioral Health and Wellness Center (GBHWC), formerly Department of Mental Health and Substance Abuse (DMHSA), is soliciting the services of a Medical Consultant to provide medical services to the GBHWC Healing Hearts Crisis Center (HHCC) for victims of sexual assault and abuse.

These Request for Proposals (RFP's) are 100% Federally funded through the Bureau of Statistics and Plans for the U.S. Department of Justice, Office of Justice Programs FY 2010 and FY 2011 Edward Byrne Justice Assistance Grant, #2010-DJ-BX-0030 and #2011-DJ-BX-2166, respectively.

RFP packages are available for public inspection at [www.gbhwg.guam.gov](http://www.gbhwg.guam.gov) or a hard copy is available for pickup at the Director's Office, located on the First Floor, 790 Gov. Carlos G. Camacho Road, Tamuning, Guam, during the weekdays except holidays between 9:00AM and 4:00PM. All interested parties must register with the Director's Office in order to receive any amendment or relative correspondence regarding the RFP. DEADLINE for receipt of proposals is no later than Friday, June 14, 2014.

GBHWC shall have the right to reject all proposals, or offers that have been submitted in response to these RFP's, and/or may cancel these RFP's at any time if the Director determines such to be in the interest of GBHWC or if allowed by law or regulation. For more information, call Maria Teresa P. Aguon, Point of Contact, at (671) 647-5351 or the Director's Office at (671) 647-1901.

**REY M. VEGA**  
**Director**

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Issued By:

Proposal No.:

**GUAM BEHAVIORAL HEALTH  
AND WELLNESS CENTER**

**RFP #GBHWC-05-2014**

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Location of Operations:

Division of Agency:

790 Governor Carlos G. Camacho Road  
Tamuning, Guam 96913

Director's Office  
Healing Hearts Crisis Center

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**I. GENERAL INFORMATION:**

**OVERVIEW:** Formerly Department of Mental Health and Substance Abuse (DMHSA), Guam Behavioral Health and Wellness Center (hereinafter known as GBHWC) is requesting the services of a Medical Consultant to provide medical services to the GBHWC Healing Hearts Crisis Center (HHCC) for victims of sexual assault and abuse, Federally funded through the Bureau of Statistics and Plans for the U.S. Department of Justice, Office of Justice Programs FY 2010 and FY 2011 Edward Byrne Justice Assistance Grant, #2010-DJ-BX-0030 and #2011-DJ-BX-2166, respectively

Individuals interested in bidding for this project may submit proposals that are directed towards victims of sexual assault and abuse. Offerors must be able to provide services consistent with the performance of professional service Standards as outlined in accordance with laws, rules regulations, and policies of the Government and GBHWC. The services sought after are consistent in carrying-out GBHWC's mandate to continually strive to improve, enhance and promote the physical and mental well-being of the people of Guam who experience the life-disrupting effects of mental illness, alcoholism and drug abuse (**10 GCA §86101**). Finally, it complies with the intent of the Healing Hearts Crisis Center to provide survivors of sexual assault with discrete, immediate, and full medical attention (**Public Law 21-44**).

**BACKGROUND:** GBHWC is soliciting written proposals for a Medical Consultant for the Healing Hearts Crisis Center to provide immediate assessment, diagnosis, treatment, evaluation, and ongoing consultation services for victims of sexual assault and abuse.

The primary mission of the Healing Hearts Crisis Center (HHCC) is to incorporate a holistic approach for individuals who may have experienced a sexual assault. Regardless of when the assault occurred or the age, ethnicity, gender or disability of the victim, HHCC offers a supportive, healing atmosphere with caring people to assist victims regain feelings of safety, control, trust, autonomy and self-esteem.

Some survivors state that reporting the sexual assault is the hardest step in the process. This statement stresses how crucial it is to have trained, competent individuals responding to the needs of survivors. Strategies to address these problems include the goals of the program, which

are to improve the collection of evidence in sexual assault cases, which will assist with the successful prosecution of criminal sexual assault cases, and to ensure that survivors of sexual assault are provided with the necessary support/resources to report and participate in the investigation and prosecution of criminal sexual conduct cases. These goals are accomplished through the following objectives:

- Increase knowledge of current best practices of the collection of forensic evidence from sexual assault victims
- Improve the use of the multi-disciplinary team interview
- Ensure that forensic evidence is collected in a timely and appropriate manner
- Increase awareness of the HHCC program and its services to the community
- Provide survivors with appropriate referrals to obtain needed services
- Secure counseling for survivors of sexual assault

Expected performance indicators and outcome measures include:

- Forensic Nurse and Medical Consultant to be recognized as Expert Witnesses and maintain that status for testimony during trial
- Increase requests for training and outreach by other agencies on best practices in dealing with sexual assault
- Increased number of forensic interviews and multi-disciplinary team interviews conducted
- Decrease in the number of repeat interviews for victims
- Improved response time in which evidence is collected
- Increase in the number of survivors who receive counseling and become emotionally stable enough to testify in court

The GBHWC Healing Hearts Crisis Center currently operates with four areas, which are administrative, medical, social work, and community outreach and public awareness. HHCC provides services to our local residents, tourists and the military (inclusive of their dependents) and offers intake assessments; crisis counseling; forensic interviews; acute medical examinations (when a sexual assault is reported within a 72-hour period. A sexual assault kit is used to collect forensic evidence); non-acute medical examinations (conducted on minors after the 72-hour window); sexually transmitted diseases (STDs) testing and/or treatment; human immunodeficiency virus (HIV) testing; and outreach/training to schools (students & faculty) and the community at large. HHCC also makes referrals within DMHSA, to our community partners (protective agencies, law enforcement, prosecution, advocacy services) and private counselors.

HHCC is currently able to provide assessments, examinations, treatment and counseling to victims at no cost to the client. Current federal funding pays for the salary and benefits for a Social Worker II; in addition, grant funds from the Edward Byrne Memorial Justice Assistance Grant provide contractual obligations for On-call Medical Examiner and Examiner Assistants; counseling services and the Medical Consultant, all of which current levels of funding limit to a contractual basis, as well as augmenting training and supply budgets.

Therefore, GBHWC is committed and in support of providing Medical Consultations Services for the Healing Hearts Crisis Center. The service proposals must meet the criteria for services as defined in the scope of work to provide general medical services to the GBHWC-Healing Hearts Crisis Center. When the capacity of care is increased, the number of victims

served is expected to increase, the collection of forensic evidence is expected to increase with improved response time, which works to fulfill the performance indicators and outcome measures specified in the grant funding.

### **ALL PARTIES TO ACT IN GOOD FAITH**

This Request for Proposal (RFP) solicitation is issued subject to all the provisions of the Guam Procurement Law and the Guam Procurement Regulations (copies are available for inspection at General Services Agency). This RFP requires all parties involved in the preparation of the RFP, the evaluation and negotiation of proposals, and the performance or administration of contracts to act in good faith.

### **LIABILITY FOR COSTS TO PREPARE PROPOSAL**

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

### **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 [www.guamcourts.org/compileroflaws/GCA/05gca](http://www.guamcourts.org/compileroflaws/GCA/05gca). This RFP is issued by Guam Behavioral Health and Wellness Center, a department of the Government of Guam, and authorized by the Guam Procurement Law to act as the purchasing agency for the purpose of procuring professional services described in Section II, Scope of Work. Any party who submits a proposal is known as an "offeror".

Pursuant to Procurement Circular 2010-01, Compliance with P.L. 30-72 regarding Procurement (Ref: AG-10-0104), the Office of the Attorney General to "act as legal advisor during all phases of the solicitation and procurement process in which the award is estimated to be \$500,000.00 or more".

### **LICENSING**

License to conduct business in the Guam (See Attachment, **Form C**)

An offeror who has not complied with the Guam Licensing Law is cautioned that GBHWC will not consider for award any Proposal Offer submitted. Specific information on licenses may be obtained from the Director of the Department of Revenue and Taxation, by telephone at (671) 635-1829 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).

### **REGISTRATION REQUIRED TO BE A POTENTIAL OFFEROR**

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

"Acknowledgment of Receipt of RFP/ or Registration Card form attached hereto and made a part hereof and delivering it to GBHWC. Only companies or individuals who have registered with GBHWC are assured of receiving any amendments to the RFP, responses to inquiries and other procurement documentation. Acknowledgment of receipt to all amendments and responses to inquiries is required as part of any proposal and only registered offerors will be considered as "potential offerors". GBHWC maintains a procurement registration log as to those potential offerors who pick up copies of the RFP at GBHWC. In the event the contact information for a potential offeror changes during the procurement process, it shall be the potential offeror/or offeror's responsibility to update their registration contact information with GBHWC.

### **DEBARMENT, SUSPENSION AND INELIGIBILITY**

All debarment or suspensions of persons are deferred from consideration for award of contracts imposed by the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency. (2 GAR Div 4 Sec 9102) Only offerors who are not suspended by local and federal government(s) are qualified to submit proposals.

### **PROHIBITION AGAINST EMPLOYMENT OF SEX OFFENDERS**

The 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 contractor while on government of Guam property, with the exception of public highways. If any employee of the Contractor is providing services on government property and is convicted subsequent to an award of a contract, then the Contractor warrants that it will notify the Government of the conviction within twenty-four hours of the conviction, and will remove immediately such convicted persons from providing services on government property. If the Contractor is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the Contractor to take corrective action. The Contractor shall take corrective action within twenty-four hours of notice from the Government, and the Contractor shall notify the Government when action has been taken. If the Contractor fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

### **AFFIDAVIT RE DISCLOSING OWNERSHIP AND COMMISSIONS**

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



The affidavit shall be open and available to the public for inspection and copying. (5 GCA §5233) **(AG Procurement Form 002).**

#### **AFFIDAVIT RE NON-COLLUSION**

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 anticompetitive practices (2 GAR §3126.b)**(AG Procurement Form 003).**

#### **AFFIDAVIT RE GRATUITIES OR KICKBACKS**

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

#### **AFFIDAVIT RE ETHICAL STANDARDS**

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. **(AG Procurement Form 005)**

#### **DECLARATION RE COMPLIANCE WITH U.S. DEPARTMENT OF LABOR (DOL) WAGE DETERMINATION**

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. **(AG Procurement Form 006).**

#### **AFFIDAVIT RE CONTINGENT FEES**

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 2 GAR Div 4 Sec 11108(a)(1) as failure to do so constitute a breach of ethical standards. **(AG Procurement Form 007)**

#### **FEDERAL GRANT FUND CERTIFICATIONS AND ASSURANCES**

The offeror shall certify that the organization has received a copy of the grant award mentioned herein above and shall comply with all applicable requirements of the grant and other federal laws, executive orders, regulations and policies governing the program. **(Attachment 008 and 009)**

## **TYPE OF CONTRACT**

The Guam Procurement Law prohibits advanced payment. Therefore, the government may not pay a retainer. Instead, the type of contract contemplated is a "time and materials" contract whereby the parties shall agree upon a basis for payment of services performed and expenses incurred by the contractor. The contract shall contain a ceiling or an estimate that shall not be exceeded without the prior consent of GBHWC. As required by law, GBHWC determines in writing herein that its personnel will be assigned to closely monitor the performance of the services and that it is not practicable to use any other type of contract to obtain these services in the time required and at the lowest cost or price to the Government.

## **DURATION OF CONTRACT OR TERM OF SERVICE**

The contract shall take effect upon the signature of all the required parties and approval by the Governor of Guam. The initial term of the contract shall be from the effective date through September 30, 2014.

The term of the contract is subject to the availability of funds from fiscal year to fiscal year and/or grant year(s) and GBHWC's determination of its best interest. Certification of funds may be done on pro-rata increments.

## **MULTI-TERM CONTRACTS**

In accordance with multi-term procurement rules and regulations (2 GAR, Div. 4, §§ 3121), annual renewal provisions may be granted through September 30, 2017, provided all terms and conditions are met; and subject to the annual availability of funds.

The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be cancelled and the contractor shall be reimbursed the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies delivered or services performed under the contract (2 GAR, Div. 4, §§ 3121).

## **COMPENSATION FOR SERVICES**

Contractor shall be compensated monthly not to exceed dollar amount, which will remain the same for all years of the contract for professional services in accordance with Section II Scope of Work provided monthly to the agreed range of clients. Invoicing and payment will be made based on a **fixed hourly rate**.

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, unless otherwise provided for.

## **INDEPENDENT CONTRACTOR STATUS**

Offeror understands that its relationship with GBHWC is as an independent contractor and not as an employee of GBHWC. No employee benefits such as insurance coverage, participation in the government retirement system, or accumulation of vacation or sick leave

shall accrue to the offeror or its individual employees, if any. No type of tax will be withheld from payments made to the awarded offeror.

### **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. 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 GBHWC as being non-compliant/non-responsive with the RFP.** Any information that will be included in any resulting contract cannot be considered confidential. GBHWC will make a written determination as to the apparent validity of any request for confidentiality. In the event GBHWC does not concur with the offeror's request for confidentiality, the written determination will be sent to the offeror.

### **OWNERSHIP OF PROPOSAL**

GBHWC has the right to retain the original proposal and other RFP response materials for our files. As such, GBHWC may retain or dispose of copies as it lawfully deems appropriate. Proposal materials may be reviewed by any person after the "Notice of Intent to Make an Award" letter(s) has/have been issued. GBHWC has the right to use any or all information/material presented in reply to the RFP, subject to the limitation outlined in the clause, Proprietary/Confidential Information. Offeror expressly agrees that GBHWC may use the materials, and any and all ideas and adaptations of ideas contained in any proposal received in response to this solicitation for all lawful Government of Guam purposes, including but not limited to the right to reproduce copies of the material submitted for purposes of evaluation, and to make the information available to the public in accordance to the provisions of Guam laws and regulations. Selection or rejection of the offer will not affect this right.

### **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.

### **EQUAL EMPLOYMENT OPPORTUNITY**

Section 3.01(1) of the Presidential Executive Order No. 10935 dated March 7, 1965, requires the offeror not to discriminate against any employee or applicant for employment

because of race, creed, color or national origin. The offeror will take affirmative action to ensure that offerors are employed and that employees are treated equally during employment without regard to their race, creed, color or national origin.

### **ASSIGNMENT**

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

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

### **AMENDMENTS TO REQUEST FOR PROPOSAL**

The right 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 Request for Proposals and shall be identified as such and shall require that firms acknowledge receipt of all amendments issued. The amendment shall refer to the portions of the Request for Proposal it amends. Amendments shall be sent to all prospective proposers known to have received a Request for Proposal. 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 telegram or telephone and confirmed in the amendment.

### **PROPOSAL SELECTION**

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

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

### **ERRORS AND OMISSIONS**

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

## **II. SCOPE OF WORK**

To provide general medical services to the GBHWC-Healing Hearts Crisis Center (HHCC). To provide immediate assessment, diagnosis, treatment, evaluation, and ongoing consultation services for victims of sexual assault and/or abuse regardless of age, gender, ethnicity or disability. Services provided must be consistent with the performance of professional service standards as outlined below in accordance with laws, rules, regulations, and policies of the Government of Guam and GBHWC. The Medical Consultant will consult regularly with the GBHWC Director and HHCC Program Manager on pertinent issues involving the Healing Hearts Crisis Center.

Services will include and are not limited to:

### ***Medical Consultant Services:***

- Provide consultation on forensic medical examinations.
- Authorize and prescribe medications and review and approve standing orders given to sexual assault victims.
- Approve standing orders for baseline laboratory testing and review the laboratory results with follow-up recommendations.
- Serve as the supervising physician for forensic nurses who provide sexual assault examinations.
- Assist in the development and review of Healing Hearts Crisis Center policies, procedures and protocols.
- Assist in maintaining the on-call pool of examiners for both the acute and substantiation examination (serve as alternate substantiation examining physician).
- Assist in providing training for physicians and nurses, including the forensic nurse / sexual assault nurse preceptor examiners program.
- Assist in development and implementation of public awareness and community outreach programs.

### ***Administrative Duties and Responsibilities:***

- Advise on the scope of other medical and nursing work within the program.
- Participate in the planning, development, and evaluations of programs and services.
- Participate in Healing Hearts Crisis Center working sessions, meetings and presentations.

## **III. PROPOSED CONTENTS, REQUIREMENTS, & INSTRUCTIONS**

### **A. CONTENTS OF THE PROPOSAL:**

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. Offerors may designate those portions of the proposal which contain trade secrets or other proprietary data which may remain confidential. In order to ensure a uniform review process and to obtain the maximum degree of comparability, at a minimum, each proposal shall, when applicable, contain:

1. Title Page - name of the offeror, the location of the offeror's principal place of business, telephone and facsimile numbers, and email address.
2. Table of Contents
3. Designations of Contact Person to include his/her address and contact numbers, including email address, if different from the offeror's. The designated person must be able to answer any questions regarding the offeror's proposal and must be able to negotiate the fee and other contract terms.
4. Business license and the offeror's federal employer identification number (EIN), or tax identification number (TIN), if any.
5. 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.
6. 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
7. 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
8. Project Personnel and Community Partners:
  - a. Project Leader's academic background (education and specialized training), skills (abilities and qualifications) and community development work experience with similar projects
  - b. Staff Position Titles/Description of work responsibilities
  - c. Community Partners – organization/volunteers
9. Service Delivery
  - a. Proposed Services (a discussion of the program that the Consultant 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,
10. 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;

11. Letters, awards or other forms of recognition that demonstrate confidence in the Offeror's work performed and experience;
12. Reporting System
  - Regular progress reporting mechanism;
  - Tracking of financial activity (Include latest published financial report)
  - Tracking system to report project progress; and,
  - Performance Measures on completion of services contained in Section IV.
13. Affidavit re Disclosing Ownership – Form 002
14. Affidavit re Non-Collusion – Form 003
15. No Gratuities or Kickbacks Affidavit - 004
16. Ethical Standards Affidavit – Form 005
17. Wage Determination and Benefit – form 006
18. Contingent Fees – Form 007
19. Federal Grant Fund Certifications and Assurances (Grant Award attached) (See 008 & 009)
20. Acknowledgment of Sample Business Associate Agreement (See 010)

## **B. REQUIREMENTS AND INSTRUCTIONS:**

All Proposals must be submitted in writing. It should include a listing of current and former business clients and a description of the type of work performed or being performed. At a minimum, if the Proposer is an individual, the Proposal should include a complete resume of the individual. If the Proposer is a firm, the Proposal should include a resume of the firm's principal(s).

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

The Guam Behavioral Health and Wellness Center requires respondents to present satisfactory evidence that he or she has sufficient experience and is fully qualified. Entities submitting proposals must be able to demonstrate in detail their stability in the community to provide services to victims of sexual assault and abuse. The Consultant must be able to show that he/she has experience and expertise in the following areas:

- A minimum of five (5) years on-going experience in adult and pediatric Medical examinations relating to sexual assault cases; and

- Shall possess the degree of Doctor of Medicine from a recognized college or university with specialization in internal medicine or family practice; and
- Shall be Board Certified or Board Eligible by the Guam Board of Medical Examiners; and
- Must demonstrate continuing education in the area of sexual assault on an annual basis.

#### **IV. GENERAL PROCEDURES:**

##### **A. Receipt and Registration of Proposals**

All proposals and modifications shall be time stamped upon receipt and held in a secure place until the established due date below. Proposals and modifications received after the due date and time will not be considered. It is the sole responsibility of each offeror to assure that its proposal is delivered to the specified location prior to the deadline. Proposals which, for any reason, are not so delivered will not be considered. The deadline for **receipt** of proposals by GBHWC is **no later than 4:00 P.M., Friday, June 14, 2014.**

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

Mailing & Delivery Address:

Rey M. Vega, Director  
Guam Behavioral Health and Wellness Center  
790 Governor Carlos G. Camacho Road  
Tamuning, Guam 96913

2. Offeror shall submit one (1) original hard copy, (1) electronic copy (flash drive or cd) and four (4) hard copies of each proposal (Cost proposals shall be submitted in a separate, sealed envelope)
3. Envelopes containing proposals shall be sealed and marked on the face with the name and address of the offeror, the proposal number and the time and date of submission.
4. No facsimile or emailed proposals will be accepted.
5. Proposals may be hand carried and received at GBHWC on or before the deadline date and time.
6. Proposals received through the mail will not be accepted if such mail is received at the address showing after the submission date and time.
7. Under no circumstances will GBHWC accept a late proposal.
8. Proposals will be considered only from such offerors who, in the opinion of GBHWC, can show evidence of their ability, experience, equipment and facilities to render satisfactory service, and are not currently debarred by federal or local government.

##### **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. 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**

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

1. The plan for performing the required services;
2. Ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
3. The personnel, equipment , and facilities to perform the services currently available or demonstrated to be made available at the time of contracting, and
4. A record of past performance of similar work.

Evaluations will be conducted by a Proposal Review Committee. Scoring will be based on a possible total of 100 points and the proposals with highest total score will be recommended for award.

#### **E. Evaluation Criteria and Assigned Weight**

<b>Evaluation Criteria</b>	<b>Assigned Weight</b>
The completeness of the Proposal for performing the required services and the thoroughness of the program that the Consultant will undertake to accomplish the objectives of this project and the work described in the Scope of Work	20 points
The qualifications and ability to perform the services as reflected by technical training and education, general and specific experiences of the key personnel proposed to be assigned to perform the services	25 points
Experience in successfully administering the services, inclusive of similar work accomplished or underway	20 points
The personnel, software tools, and equipment to perform the services are currently available or demonstrated to be available at the time of contracting	20 points

Demonstrated ability to meet schedules and timelines	15 points
<b>Total Points</b>	<b>100</b>

**F. Negotiation and Award of Contract**

GBHWC shall negotiate a contract with the best-qualified offeror for the required services at compensation determined in writing to be fair and reasonable. Contract negotiations will be directed toward: (1) making certain that the offeror has a clear understanding of the scope of work, specifically, the essential requirements involved in providing the required services; (2) determining that the offeror will make available the necessary personnel to perform the services within the required time; and (3) agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

**G. Right to Reject Offers and Cancel the Procurement**

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

**H. 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 offeror, a written record stating the reasons therefore shall be placed in the file and GBHWC will advise such offeror of the termination of negotiations which shall be confirmed by written notice within three days. Upon failure to negotiate a contract with the best-qualified offeror, GBHWC will enter into negotiations with the next most qualified offeror. If negotiations again fail, negotiations will be terminated as provided in this Section and commence with the next qualified offeror.

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

**V. ADDITIONAL CONTRACTUAL TERMS AND CONDITIONS PROFESSIONAL SERVICES**

The following clauses utilize the generic term “the contractor” to refer to potential offerors, contractors, vendors, service providers or any other name used in the procurement as to the individual(s) or entity that is in receipt of the solicitation or awarded the contract in the procurement. The generic term “the government of Guam” is used to reference the departments, agencies, boards, officers and employees of the government of Guam. The

generic term “this contract” is used to refer to the procurement, the agreement, the collective documents that are part of the procurement, i.e. the request for proposal, the proposal, the agreed cost estimate, the signed forms, the certification and assurance forms, and any other documents identified by the parties.

- In the current procurement the government of Guam is the Guam Behavioral Health and Wellness Center, P.L. 32-024 effectively changed the name of Department of Mental Health and Substance Abuse to now be Guam Behavioral Health and Wellness Center.
- In the current procurement, the head of the purchasing agency is Rey M. Vega, the Director of Guam Behavioral Health and Wellness Center.

**In event the contractor discovers any ambiguity or inconsistency with the terms below and the solicitation documents, the contractor must raise the issue to the head of the purchasing agency in writing prior to submitting its proposal, and during any applicable question submittal period that may be designated in the request for proposal. In the event there is to be a modification of a term in this section “Additional Contractual Terms and Conditions Professional Services”, it will be done through the amendment of the request for proposal process.**

#### **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.justice.gov.gu/compileroflaws>. The contractor and the government of Guam agree that the laws of Guam apply to this procurement, and shall govern the validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties. 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 2 GAR Division 4. Additionally, the Guam Office of Public Accountability <http://www.guamopa.com/>, the Guam Office of Attorney General <http://www.guamag.org/> and the Department of Administration General Service Agency <http://bit.guam.gov/> all have useful procurement information and forms.

- Healing Hearts Crisis Center program information is available at <http://www.dmhsa.guam.gov>

The contractor expressly consents to the jurisdiction of Guam and to the venue of the courts on Guam with respect to any and all claims which may arise by reason of this contract, and waives any and all rights it may otherwise have to contest the same or to proceed in a different jurisdiction or forum.

The professional services, deliverables and materials under this contract shall comply with all applicable federal and Guam laws and regulations and the contractor shall maintain all licenses and permits. In the event the contract sets forth key personnel positions of stated experiences and training and it is part of the compliance requirements of the contract, the contractor agrees to maintain those individuals and or positions at all times pertinent to the contract.

The contractor warrants it is current with all Guam taxes, (Income Tax; Business Privilege Tax; Real Property Tax; Hotel Occupancy Tax, Tax Withholding; Use Taxes; etc.)

**B. TERM -INITIAL CONTRACT PERIOD AND OPTION(S) FOR RENEWAL:**

The term of this contract includes an initial contract period and at the government of Guam's option, a renewal or renewal contract periods. The term and any renewal term(s) of this contract are subject to the availability of funding and satisfactory performance by the contractor. All representations and warranties made by the contractor under this contract, including but not limited to the intellectual property, indemnification, confidentiality, record retention and access shall survive any expiration or termination of this contract. Additionally, if federal grant funds are part of this contract, and there is any recoupment or recapture of funds expended by the federal government related to the contract requirements that are the contractor's obligations, the government of Guam expressly reserves the right to offset, and recoup said funds from the contractor.

**C. PRICE-MULTI-YEAR:**

The pricing offered by the contractor shall remain the same in the initial contract term and all subsequent renewal terms except as otherwise provided in the contract terms and conditions.

**D. ETHICAL STANDARDS:**

With respect to this procurement and any other contract that the contractor may have, or wish to enter into, with the government of Guam, the contractor represents that it has not knowingly influenced, and promises that it will 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.

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

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

**F. PROHIBITION AGAINST CONTINGENT FEES:**

The contractor represents that he/she 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.

**G. PROHIBITION OF EMPLOYMENT OF SEX OFFENDERS:**

Pursuant to 5 G.C.A. § 5253

(a) 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 not work for this employer on the property of the government of Guam other than a public highway.

(b) The contractor warrants (1) that no person providing services on behalf of the contractor 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 contractor 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 will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

For the purposes of this "Prohibition of Employment of Sex Offenders Clause" in the event the contractor is providing services that involve direct contact with the government of Guam consumers, customers or potential eligible receivers of the government of Guam public health, safety or education program 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".

#### **H. WAGE AND BENEFIT COMPLIANCE-CONTRACTORS PROVIDING SERVICES:**

(a) The contractor 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 government of Guam 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 contractor shall be responsible for flowing down this obligation to its subcontractors.

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

(c) Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be stipulations contained in that contract for applying the Wage Determination, so that the Wage Determination promulgated by the U.S Department of Labor on a date most recent to the renewal date shall apply.

(d) 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 contractor shall pay a minimum of ten (10) paid holidays per annum per employee.

(e) Any violation of the contractor's obligations or its subcontractors obligations as set forth in "Wage and Benefit Compliance Contractors Providing Services 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.

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

(g) The contractor'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.

(h) The contractor agrees to provide upon written request by the government of Guam written certification of its compliance with its obligations under this "Wage and Benefit Compliance Contractors 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 government of Guam the contractor 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.

## **I. CHANGES:**

(1) **Change Order.** By a written order, at any time, and without notice to surety, the head of the purchasing agency may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- A. drawing, designs, or specifications, if the supplies to be furnished are to be specially manufactured for Guam in accordance therewith;
- B. method of shipment or packing; or
- C. place of delivery.

(2) **Adjustments of Price or Time for Performance.** If any such change order increases or decreases the contractor's cost of, or the time required for performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment Clause" of this contract.

Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the government of Guam promptly and duly makes such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an

extension of time for completion.

(3) **Time Period for Claim.** Within 30 days after receipt of a written change order under the paragraph (Change Order) of this clause, unless such period is extended by the head of the purchasing agency in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the government of Guam is prejudiced by the delay in notification.

(4) **Claims Barred After Final Payment.** No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

(5) **Other Claims not Barred.** In the absence of such a change order, nothing in this clause shall be deemed to restrict the contractor's right to pursue a claim arising under the contract if pursued in accordance with the, "Section N, subsection (1) Notice of Claim of the "Claims Based On The Head Of The Purchasing Agency's or Omissions Claim Clause", or for breach of contract.

#### **J. STOP WORK ORDER:**

(1) **Order to Stop Work.** The head of the purchasing agency may, by written order to the contractor, at any time, and without notice to any time, and without notice to any surety, require the contractor to stop all or any part of the work called for by this contract. This order shall be for specified period not exceeding 90 days after the order is delivered to the contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work expires, or within any further period to which the parties shall have agreed, the head of the purchasing agency shall either:

- (i) Cancel the stop work order; or
- (ii) Terminate the work covered by such order as provided in the "Termination for Default Clause" or the "Termination for Convenience of the Government of Guam Clause" of this contract.

(2) **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or contract price shall be modified in writing accordingly, if:

- (i) the stop work order results in an increase in the time required for, or in the contractor's cost properly allocable to, the performance of any part of this contract; and
- (ii) the contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the head of the

purchasing agency decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

(3) **Termination of Stopped Work.** If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

(4) **Adjustment of Price.** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment Clause" of this contract.

#### **K. VARIATION IN QUANTITY:**

Upon the agreement of the parties, the quantity of supplies or services or both specified in this contract may be increased by a maximum of ten percent (10%) provided:

- i. the unit prices will remain the same (except for any price adjustments otherwise applicable); and
- ii. the head of the purchasing agency makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

#### **L. INDEFINITE QUANTITY CONTRACTS:**

(1) the minimum quantity, if any, the government of Guam is obligated to order and the contractor to provide;

(2) whether there is a quantity the government of Guam expects to order and how this quantity relates to any minimum and maximum quantities that may be ordered under the contract;

(3) any maximum quantity the government of Guam may order and the contractor must provide; and

(4) whether the government of Guam is obligated to order its actual requirements under the contract, or in the case of a multiple award as defined in 2 GAR Division 4 §3122 (Multiple Source Contracting) that the government of Guam will order its actual requirements from the contractors under the multiple award subject to any minimum or maximum quantity stated.

#### **M. PRICE ADJUSTMENT:**

(a) **Price Adjustment Methods.** Any adjustment in contract price pursuant to a clause in this contract shall be made in one or more of the following ways:

- i. by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;



- ii. by unit prices specified in the contract or subsequently agreed upon;
- iii. by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;
- iv. in such other manner as the parties may mutually agree; or
- v. in the absence of agreement between the parties, by a unilateral determination by the head of the purchasing agency of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the head of the purchasing agency in accordance with generally accepted accounting principles and applicable sections of the regulations promulgated under 2 GAR Division 4 Chapter 7 (Cost Principles), subject to the provisions of 2 GAR Division 4 Chapter 9 (Legal and Contractual Remedies), as modified by the "Mandatory Disputes Clause" of this contract.

- (b) **Submission of the Cost or Pricing Data.** The contractor shall provide cost or pricing data for any price adjustments subject to the provisions of 2 GAR Division 4 §3118 (Costs or Pricing Data).

#### **N. CLAIMS BASED ON THE HEAD OF PURCHASING AGENCY'S ACTIONS OR OMISSIONS:**

(1) **Notice of Claim.** If any action or omission on the part of the head of the purchasing agency, or designee of such officer, requiring performance changes within the scope of the contract constitutes the basis for a claim by the contractor for additional compensation, damages, or an extension of time for completion, the contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, the contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(a) The contractor shall have given written notice to the head of the purchasing agency, or designee of such officer:

- (i) prior to the commencement of the work involved, if at that time the contractor knows of the occurrence of such action or omission;
- (ii) within 30 days after the contractor knows of the occurrence of such action or omission, if the contractor did not have such knowledge prior to the commencement of the work; or
- (iii) within such further time as may be allowed by the head of the purchasing agency in writing.

This notice shall state that the contractor regards the act or omission as a reason which may entitle the contractor to additional compensation, damages, or an extension of time. The head of the purchasing agency or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed

advisable in the discretion of the head of the purchasing agency or designee of such officer.

(b) The notice required by the preceding subparagraph (a) of this paragraph describes as clearly as practicable at the time the reasons why the contractor believes that additional compensation, damages, or an extension of time may be remedies to which the contractor is entitled; and

(c) The contractor maintains and, upon request, makes available to the head of the purchasing agency within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

(2) **Limitations of Clause.** Nothing herein contained, however, shall excuse the contractor from compliance with any rules of law precluding any the government of Guam officers and any contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

(3) **Adjustment of Price.** Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment Clause" of this contract.

#### **O. TERMINATION FOR DEFAULTS:**

(a) **Default.** If the contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the head of the purchasing agency may notify the contractor in writing of the delay or non-performance and if not cured in ten days or any longer time specified in writing by the head of the purchasing agency, such officer may terminate the contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part the head of the purchasing agency may procure similar supplies or services in a manner and upon terms deemed appropriate by the head of the purchasing agency. The contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(b) **Contractor's Duties.** Notwithstanding termination of the contract and subject to any directions from the head of the purchasing agency, the contractor shall take timely, reasonable, and necessary action to protect and preserve property in possession of the contractor in which the government of Guam has an interest.

(c) **Compensation.** Payment for completed supplies delivered and accepted by the government of Guam shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the contractor and the head of the purchasing agency; if the parties fail to agree, the head of the purchasing agency shall set an amount subject to the contractor's rights under 2 GAR Division 4

Chapter 9 (Legal and Contractual Remedies) as modified by the "Mandatory Disputes Resolution Clause" of this contract. The government of Guam may withhold from amounts due the contractor such sums as the head of the purchasing agency deems to be necessary to protect the government of Guam against loss because of outstanding liens or claims of former lien holders and to reimburse the government of Guam for the excess costs incurred in procuring similar goods and services.

(d) **Excuse for Nonperformance or Delayed Performance.** Except with respect to defaults of subcontractors, the contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the contractor to make progress in the prosecution of the work here under which endangers such performance) if the contractor has notified the head of the purchasing agency within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the government of Guam and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the contractor shall not be deemed to be in default, unless the supplies or services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the contractor to meet the contract requirements. Upon request of the contractor, the head of the purchasing agency shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of Guam under the "Termination for Convenience of the Government of Guam Clause" of this contract. (As used in this paragraph of this clause the term "subcontractor" means subcontractor at any tier.)

(e) **Erroneous Termination for Default.** If, after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of the (Excuse for Nonperformance or Delayed Performance) paragraph of this clause, the rights and obligations of the parties shall, be the same as if the notice of termination had been issued pursuant to the "Termination for Convenience of the Government of Guam Clause" of this contract.

(f) **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 contract.

#### **P. LIQUIDATED DAMAGES:**

**With Termination of Default Clause.** When the contractor is given notice of delay or nonperformance as specified in the (Default) paragraph of the "Termination for Default Clause" above and fails to cure in the time specified, the contractor shall be liable for damages for delay in the amount of one-fourth of one-percent (1%) of outstanding order per calendar day from date set for cure until either the government of Guam

reasonably obtains similar supplies or services if the contractor is terminated for default, or until the contractor provides the supplies or services if the contractor is not terminated for default. To the extent that the contractor's delay or nonperformance is excused under the (Excuse for Nonperformance or Delayed Performance) paragraph of the "Termination for Default Clause" above, liquidated damages shall not be due the government of Guam. The contractor remains liable for damages caused other than by delay.

#### **Q. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT OF GUAM:**

(a) **Termination.** The head of the purchasing agency may, when the interest of the government of Guam so require, terminate this contract in whole or in part, for the convenience of the government of Guam. The head of the purchasing agency shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

(b) **Contractor's Obligations.** The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The head of the purchasing agency may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the government of Guam. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(c) **Right to Supplies.** The head of the purchasing agency may require the contractor to transfer title and deliver to the government of Guam in the manner and to the extent directed by the head of the purchasing agency:

- (1) any completed supplies; and
- (2) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract.

The contractor shall, upon direction of the head of the purchasing agency, protect and preserve property in the possession of the contractor in which the government of Guam has an interest. If the head of the purchasing agency does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code of Guam. Title 13 G.C.A. §2706 is quoted at the end of this clause. Utilizing this §, in no way implies that the government of Guam has breached the contract by exercise of this "Termination for Convenience of the Government of Guam Clause".

(d) **Compensation.**

- (1) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data to the

extent required by 2 GAR Division 4 §3118 (Cost or Pricing Data) bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the head of the purchasing agency may pay the contractor, if at all, an amount set in accordance with the preceding subsection (c) of this clause.

(2)The head of the purchasing agency and the contractor may agree to a settlement provided the contractor as has filed a termination claim supported by cost or pricing data to the extent required by 2 GAR Division §3118 (Costs or Pricing Data) and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the government of Guam, the proceeds of any sales of supplies and manufacturing materials under the subsection(3) of this clause, and the contract price of the work not terminated.

(3)Absent complete agreement under the “Contractor’s Obligation” subsection (b)above, the head of the purchasing agency shall pay the contractor the following amounts, provided payments agreed to under the “Contractor’s Obligation” subsection (b) shall not duplicate payments under this subparagraph “Compensation”:

- (i) contract prices for supplies or services accepted under the contract;
- (ii) costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the contractor would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
- (iii) costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to section (2) of this “Compensation” paragraph. These costs must not include costs paid in accordance with the preceding subsection (c) (ii) of this paragraph;
- (iv) the reasonable settlement costs of the contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of subcontracts there under, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this contract. The total sum to be paid the contractor under this subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under the “Contractor’s Obligations” subparagraph (b) above, and the contract price of work not terminated.

(4) Cost claimed, agreed to, or established under the "Contractor's Obligations" subparagraph (b) and "Right to Supplies" subparagraph (c) of this paragraph shall be in accordance with 2 GAR Division 4 Chapter 7 (Cost Principles).

13 GCA §2706 (UCC) states:

*"§2706. Seller's Resale Including Contract for Resale.*

*(1) Under the conditions stated in §2703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this division (§2710), but less expenses saved in consequence of the buyer's breach.*

*(2) Except as otherwise provided in subdivision (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.*

*(3) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.*

*(4) Where the resale is at public sale:*

*(a) Only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and*

*(b) It must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of resale; and*

*(c) If the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and*

*(d) The seller may buy.*

*(5) A purchaser who buys in good faith at a resale takes the goods free of*

*any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.*

*(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (§2707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (subdivision (3) of §2711)."*

#### **R. MANDATORY DISPUTES RESOLUTION CLAUSE:**

In the event of a conflict between this "Mandatory Disputes Resolution Clause" and any other terms in this contract, it is the intent of the government of Guam and the contractor that the terms of this clause are to be given precedence.

- (1) **Disputes- Contractual Controversies.** The government of Guam and the contractor agree to attempt resolution of all controversies which arise under, or are by virtue of, this contract through mutual agreement. If the controversy is not resolved by mutual agreement, then the contractor shall request the head of the purchasing agency, or their 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 head of the purchasing agency or their designee shall immediately furnish a copy of the decision to the contractor, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.
- (2) **Absence of a Written Decision within Sixty Days.** If the head of the purchasing agency, or their 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 contractor may proceed as though the head of the purchasing agency, or their designee had issued a decision adverse to the contractor.
- (3) **Appeals to the Office of Public Accountability.** The head of the purchasing agency, or their designee's decision shall be final and conclusive, unless fraudulent or unless the contractor appeals the decision administratively to the Public Auditor in accordance with 5 GCA § 5706.
- (4) **Disputes – Money Owed To or By the Government of Guam.** This subsection applies to appeals of the government of Guam's decision on a dispute. For money owed by or to the government of under this contract, the contractor 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 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 government of Guam arising under this contract, the Office of the Public Auditor has jurisdiction over the appeal from the decision of the government of Guam. Appeals to the Office of the Public Auditor must be made within sixty days of government of Guam's decision or from the date the decision should have been made.
- (5) **Exhaustion of Administrative Remedies.** The contractor shall exhaust all



administrative remedies before filing an action in the Superior Court of Guam in accordance with applicable laws.

(6) **Performance of Contract Pending Final Resolution by the Court.** The contractor shall comply with the government of Guam's decision and proceed diligently with performance of this contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this contract, except where the contractor claims a material breach of this contract by the government of Guam. However, if the head of the purchasing agency determines in writing that continuation of services under this contract is essential to the public's health or safety, then the contractor shall proceed diligently with performance of the contract notwithstanding any claim of material breach by the government of Guam.

## **S. COST REIMBURSEMENT:**

### **Federal Funds:**

In the event there are federal grant funds that are part of this procurement, allowable costs are those costs identified in the relevant OMB circulars and in the grant program's authorizing legislation. All costs in this procurement must be reasonable, allocable, and necessary to the project, and they must also comply with Federal and the Government of Guam funding statutes and regulations. See Cost Principles for Educational Institutions; Title 2 CFR Part 220, Cost Principles for State, Local and Indian Tribal Governments, Title 2 CFR Part 225, Cost Principles for Non-Profit Organizations, Title 2 CFR Part 230, the Federal Acquisition Regulations as well as 2 GAR Division 4 Chapter 7 Cost Principles.

### **(1) 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 contractor receives discounts, rebates and or other applicable credits accruing to or received by the contractor or any subcontractor under the contract, to the extent those credits are allocable to the allowable portion of the cost billed to the government of Guam; allowable costs will be paid to the contractor, net of all discounts, rebates and other such applicable credits. The contractor must separately identify for each cost submitted for payment to the government of Guam the amount of cost that is allowable; must identify all unallowable costs; or the contractor must 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 contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the government of Guam for payment and individually identify the amount as a discount, rebate or in case of other applicable credits, the nature of the credit. The government of Guam may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually. The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not



reported prior to conclusion of the contract.

The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the government of Guam, the Guam Public Auditor, the United States Department of Health Inspector General or their authorized representative.

Credits shall be applied to reduce direct or indirect costs. The government of Guam shall be entitled to a cash refund if the related expenditures have paid to the contractor

No expenditure may be made in this contract that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs.

#### **T. MISCELLANEOUS OTHER TERMS AND CONDITIONS:**

##### **1. Payment and Release of Claims.**

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

##### **2. Written Notice of Claims.**

All written notice of claims shall be governed by Guam law.

##### **3. Responsibility for Accuracy of Work**

The contractor is responsible for the professional and technical accuracy of all services, work and materials furnished under this contract. The contractor shall, without additional cost to the government of Guam, 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. The contractor 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. The government of Guam'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 contractor's failure of performance, except as provided herein, and the contractor shall be, and remain liable, to the government of Guam for all direct costs which may be incurred by the government of Guam as result of the contractor's negligent performance of any of the services or work which are performed under the contract.

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

The contractor, including 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 for three (3) years from the date of final payment under the contract; for inspection by the government of Guam. Each subcontract of the contractor pursuant to the contract shall include a provision containing the conditions

of this "Retention and Access to Records and Other Review Clause".

In the event that federal funds are part of the contract, reference and access by the government of Guam, in this "Retention and Access to Records and Other Review Clause" shall be expanded to also include to the federal grantor and the U.S. Inspector General's Office or any duly authorized delegate of the federal government.

**5. Property of Documents.**

All briefs, memoranda and other incidental work or materials furnished hereunder shall be and remain the property of the government of Guam including all publication rights and copyright interests, and may be used by the government of Guam without any additional cost to the government of Guam, except as provided herein. All documents that form part of the contract are the property of the government of Guam and cannot be reproduced without the government of Guam's authorization, except as provided herein.

**6. Indemnity.**

The contractor agrees to agree to save and hold harmless; the government of Guam, its departments, agencies, officers, agents, representatives, successors, and assigns of other governmental agencies from any and all suits or actions of every nature and kind, which may be brought forth, or on account of; any injury, death, or damage arising or growing out of the acts or omissions of the contractor, the contractor's officers, agents, servants, or employees under the contract.

**7. The Government of Guam Assumes No Liability.**

The government of Guam assumes no liability for any accident or injury that may occur to the contractor, its officers, agents, representatives, successors and or dependents, or personal property while in route to or from; Guam/or on Guam, or during any travel mandated by the terms of this agreement. The government of Guam shall not be liable to the contractor for any services or work performed prior to there being an approved awarded contract, and the contractor expressly waives any and all claims for services performed or materials and supplies purchased in expectation of the contract, prior to an approved awarded contract.

**8. Insurance.**

The contractor 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 contract. The contractor shall provide certificates of such insurance to the government of Guam when required and shall immediately report in writing to the government of Guam any insurance claims filed.

- a. Workers Compensation Insurance that covers all employees of the contractor working in any capacity in the contractor's services under this contract, in the amount as required by Guam law.
- b. Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than one million dollars

(\$1,000,000.00) per occurrence and/or combined single-limit bodily injury and property damage. The contractor shall ensure the insurance is issued by a company authorized to do business on Guam with minimum limits of not less than one million dollars (\$1,000,000.00) for bodily injuries or death per occurrence, and not less than three hundred thousand (\$300,000.00) for damages to property. Such policy shall insure the government of Guam and its respective agents and employees with respect to liability as a result of the operation of the services set forth in this contract.

**9. Business Privilege Tax - Taxes.**

The contractor is responsible for paying its Business Privilege Tax on payments received under the contract.

**10. Technology Access For Blind Or Visually Impaired.**

The contractor 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.

**11. Health Insurance Portability and Accountability (HIPPA).**

The contractor shall comply with the Health Insurance Portability and Accountability Act (HIPPA of 1006, 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.

**12. Client Confidentiality.**

The contractor shall ensure information obtained directly or directly from a recipient client under this contract shall be kept confidential and not released in a form that identifies the person without informed consent of the person, or of his or her legal representative, unless the disclosure is required by court order or for program monitoring by authorized Federal, or Guam monitoring agencies. (Ref. 45 CFR 1321.51 and 42 CFR Part II). Privacy Rule Standards for Privacy of Individually Identifiable Health Information, Ref. 45 CFR Part 160 and Part 164, Subparts A and E.

**13. Program Transitions.**

All steps shall be taken by the contractor 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 contractor, who has not been awarded a new contract or renewal of an existing contract under this program, shall immediately prepare to relinquish all program related information, files, equipment, service contributions, and program income ( contributions, donations, and gifts) remaining balances and all other operational and administrative and service documents and/or item to the government of Guam.

**14. Retention And Access Requirements For Records.**

The contractor shall retain all records pertinent to the contract for a period of no less than 3 years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The contractor shall provide access and the right to examine all records related to the contract to the government of Guam, Guam Public Auditor and the U.S. Department of Health Inspector General or their authorized representative.

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

Records for nonexpendable property acquired in whole or in part, with funds from this contract funds must be retained for 3 years after its final disposition.

The contractor shall provide access to any project site(s) to the government of Guam, Guam Public Auditor and the U.S. Department of Health 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.

**U. SEVERABILITY:**

The provisions of the contract will be deemed severable, and the unenforceability of any one or more provisions will not affect the enforceability of any other provisions. In addition, if any provision of this contract is declared unenforceable, the parties will 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.

**V. NO WAIVER:**

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

**W. ASSIGNMENT, SUCCESSORS AND ASSIGNS:**

Neither party may assign or otherwise transfer this contract 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 will be void and of no effect. This contract will be binding upon the parties' respective successors and permitted assigns.



## PROPOSAL SIGNATURE FORM

For GBHWC RFP 05-2014

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 B**

**FORM FOR SUBMITTING ALL LICENSES**  
**For DMHSA RFP 05-2014**



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

**FORM C**



**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 \_\_\_\_\_, 201\_\_\_\_.

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

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



**AFFIDAVIT re NO GRATUITIES or KICKBACKS**

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

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

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

2. To the best of affiant's knowledge, neither affiant, nor any of the offeror's officers,  
representatives, agents, subcontractors, or employees have violated, are violating the prohibition against  
gratuities and kickbacks set forth in 2 GAR Division 4 § 11108(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 \_\_\_\_\_, 201\_\_\_\_.

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

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

**AFFIDAVIT re CONTINGENT FEES**

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

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

1. The name of the offering company or individual is [state name of company]  
\_\_\_\_\_.
2. As a part of the offering company's bid or proposal, to the best of my knowledge, the offering company has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. This statement is made pursuant to 2 GAR Division 4 11108(f).
3. As a part of the offering company's bid or proposal, to the best of my knowledge, the offering company has not retained a person to solicit or secure a contract with the government of Guam upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. This statement is made pursuant to 2 GAR Division 4 11108(h).
4. I make this statement on behalf of myself as a representative of the offeror, and on behalf of the offeror's officers, representatives, agents, subcontractors, and employees.

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

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

Subscribed and sworn to before me

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

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

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

## **AFFIDAVIT RE 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 \_\_\_\_\_, 201\_\_\_\_\_.

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

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

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

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

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

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

(2) That I have read and understand the provision 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

## **Federal Grant Fund Certifications and Assurances**

### **1. Certification Regarding Debarment and Suspension**

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

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

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

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

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

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's work-place and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an ongoing drug-free awareness program to inform employees about--
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- d. Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will—

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

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

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

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

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

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

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

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

### **3. Certifications Regarding Lobbying**

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

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this Application form.)
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

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

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

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

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

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

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

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

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

## **7. Certification Regarding the Hatch Act**

The undersigned certifies that the organization shall comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

### **Single Audit Act**

The undersigned certifies the organization shall cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.



**Certification as to Acknowledgement of Receipt of Notice of Grant Award and Compliance with Terms and Conditions.**

The undersigned certifies it has received a copy of the Notice of Grant Award of the federal grant funds that are part of this procurement with its accompanying terms and conditions, and attaches a copy of the Notice of Grant award to this form. The undersigned certifies the organization shall comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing the program.

---

Printed Name and Title of Official

---

Signature of Official Authorized  
To Sign Application

---

Date

11-0445 f.

IT IS MUTUALLY AGREED THAT:

This financial assistance may be terminated at any time by the Bureau of Statistics and Plans or the Department of Mental Health and Substance Abuse if it is determined that the project activities are not being carried out in compliance with the FY 2010 Enhancement of the Collection of Forensic Evidence in Sexual Assault Cases Project or with the terms of this Memorandum of Understanding. Furthermore, the Bureau of Statistics and Plans reserves the right to deobligate federal funds from subgrantee projects, with sufficient notice, if projects are not proceeding in a timely manner.

<i>Thomas A. Morrison</i> Thomas A. Morrison Acting Director, Bureau of Statistics & Plans	<i>W.D.C. affg</i> Director, Department of Mental Health and Substance Abuse
Date: <i>3/15/11</i>	Date: <i>3/21/11</i>

<i>Terry Cuabo</i> Terry Cuabo Certifying Officer, Bureau of Statistics & Plans	<i>BENITA A. MANGIONA</i> Benita A. Mangiona Director, Bureau of Budget and Management Research
Date: <i>3/15/11</i>	Date: <i>5/4/11</i>
Work Request No.: W110900006 ✓	
Account No.: 510H100920EI109	
Amount: \$189,253.00	

<i>Leonardo M. Rapadas</i> Leonardo M. Rapadas Attorney General, Office of the Attorney General	<i>Eddie Baza Calvo</i> Eddie Baza Calvo Governor of Guam
Date: <i>5/18/2011</i>	Date: <i>6/6/11</i>

**RECEIVED**  
MAY 09 2011  
Office of the Attorney General of Guam  
Civil/Solicitor Division



JUL 26 2013

Bureau of Budget and  
Management ResearchINTRA - GOV'T OF GUAM  
WORK REQUEST

Z ACCOUNT: 5100Z112300WR401

X Amendment No.: 1

FROM Bureau of Statistics and Plans ORIGINATING DEPT.	REQUEST NO. W11-0900-006 (9 digits only)	
TO Guam Behavioral Health and Wellness Center ACCEPTING DEPT.	ACCOUNT NO. 5101H100920FI109 with Object Class (19 digits only)	
AMOUNT AUTHORIZED \$ 189,253.00	VENDOR NO. 22700000 (8 characters only)	
DESIRED COMPLETION DATE 06/30/2014 MM/DD/YYYY	OBLIGATION END DATE 08/30/2014 MM/DD/YYYY	EXPENDITURE END DATE 08/30/2014 MM/DD/YYYY
WORK / SOURCE DESCRIPTION / or AMENDMENT JUSTIFICATION: [Program Title] FY 2010 ENHANCEMENT OF THE COLLECTION OF FORENSIC EVIDENCE IN SEXUAL ASSAULT CASES PROJECT The Bureau of Statistics and Plans is extending the desired completion date to June 30, 2014 and the obligation end date and expenditure end date of the project to August 30, 2014 to give your agency additional time to obligate and expend the grant funds.		

CERTIFICATION OF FUNDS AVAILABILITY Terry L. Cuabo, ASO CERTIFYING OFFICER'S NAME / SIGNATURE	DATE 7/25/13	REQUESTING OFFICIAL Albert M. Perez, Acting Director REQUESTING OFFICIAL'S NAME / SIGNATURE	DATE 7/25/13
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COST BREAKDOWN			
OBJECT CLASSIFICATION	ORIGINAL	AMENDMENT	AMOUNT
111 - SALARIES & WAGES	\$ 31,492.00	\$	\$ 31,492.00
112 - OVERTIME			
113 - FRINGE BENEFITS	12,901.00		12,901.00
220 - TRAVEL	15,000.00		15,000.00
230 - CONTRACTUAL SERVICES	125,360.00		125,360.00
240 - SUPPLIES & MATERIAL	4,500.00		4,500.00
250 - EQUIPMENT			
361 - POWER			
362 - WATER			
363 - TELEPHONE			
450 - CAPITAL OUTLAY			
- [OTHER]			
TOTAL	\$ 189,253.00	\$	\$ 189,253.00

REMARKS: BBMR USE ONLY CLEARED FOR BBMR'S REVIEW John A. Rios, Director BBMR APPROVED BY DATE 9/16/13	ACCEPTING DEPT / AGENCY USE ONLY Rey M. Vega, Acting Director ACCEPTED BY DATE 7/26/2013	DOA USE ONLY REVIEWED BY DATE APPROVED BY DATE
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Form ACC-WRQ001 (Revised 12/2012)

IT IS MUTUALLY AGREED THAT:

12-0161

This financial assistance may be terminated at any time by the Bureau of Statistics and Plans or the Department of Mental Health and Substance Abuse if it is determined that the project activities are not being carried out in compliance with the FY 2011 Enhancement of the Collection of Forensic Evidence in Sexual Assault Cases or with the terms of this Memorandum of Understanding. Furthermore, the Bureau of Statistics and Plans reserves the right to deobligate federal funds from subgrantee projects, with sufficient notice, if projects are not proceeding in a timely manner.

Thomas Morrison Director, Bureau of Statistics & Plans	Wilfred G. Aflague Director, Department of Mental Health and Substance Abuse
Date: 1/9/12	Date: 1/13/12

Terry Cuabo Certifying Officer, Bureau of Statistics & Plans	John A. Rios Director, Bureau of Budget and Management Research
Date: 1/9/12	Date: 2/10/12
Work Request No.: W120900004	
Account No.: 5101H110920EI1089	
Amount: \$184,253	

CLEARED FOR  
BMR'S REVIEW

Leonardo M. Rapadas Attorney General, Office of the Attorney General	Eddie Baza Calvo Governor of Guam
Date: 2/24/12	Date: Nov 5, 2012

12-0161  
**RECEIVED**  
FEB 16 2012  
8:45 AM  
Office of the Attorney General of Guam  
Civil/Solicitor Division





DEPARTMENT OF ADMINISTRATION  
FINANCIAL MANAGEMENT SYSTEM

INTRA-GOV'T OF GUAM  
WORK REQUEST

Z ACCOUNT: 71021230WR 413

☒ Original Request

☐ Amendment No.:

FROM <b>Bureau of Statistics and Plans</b> <small>ORIGINATING DEPT.</small>	REQUEST NO. <b>W12-0900-004</b> <small>(9 digits only)</small>	
TO <b>Dept. of Mental Health &amp; Substance Abuse</b> <small>ACCEPTING DEPT.</small>	ACCOUNT NO. <b>5101H110920E1108-280</b> <small>(19 digits only)</small>	
AMOUNT AUTHORIZED <b>\$ 184,253.00</b> ✓	VENDOR NO. _____ <small>(8 digits only)</small>	
DESIRED COMPLETION DATE <b>09 / 30 / 2014</b> ✓ <small>MM / DD / YYYY</small>	OBLIGATION END DATE <b>12 / 28 / 2014</b> ✓ <small>MM / DD / YYYY</small>	EXPENDITURE END DATE <b>12 / 28 / 2014</b> <small>MM / DD / YYYY</small>
WORK / SOURCE DESCRIPTION / or AMENDMENT JUSTIFICATION: <b>FY 2011 ENHANCEMENT OF THE COLLECTION OF FORENSIC IN SEXUAL ASSAULT CASES MOU</b>		

CERTIFICATION OF FUNDS AVAILABILITY <b>TERRY L. CUABO</b> CERTIFYING OFFICER NAME / SIGNATURE	<b>1/29/12</b> DATE	REQUESTING OFFICIAL <b>THOMAS A. MORRISON, DIR</b> REQUESTING OFFICIAL NAME / SIGNATURE	<b>1/5/12</b> DATE
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COST BREAKDOWN			
OBJECT CLASSIFICATION	ORIGINAL	AMENDMENT	AMOUNT
111 - SALARIES & WAGES	\$ 31,492.00 ✓	\$	\$ 31,492.00
112 - OVERTIME			0.00
113 - FRINGE BENEFITS	12,901.00 ✓		12,901.00
220 - TRAVEL	15,000.00 ✓		15,000.00
230 - CONTRACTUAL SERVICES	120,360.00 ✓		120,360.00
240 - SUPPLIES & MATERIAL	4,500.00 ✓		4,500.00
250 - EQUIPMENT			0.00
361 - POWER			0.00
362 - WATER			0.00
363 - TELEPHONE			0.00
450 - CAPITAL OUTLAY			0.00
TOTAL \$		\$ 184,253.00	\$ 184,253.00

<b>BBMR USE ONLY</b> REMARKS: _____ <b>JOHN A. RIOS, DIRECTOR BBMR</b> APPROVED BY <b>2/10/12</b> DATE	<b>ACCEPTING DEPT / AGENCY USE ONLY</b> <b>Wilfred G. Aflague, Director</b> ACCEPTED BY <b>11/13/12</b> DATE
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Form ACC-WRQ001  
Revised 11/2011

**Website:**

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/contractprov.html>

**Business Associate Contracts****SAMPLE BUSINESS ASSOCIATE AGREEMENT PROVISIONS**

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

**Introduction**

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

A written contract between a covered entity and a business associate must: (1) establish the permitted and required uses and disclosures of protected health information by the business associate; (2) provide that the business associate will not use or further disclose the information other than as permitted or required by the contract or as required by law; (3) require the business associate to implement appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to electronic protected health information; (4) require the business associate to report to the covered entity any use or disclosure of the information not provided for by its contract, including incidents that constitute breaches of unsecured protected health information; (5) require the business associate to disclose protected health information as specified in its contract to satisfy a covered entity’s obligation with respect to individuals’ requests for copies of their protected health information, as well as make available protected health information for amendments (and incorporate any amendments, if required) and accountings; (6) to the extent the business associate is to carry out a covered entity’s obligation under the Privacy Rule, require the business associate to comply with the requirements applicable to the obligation; (7) require the business associate to make available to HHS its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the business associate on behalf of, the covered entity for purposes of HHS determining the covered entity’s compliance with the HIPAA Privacy Rule; (8) at termination of the contract, if feasible,

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

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

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

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

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

#### **Definitions**

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

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

##### **Specific definitions:**

(a) **Business Associate**. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Business Associate].

(b) Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Covered Entity].

(c) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

## **Obligations and Activities of Business Associate**

Business Associate agrees to:

(a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

(c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

[The parties may wish to add additional specificity regarding the breach notification obligations of the business associate, such as a stricter timeframe for the business associate to report a potential breach to the covered entity and/or whether the business associate will handle breach notifications to individuals, the HHS Office for Civil Rights (OCR), and potentially the media, on behalf of the covered entity.]

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Optional] Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part

164 if done by covered entity. [Include an exception if the business associate will use or disclose protected health information for, and the agreement includes provisions for, data aggregation or management and administration and legal responsibilities of the business associate.]

## **Term and Termination**

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

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

(c) Obligations of Business Associate Upon Termination.

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

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

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

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

1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to covered entity [or, if agreed to by covered entity, destroy] the remaining protected health information that the business associate still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or

- disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at [Insert section number related to paragraphs (e) and (f) above under “Permitted Uses and Disclosures By Business Associate”] which applied prior to termination; and
  5. Return to covered entity [or, if agreed to by covered entity, destroy] the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

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

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

#### **Miscellaneous [Optional]**

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

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

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

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

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

\_\_\_\_\_  
Printed Name and Title of Official

\_\_\_\_\_  
Signature of Official Authorized

Date \_\_\_\_\_

## **QUESTIONS REGARDING THE REQUEST FOR PROPOSAL**

Questions regarding the RFPs should be written and addressed to Ms. Maria Teresa P. Aguon, the Point of Contact, through U.S. Mail, hand delivery, facsimile (671) 647-5402 or email: [mariateresa.aguon@mail.dnhsa.guam.gov](mailto:mariateresa.aguon@mail.dnhsa.guam.gov) with a copy to Mr. Rey Vega, Director, through email: [rey.vega@mail.dnhsa.guam.gov](mailto:rey.vega@mail.dnhsa.guam.gov).

Rey M. Vega, Director  
**Guam Behavioral Health and Wellness Center**  
May 29, 2014

**DECLARATION RE COMPLIANCE WITH 5 GCA § 5150**

I, REY M. VEGA, make this declaration on MAY 29, 2014  
(print name clearly) (enter today's date)

Regarding Procurement No. RFP #GBHWC-2014-005, and do hereby **certify under penalty of perjury** that:  
(enter procurement no.)

- (1) I am the procurement officer (Chief Procurement Officer; Director of Public Works; or **head of purchasing agency**) for this procurement;
- (2) I have caused an estimate to be made of the cost of the services or supplies being procured, and for which a contract will be entered into or a purchase order will be issued; whichever is appropriate as the case may be;
- (3) My estimate of the total cost of the contract or purchase order, whichever is appropriate as the case may be, is [please check one]:  

☐ less than \$500,000; or  
☐ \$500,000 or more
- (4) If the total estimated cost of the procurement is \$500,000 or more, I understand that I must be advised by legal counsel designated by the Attorney General (which may be an Assistant Attorney General or other legal counsel designated as Special Assistant Attorney General ("SAAG") under 5 GCA § 5150) during each and every phase of the procurement process, beginning with the planning stage and before any request for proposal or invitation to bid is issued or notice published, or before any sole source procurement or emergency procurement is undertaken;
- (5) If the total estimated cost of the procurement is \$500,000 or more, I understand that I may not proceed with any phase of the procurement unless I have been advised by an Assistant Attorney General or a SAAG to proceed;
- (6) If the total estimated cost of the procurement is less than \$500,000 initially when the procurement is begun, but the total cost increases to \$500,000 or more at some later point in time, I understand I must contact the Attorney General's Office as soon as I become aware that the procurement will actually cost \$500,000 or more, and I may not proceed further without the assistance of the Attorney General's Office or SAAG; and
- (7) I understand if I do not comply with the requirements of 5 GCA § 5150 and the Attorney General's Office or a SAAG has not acted as legal counsel during all phases of a procurement estimated to cost \$500,000 or more, the Attorney General or SAAG may disapprove the contract, or the procurement may be subject to cancellation, or any award, contract or purchase order made or entered into may be subject to termination.

\_\_\_\_\_  
(Declarant's Signature)